

ESTACADA PROGRESS

NO. 31 OF VOL. 1

ESTACADA, OREGON, THURSDAY, MARCH 4, 1909

\$1 A YEAR

Estacada State Bank

Capital, \$25,000

OFFICERS:

Geo. Estes, President. S. W. Stryker, Vice-President
L. F. Belfils, Cashier
E. M. Miller, Real Estate Officer

DIRECTORS:

Geo. Estes, S. W. Stryker, T. Yocum,
John Zobrist, Albert D. Schmidt

TRANSACTS A GENERAL BANKING BUSINESS

Writes Fire Insurance in Five of the best "DOLLAR" companies. Handles Real Estate, Town Lots both Business and Residence, and Farm Property near Estacada

NOTARY PUBLIC ON OUR STAFF

CORRESPONDENTS

Merchants National Bank of Portland
National City Bank of New York

LOCAL NEWS AND PERSONAL MENTION

Chas. Ferry moved to his new home on Estacada Heights on Tuesday.

FOR SALE—Jersey Bull. Full blooded. 3 years old.—Kilgore Brothers, Springwater, Oregon.

Miss Maggie Lamb, from Portland, visited at the home of her brother, Mr. Willis Yonce, last week.

We learn that a new 9½ lb. baby girl came to the home of D. Bridenstine on Tuesday at Fern Rock Farm.

A baby boy was born to Mr. and Mrs. Earl Day on Monday last, which weighed 9½ lbs.

Two desirable lots, small house with water on the premises. For sale. Easy terms. E. P. Scott, or inquire of the Progress Office.

The smiling countenance of W. A. Cunningham, of Camas, Wash., was to be seen in our midst this week. Billy was on his way out to the old home.

The PROGRESS and Human Life for one year. Price of 1.50. PROGRESS and Weekly Oregonian one year, \$1.50. PROGRESS and Semi-Weekly Journal for \$1.50 a year.

At the Free Methodist Church in Estacada, the first Sunday of each month the German Lutheran pastor from Sandy, Rev. Fred Dufferl, will hold services at 3:30. All are invited, and it is especially desired that all German Lutherans be present.

At the last regular meeting of the Centennial Lodge No. 147 the following candidates were given the Rebecca degree, Mrs. Bates, Eva Jones, Mae Barr, Stella Womer, Mary Dale, Mary Womer, and Lora Stormer.

We have several pieces of property left with us to negotiate a sale for. Intending investors in Estacada will do well to consult us as we may have just what you want. Inquire at the PROGRESS office.

The saw mill of the Western Lumber & Fuel Company was heard running last Monday. Everything is in good condition and as the machinery is limbered up a little you will hear a noise like making lumber.

Mr. and Mrs. O. E. Jaeger have returned from Australia and are now at the home of Mrs. Jaeger's parents, W. S. Irwin, of Corvallis. We have been informed that they have returned with the intention of remaining in this country as neither of them enjoyed good health in Australia.

The Roley, Horner Lumber Co. of Dodge is a new enterprise. They have everything in readiness to place their machinery in position as soon as it arrives, which they expect will be Wednesday. The mill is expected to have a cutting capacity of 10,000 ft. per day. This lumber will be brought to Estacada to ship, so one by one these enterprises are adding to our growth.

The PROGRESS is requested by an official of the railroad to state that three or four hoodlums, who should be called young gentlemen, make it a practice to go into the Park and destroy property by breaking down the railing, throwing seats, for the accommodation of the public, down the embankment and other like useless and destructive practices. We are requested to say these young men should take warning from this and cease, or more severe measures are in store for them.

Rus Wilcox, on Wednesday, went to Detroit, Marion Co. where he will be employed as timber scaler for the government on the Oregon Reserve.

Jessie Stubbs returned to his homestead in Washington, Wednesday, after a visit with his parents here.

Judge Dimicks' Decision in the Close Case

In the County Court of the State of Oregon, For the County of Clackamas.

State of Oregon Plaintiff)
vs.)
Al Close and)
Ed Close Defendants)

Now at this time this matter coming on for hearing on petition of the above named defendants for their release from the custody of the Sheriff of Clackamas County, Oregon, upon the writ of Habeas Corpus, the defendants appearing in person and by their Attorney, Geo. C. Brownell, and the Sheriff R. B. Beatie by Livy Stipp, the duly appointed, acting and qualified Deputy District Attorney for Clackamas County, Oregon, and it appearing to the Court that the said defendants Al Close and Ed Close were charged by a criminal complaint filed in the Justice's Court for District No. 14, Clackamas County, Oregon, with the violation of the local option liquor law, and thereafter on the 23rd day of February, A. D., 1909, the defendants were found guilty by said Justice and the defendant Al Close was sentenced to the County jail for a period of twenty days and to pay a fine in the sum of \$300.00 and pay the costs of the action taxed at \$13.10, "and that he be imprisoned in such jail until fine and costs be paid" and the defendant Ed Close was found guilty by said Justice and sentenced to the County jail for a period of ten days and to pay a fine in the sum of \$150.00 and pay the costs of the action taxed at \$13.10 "and that he be imprisoned in such jail until such fine be paid."

The principal question which has been submitted to this court under this proceeding, calls for an interpretation of the charter of the City of Estacada, and as to whether the wording of the charter exempts said city from the operation of the local option liquor law, which was adopted by the people of the State in 1904, and which law has been in force from and after June 24, 1904.

The Oregon Legislature in 1905 granted a charter to the City of Estacada, and in said charter an attempt was made to exempt said city from the operation of the local option liquor law above referred to, and the language employed by the legislature in attempting to exempt said city from the operation of said law is as follows, to-wit:

"The said laws of Oregon relating to licensing for sale of spirituous, vinous and malt liquors shall not be in force within the limits of said city."

Now the question naturally arises as to whether the wording of the charter as above set forth is intended to exempt said city from the operation of the local option liquor law above mentioned, and in order to arrive at the intention of the legislature, other parts of the charter should be taken into consideration. In Subdivision 8 of Section 21 of said charter there appears the following language:

"To license, tax, regulate and to restrain bar-rooms, saloons, tippling houses and all places where spirituous, vinous or malt liquors are sold; provided, that no license shall be issued for a less sum than provided for under the General Laws of the State of Oregon."

Now it can be easily seen that if the legislature in granting the charter to said city did not intend to exempt said city from the operation of the local option liquor law, there would have been no necessity, of that Section providing for licensing the sale of spirituous, vinous and malt liquors under the provisions of said charter.

The Supreme court of this state in the case of Hall vs. Dunn in passing upon the question as to whether the city of Medford was exempt from the operation of said local option liquor law uses the following language:

"The charter of Estacada con-

tains the following provision: The said laws of Oregon relating to licenses for sale of spirituous, vinous and malt liquors shall not be in force within the limits of said city. The amended charter of the City of Medford, containing a similar provision has been heretofore quoted. It is quite probable that the attempt thus to exempt the cities of Condon, Estacada and Medford from the provisions of the local option law and to prevent any further encroachment thereon, impelled the amendment of Section 2 of Article 2 of the organic law of the state, so as to prohibit the legislative assembly from enacting, amending, or repealing any municipal charter." ***

There is also a further provision in said charter which the Counsel for the Sheriff has dwelt upon and which is the latter portion of said Subdivision 8 of said Section 21 of said charter as follows:

"Provided, however, that nothing contained in this subdivision shall be so construed as to oust the State Courts of Jurisdiction to indict or punish persons for offenses against any law of the State committed within the limits of the City of Estacada." ***

That portion of Subdivision 8 has no bearing upon this case, for if said charter exempted said city from the operation of said local option liquor law it would not be a crime against the State to sell liquor within the corporate limits of said city.

There are two other questions raised under this proceeding which I will proceed to dispose of at this time.

The first is whether that part of the sentence of the two defendants above named which provided that "they be imprisoned in the County jail until such fine and costs be paid."

It is very manifest upon the face of the commitment that all that

part of the sentence is void for the reason that it does not prescribe the time which the defendants shall serve as provided by Section 1443, Bellinger & Cotton's Code, and which Section provides that the extent of the imprisonment must be specified.

The second question is as to whether the complaints filed in said Justice Court charge a crime or misdemeanor. Each of the defendants are charged with "selling into intoxicating liquors in the city of Estacada, County of Clackamas, State of Oregon, the said place being in a district in which the selling of intoxicating liquors has been prohibited, committed as follows." ***

Under the law a pleading is construed strictly against the pleader and in favor of the defendant, and this indictment sets forth that the selling of intoxicating liquors has been prohibited and leaves out the words "has been" which in any event would leave the indictment vulnerable to a demurrer.

The charging part of the indictment is also faulty as it does not contain the allegation that whiskey is an intoxicating liquor.

While that may seem technical, nevertheless in order that the indictment be legal it should allege that whiskey is either malt, spirituous or vinous liquor, as the case may be, as the law prohibits the sale of liquors describing them as "malt, spirituous or vinous liquors" and the word "whiskey" is not used in the law.

I do not wish to be considered technical in construing this indictment but as the case is liable to be appealed to the higher Courts I am compelled to follow the rules of law governing such cases.

I am of the opinion that all of that territory lying within the corporate limits of the city of Estacada

Announcement

of The

ESTACADA MERCANTILE Co.

We are pleased to announce that with-in a few days we will open our store [that is yours and ours] with the intention to make this one of the most complete stock of GENERAL MERCHANDISE in CLACKAMAS COUNTY. Not only a complete stock, but a store in which you are interested and a store that you will take pride in pointing out to your friends that they can buy good goods as cheap as elsewhere. When we say, as cheap, it is not our intention to crowd anyone out of business or in other words try to hog it all. But on the other hand we know that the people of this community are fair minded and will trade in Estacada, providing that proper inducements are offered, rather than send their money away to a catalogue house where it is forever lost so far as local improvements are concerned. No fair minded MERCHANT can blame the consumer for buying his goods where he can buy them the CHEAPEST, CAN HE? NO. Well then it is up to the merchant to COMPETE if he desires the TRADE and that is what we propose to do. Further we desire our customers to become interested in this store, not only as an enterprise that they can point with pride as being interested in, but the holding of stock as an investment. You will not only be pleased with your investment but you will be pleased to know that the people in this community will be able to buy goods as cheaply as elsewhere. Buying in large quantities for SPOT CASH we get the bottom price. There should not be a person in this community that is not interested in the well-fare of this store.

What we propose to do is to place 50 of the 250 shares in the hands of our friends and patrons. We will sell these shares at the par value of \$100. per share and guarantee 6 per cent interest if held for one year, in other words we the under-signed will bind ourselves to pay \$106. for every share presented to us at the expiration of one year. It is our intention that each stock holder shall be perfectly satisfied with the conduct of this store, hence we make the above proposition.

For further particulars call on any of the undersigned.

W. F. CARY
A. E. SPARKS
R. W. CARY

ANNOUNCEMENT

Clackamas County Taxes

May Now Be Paid at the Offices of

The Clackamas Title Company

Established 1893 IN PORTLAND Incorporated 1902

At 509-511 Chamber of Commerce Building

Statement of Taxes Will Be Furnished Upon Application in Person or By Mail Call and Examine the Duplicate Tax Roll. Telephones Main 2056 or Home 2056

AT THE

Estacada FURNITURE Store

A fifteen dollar Brussels Rug Given Away



We keep a Full Line of Goods. All Prices in Plain Figures. New arrivals of Goods right along We



are agents for
Boye Needle Chart and Needle Threader
Threads a needle in the dark

Picture Framing a Specialty. House Furnishers. Undertakers. A Fine Line of Queens Ware on hand.

Come in and see our stock and be convinced you can get



A BARGAIN



Goods sold on the Installment Plan

H. Cooper & Co.

Livery, Feed & Sale STABLE

W. A. JONES
PROPRIETOR

Good rigs and careful drivers always
SPECIAL ATTENTION
Given Hunting and Fishing Parties

WOOD & LUMBER
Local and Long Distance Telephone

Clackamas County, Oregon, is exempt from the operation of the local option liquor law and that the licensing and sale of malt, spirituous and vinous liquors is governed solely by the city government of said city under and by virtue of its charter.

That the defendants and each of them are unlawfully restrained of their liberty and that an order should be entered discharging the defendants from the custody of the Sheriff and it is so ordered.

GRANT B. DIMICK, Judge

Garfield to Build

For some time plans have been under consideration for the building of a Church at Garfield. There now seems but little doubt but that the erection of a Memorial Church is assured. The name is to be "Nora Hale Looney Memorial." Matters of location and details have not been determined but plans and financial progress are under way. The most central location will be sought in that growing settlement. The building is to be a first class structure and an honor to any community. Its total cost will not be far from \$1250.00 of which about half that amount is in sight. With plans for new stone roads, with the large Grange, with new arrivals from the East, and the new Church to be erected Garfield is sure to prove more and more attractive for the building of homes.