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Music By the Band.

Monday evening after the regular band rehearsal the members decided to treat their near neighbors with a few pieces of new music recently received. The first place visited was Mr. Caldwell's home. All had quietly entered the front door of the market and begun playing before the family was aware of what was on. At the conclusion of the second piece, the family voted their appreciation of the serenade, and Mr. Caldwell remarked about having some cider or "something", but the boys were glad enough to receive thanks for their efforts. The next place visited was the Pilot Ette Inn, where a

house full of guests was given the same treat. And here they met with as cordial a welcome.

The band will furnish several pieces of music for the opening of the grand ball on Thanksgiving night at the West hall. A number of new strains are being learned and the boys are to be congratulated for the success they are making.

A snare drum and trombone will most likely be added in the near future and ere long the Oregon Concert Band will be unequalled along the Deschutes, or even in Central or Southern Oregon.

Visit of Special Land Agent.

Special Agent T. R. Neuhausen, of The Dalles land office, was in Bend Tuesday cross-examining timberland claimants who had recently made proof here, and their witnesses. All timber and stone proofs in the Pacific states are suspended until this special examination is made. The result of the examination, with agent's recommendation, goes to the Washington authorities before final action is taken there. Mr. Neuhausen will be out to Bend again in December or January and will then have more time for examining into land matters.

Mrs. Neuhausen accompanied her husband to Bend and was quite interested in looking about the place, for she had heard much of it. They made acquaintances, and friends, easily and knew half the people here from their afternoon's visit.

Mr. Neuhausen worked at Prineville until after 1 o'clock Tuesday morning, snatched 40 winks of sleep and then came on the 30-mile drive to Bend. Here he occupied the office of U. S. Commissioner Lawrence and worked till midnight in examination of four claims. Wednesday morning early Mr. and Mrs. Neuhausen left on the return trip and they are in Heppner today. They received a favorable impression of this locality and made friends of all whom they met.

David Hill, who has a homestead about 17 miles up the valley, was in Bend yesterday and today. He says there is a distinct bear run a short distance above his place and that the deer are becoming more numerous there since snow flew.

ROW OVER AN ORGAN

TAKEN FROM HALL TO SCHOOL HOUSE AND BACK AGAIN.

Wiest and Dorrance Charged With Larceny but Acquitted on Second Trial--A Fight--Suit for \$30,000 Damages.

Last Saturday afternoon on the representation that it was the desire of L. D. Wiest that the Bend Sunday school organ be moved from Grant's hall to the school house, where another Sunday school had been started, G. Schlecht induced "Dad" West to take Mr. Drake's team and haul the organ to the school house. When Mr. Wiest upon returning from work on the ditch in the evening, heard what had been done he was not pleased and he and S. H. Dorrance went to the school house and carried the organ back to the hall. Mr. Wiest as superintendent of the Sunday school had the custody of the organ in the hall, and as chairman of the school board he had authority in the school house. But the people interested in getting the organ away from the Bend Union Sunday school in the hall made out an information charging Wiest and Dorrance with larceny and the cause was tried Wednesday before a jury which finally disagreed. Another trial of the case was had today.

The jury for the second trial was composed of G. W. Triplett, Millard Triplett, Thomas Triplett, Charles Weimer, Barney Lewis and Maxem LePage.

After the second trial of the case against L. D. Wiest and S. H. Dorrance the jury in 15 minutes agreed upon a verdict of acquittal. To satisfy one of the jurors the recommendation was made that the organ, that was found not to be stolen, was recommended to be taken back to the school house.

The recommendation was the subject of some discussion, and when Wiest and Dorrance came out of the court room there was a fight. Reputable and disinterested bystanders who witnessed the squabble say that J. R. Brock, the elder, resenting an offensive remark of Wiest, struck the latter in the face and then came at him with an open knife. Dorrance went to the aid of Wiest and Billy and Ed and Charley Brock went after Dorrance, who sent them all reeling. Wiest reached in his pocket for a handkerchief and H. W. Reed and John Steidl and the Brocks sent up the cry that he had a gun and was about to shoot. Then the constable was called and Wiest insisted on being searched on the spot. Not even a penknife was found upon him. When Constable Cottor interfered Dorrance had Billy Brock down and was about to punish him. When peace in the name of the law was commanded Dorrance ceased and he and Wiest were taken into custody. None of the others were. Necessarily there was much confusion, but the foregoing is a brief statement of the facts as nearly as they can be obtained from trustworthy witnesses.

Finally Wiest was liberated and sent home under convoy of Billy Brock. Dorrance was held under \$500 bond for assault and resisting an officer. He will appear for hearing at Prineville.

Mr. Wiest has started proceedings against the elder Brock for assault with a dangerous weapon and he and Dorrance have authorized a suit for \$30,000 damages against H. W. Reed, G. Schlecht, A. W. Pope and others for malicious prosecution. Attorney G. W. Barnes, who represented the defense in the proceedings just concluded here, will look after this matter.

Acting Constable Cottor served

the warrant on Wiest and Dorrance at the mill Monday afternoon. The defendants appeared before Justice Brock in the evening and the case was set for trial Tuesday afternoon, too soon for defendants to get counsel and over their protest. When the trial came on Mr. Wiest did the best he could representing the defense and H. W. Reed appeared for the prosecution, which was nominally at the instance of A. W. Pope. An application for adjournment to permit the presence of counsel was promptly overruled as was an attempt to get change of venue on account of prejudice of the justice. The defense then demanded a jury trial. There were several short adjournments, but the day ended with five jurors in the box and the report went out that "four of them were for the Lytle crowd and one not." The sequel, however, showed that the jury was not so one-sided.

The work of filling the jury box was resumed Wednesday morning, Mr. Wiest then employing dilatory tactics for a purpose that was made plain when Attorney G. W. Barnes, of Prineville, walked in about 11 o'clock and took charge of the defense. From that time on more respect was given to the provisions of the statutes and "the way we have been doing" was not the governing factor in all questions that arose, though rulings were pretty uniformly against the defense.

The complaint alleged the larceny of an organ "the property of H. W. Reed, W. A. Laidlaw, A. M. Drake and others." The proof submitted was to the effect that the organ was the property of the school district and the Bend Union Sunday school, which had custody and possession of it. A number of witnesses were produced to swear they had contributed to the purchase of the organ, 25 cents to attend the entertainment that provided part of the purchase fund, or other contribution, and that their understanding was that the organ was for the the school district and the Sunday school. The minutes of the school board were produced in the cross-examination of Director Cottor and he admitted the fact and the truth of the entry made January 10 as follows:

On motion the Bend Sunday school was given authority to place in the school building its organ and library, provided they are so placed as will not interfere with the room needed for school purposes. These articles are to be left in the building until said Sunday school desires to remove them; provided further that the district school is to be entitled to use the organ during the time it remains in said school building.

The defense called no witnesses, relying on the absence of proof of the charge made by the information. Not a particle of proof of that charge was presented. The case was submitted to a jury composed of the following-named citizens:

John L. Keever, B. C. Low, John Elder, Creed M. Triplett, Dudley Mayfield and W. H. Staats.

It was alleged that Mr. Staats had been summoned as a witness for the prosecution before it was known that a jury would be demanded, and he did not deny it. But he was held on the jury, notwithstanding, and swore to weigh impartially the evidence presented.

At any rate, the first ballot of the jury was five to one for acquittal. Subsequently, as a policy move, the jury room report has it, one other man voted with Staats for conviction in order to pave the way to an agreement later. But the agreement never came. After being out all night the jury reported that it could not agree and was discharged.

Attorney Barnes did not admit that the charge in the information was trivial. "It is absolutely idiotic", said he. "I never saw anything like it in my life. This fellow—what's his name?—went over there and got the organ,

Wiest and Dorrance took it back, as they undoubtedly had a right to do. Then this trumped up charge is made and there is not a shred of evidence to support it. Yet they had it all arranged to produce conviction. No fair minded man could be misled as to the motive behind this. It will fail, of course, but it is amazing that such proceedings should be attempted. The jury was the only salvation in this case."

The statute fixes the limit of value of the property stolen at \$35 in order that a justice of the peace may try and determine the matter. If the value is greater than \$35 the justice has jurisdiction only to examine and hold to the circuit court. In this case the organ cost \$60 or more but the information was for petty larceny, thus bringing the case within the power of the justice court to try and determine. And by a judgment of fine not greater than \$20 or imprisonment not more than 10 days it would have been impossible to appeal to a higher court from an unjust judgment here. What the programme was may be inferred from this.

Low's hall served as a courtroom for this trial, and there were plenty of spectators. The weather being bad not much work was done on the P. B. D. Co's ditch and most of the men came down to the trial. The crowd was much entertained by the proceedings.

LOCAL NEWS

THANKSGIVING NIGHT DANCE AT WEST'S HALL

C. P. Becker, of the Lower Tumello country, was a Bend visitor today.

The dance at Staats's hall Saturday night was largely attended and all present had a fine time.

The Boogie-Weisz party has moved from the King house to the room over the postoffice for the winter.

Mr. and Mrs. P. B. Doak, of Prineville, were in Bend Tuesday, having driven out with Special Agent Neuhausen.

Calvin C. Cooper made annual proof on his desert land claim in 15-11 Wednesday before U. S. Commissioner Lawrence.

Among those to make final proof before U. S. Commissioner Lawrence the past week were Joseph Steidl, John A. Deemer and James and Joseph Hunter, all timber claimants.

Blacksmith Triplett has constructed a fine two-seated sleigh. The young people are now casting lots to determine who shall take the first ride—when sufficient snow falls.

Mr. and Mrs. A. H. Grant celebrated the third anniversary of their wedding last Monday. On that day Mr. Grant presented his wife a fine crayon portrait of their young son elegantly framed.

The ball of the season will take place at West's hall Thanksgiving night. Good music and a good time is assured to all. Supper will be served at the Pilot Butte Inn. Bring your friends. Get the habit.

S. S. Wardwell, son of U. S. Commissioner Wardwell, of Silver Lake, spent Saturday night in Bend. He left Sunday for Portland, where he will enter a business college for several months.

Tuesday night was the coldest of the season thus far, mercury going down to 9 above zero. But no damage was done by the frost and few people would have guessed the temperature so low. Tuesday was the first clear day for two weeks. Little flurries of snow and mist have marked the week's weather.