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DISTRICT ATTORNEY'S OPINION ON TAX CASE

Suggests Proceeding by Order Reciting Facts and Direct Notice of Equalization.

The Honorable County Court being in regular session on the 15th day of January 1925 and having under consideration the validity of the Assessment Roll for 1924, because of the failure of the County Assessor to complete and turn over said Roll to the Board of Equalization within the time prescribed by law, and because of the failure of said Assessor to cause the notice of the meeting of said Board to be given as by law required, have asked for my opinion as to the validity of said Roll, and, if in my opinion the said Roll is not a valid Roll upon which collection of the 1924 tax can be collected, what steps should be taken to cure the irregularities, omissions and defects appearing therein. I herewith in compliance with said request, submit in writing, the following:

Opinion
1st. As to the validity of the Roll at present I do not hesitate to say that because of the failure to complete and deliver the same to the Board of Equalization, and the failure to give the notice above referred to, it is practically a nullity, and it is unnecessary to set forth any further reason for this conclusion than the fact that the tax-payers have not been given their constitutional right to be heard and object to any excessive or wrongful assessment.

2nd. As to the proper proceeding to vitiate the Roll, if such proceeding can be had there is grave question. Two courses seem to be available, and it may be said there is some doubt whether the defects can be cured even by either.

It is possible that the remedy—if there be a remedy—would be by Legislative enactment, and I am informed that the Court (however without my knowledge or advice) has already taken steps to secure the relief in that manner.

The other course would be by the action of the Court in proceeding to organize a Board of Equalization and proceeding to equalize the Assessment, as is provided by law, by complying with all the requirements of the various statutes, at this time, just as should have been done at the times and in the manner provided.

I have had neither the time nor the opportunity to give the subject the consideration which its importance entitles it to, but since, in order to make the Roll valid, immediate action is necessary, proceedings in an attempt to cure the defect must be taken at once.

From the investigation I have made I am of the opinion that the Roll can be validated by an order of the County Court reciting all the facts in connection with the actions of the Assessor and the Board of Equalization, then setting forth that because of the failure of the Assessor to complete and turn over the Roll as required by law, and his failure to give the notice required, thereby depriving the taxpayer of "his day in Court", the roll is void, and that for the purpose of curing these defects the order should continue and direct that the Board of Equalization be organized at this time; that the Assessor complete and turn over to the custody of said Board the 1924 Assessment Roll; that the Assessor cause proper notice to be given of the meeting of said Board, as by law required; that the Board remain in session the length of time by law required and proceed to hear all objections, and equalize the said Roll in all particulars, and in the same manner that such action should have been taken at the time by law provided for such action. The ultimate result, in my opinion, hinges upon the question as to whether the various statutes prescribing the duties of the Assessor, and the Board of Equalization, are mandatory or directory only.

If mandatory, i. e., if they must be strictly complied with both as to manner and time, then I doubt if this method of procedure will accomplish the desired result; but if these requirements are directory only i. e., if they are intended only to direct a proper and systematic

course to pursue in order to secure uniformity and promptness, and do not prohibit the doing of the act at a different time, and also if no injury be done anyone and the rights of no one be impaired, then I do not hesitate to say that the procedure indicated will cure the present defective Roll.

Of course this action must be followed by the necessary action provided by law by the Board of Equalization, in the same manner as though the Roll had been turned over and the required notice given during the time provided by law.

When the action herein set out has been completed, I recommend that the Court procure the institution of a friendly suit for the purpose of testing the validity of the proceedings herein set forth, to be followed by an appeal to the Supreme Court if deemed necessary.

I am led to the conclusions expressed in this opinion from an examination of the various statutes regarding the manner of making assessments, and prescribing the duties of the different officers and bodies, and from a consideration of them collectively, together with the interpretation given to Section 4354-Laws of Oregon, as amended by the Act of February 13, 1923, by our Supreme Court. This Section has reference to proceedings on foreclosure of tax liens, etc., and is not the law governing assessments, but its provisions are broad and indeed go so far as to say that "no assessment of property or change for any of said taxes shall be considered illegal on account of any irregularity in the Assessment rolls, or on account of the Assessment rolls not having been made, completed or returned within the time required by law and no error or informality in the proceedings of any of the officers connected with the Assessment equalization, levying or collection of taxes shall vitiate or in any manner affect the tax or the assessment thereof; and any irregularities or informalities in the assessment rolls or tax rolls, or in any of the proceedings connected with the Assessment or levy of such taxes, or any omission or defective act of any officer or officers connected with the assessment, equalization, levying or collection of such taxes, may in the discretion of the Court be corrected, supplied and made to conform to law by the Court."

The Supreme Court of this state in the case of "State ex. rel. vs. Johnson" page 167, Vol. 59-Supreme Court Reports, has interpreted this section and the language of the Court and the authorities cited and quoted in the opinion in that case, strongly indicate a similar broad and favorable interpretation of the statutes regarding assessments, for it is a well established principle of law that Courts in construing statutes will go a long way to hold that a law shall accomplish its purpose and that if the action of an officer in the performance of a statutory duty, either through ignorance, neglect or by design, should not be exactly in the manner or within the time prescribed, if it be actually performed, though at a different time, will not vitiate and render null the entire procedure, especially in a matter of such importance to the public, and where no one can be injured or no rights impaired.

If the course herein recommended be adopted, action should be taken at once, and the test case be instituted as soon as the Roll is turned over for collection.

The test case can be prepared in a very short time, all the questions raised and put at issue, and the facts be stipulated and the case submitted to the Court without any delay.

The expense incident to such procedure would be comparatively small, and the importance of the question to the tax payers of this County will certainly warrant the expenditure.

Limited time prevents a more detailed opinion, and if the Court desires I will be ready at any time to orally discuss the matter and refer to the various statutes involved, and give an opinion orally as to my interpretation of them.

Respectfully Submitted, this 9th day of January, 1925.

V. G. COZAD,
District Attorney.
Alfred Marshall and wife, of Voltago, were in town during the week. Mr. Marshall is one of the farm census enumerators for this county, having the district surrounding his immediate vicinity.

CLEANING AND GRADING SEED GRAIN IMPORTANT

Forcefully Demonstrated at The Harney Branch Station Dur- ing The Season of 1924.

The importance of the use of well cleaned seed was forcefully demonstrated at the Harney branch experimental station during the season 1924, which, by the way, was one of the most difficult crop seasons ever experienced in Harney Valley.

The results from five years investigations show that it is not possible to secure the best grade of seed by running the grain through the ordinary fanning mill but one time. Excellent results have been secured by using the standard wheat "set up" with a No. 8 screen in the bottom, that is, a screen with eight meshes to the inch, and running the grain through the mill TWICE. This grade, listed as number 2, has given excellent results, and has been a consistent high yielder throughout the experiment.

The grain used in this experiment was cleaned and graded with a Chatham Fanning mill, using the standard wheat "set up", the variety of grain used was Federation C. I. No. 4734, and the crop was grown on irrigated land. The yields for the season 1924 follow:

Grade and Method of Treatment	Yield Bu. per A.
No. 1 Twice over No. 8. Once over No. 7	51.1
No. 2, Twice over No. 8	51.1
No. 3, Once over No. 8	28.0
No. 4, Seeded direct from the separator	23.5

Note: The grain for this experiment was all taken from the same sack.

COURT ACTS UPON DIS- TRICT ATTORNEY'S OPINION

Before closing the January term of county court last week it was decided to act upon the opinion rendered by District Attorney V. G. Cozad on the tax muddle situation and the assessor was ordered to give notice of a meeting of the board of equalization.

Dr. B. F. Smith was again retained as county physician by having his contract extended.

C. W. Frazier was appointed Road Master for the coming year.

M. B. Hayes was recommended for the appointment of Water Master.

Mr. and Mrs. W. H. Hamilton of Diamond were registered at a local hotel during the week.

ODD FELLOW ORDERS HOLD INSTALLATION

Joint Ceremony Inducting The Subordinate and Rebekah Officers Into Chairs.

Friday night, January 9th, Harney Lodge and Sylvia Rebekah Lodge, I. O. O. F., held a joint installation of officers for the coming terms which was witnessed by a large gathering of members of the Orders and friends.

Neil T. Smith, D. D. G. M. for this district, acted as installing officer for the Odd Fellows with John Hodder acting as Grand Marshal. The following officers were installed: N. G. O. D. Hotchkiss; V. G. O. D. Shattuck; recording secretary, N. T. Miller; financial secretary, Byron Terrill; treasurer, B. F. Siler; warden, S. S. Smith; conductor, T. L. Miller; R. S. N. G., John Hodder; L. S. N. G., Henry Christensen; R. S. V. G., R. E. Peabody; L. S. V. G., Paul Kruger; I. G. U. S. Reynolds; O. G., R. E. Drake; R. S. S., Robt. Groff; L. S. S., Harry M. Custer; Chaplain, E. L. Smith.

Following the installation of the subordinate lodge the Rebekahs took charge and in a most attractive manner Past Grand Ethel Hotchkiss, D. D., assisted by Vera Gibbs as Marshal, installed the officers of that lodge.

N. G., Olivia Whiting; V. G., Henrietta Eggleston; recording secretary, Eva Monroe; financial secretary, Ethel Hotchkiss; treasurer, Nona Hotchkiss; warden, Violet Terrill; conductress, Ellen Whiting; I. G., Roselle Reed; O. G., Goldie Stahl; R. S. N. G., Alice Bennett; L. S. N. G., Goldie Reed; R. S. V. G., Effie Gould; L. S. V. G., Nora Campbell; chaplain, Frankie Turner.

One of the attractive features of the Rebekah installation was the beautiful floor work of the assistants in proper costume and carrying floral wreaths; these assistants to the grand officers were Celia Houser, Violet Terrill, Ellen Whiting, Roselle Reed, Goldie Stahl, and Augusta Graham, each with a floral wreath and in their counter-marches formed a floral lane as each candidate for installation was presented to the respective station. This work called forth much comment. In fact the entire ceremony was most graciously applauded and approved the officers taking part being the recipient of much praise.

When Past Noble Grand Helene Biggs was escorted to her station the installing officer, Ethel Hotchkiss

presented her with a beautiful bouquet of carnations, the gift of the Past Grand as a token of their esteem. Mrs. Biggs was quite overcome at the unexpected tribute and expressed her sincere gratitude and pleasure at being thus honored.

The members and guests were treated to a fine banquet of turkey, salads, cake and many other good things. The younger people also indulged in dancing for a time. It was altogether a delightful fraternal gathering and one that brought good cheer to all attending.

On Tuesday night of this week the officers of Plute Encampment, I. O. O. F., were installed by James S. Taylor, D. D. G. P. The officers for the Camp are: C. P., E. A. Graham; H. P., Byron Terrill; S. W., H. M. Custer; J. W., John Hodder; scribe, T. L. Miller; treasurer, E. L. Smith; guide, J. S. Taylor; first watch, O. D. Hotchkiss; second watch, O. D. Shattuck; third watch, B. F. Siler; fourth watch, G. E. Hagey; I. S., R. E. Drake; O. S., W. N. Monroe; first guard of tent, U. S. Reynolds; second guard of tent, Paul Kruger.

YOUR INCOME TAX

Your income tax for the year 1924 is less, in proportion to your income, than was the tax for 1923. A rate reduction, however, is not the only benefit afforded by the revenue act of 1924. Increase in the exemption for married persons, a 25 per cent reduction on "earned income," and other changes in revenue legislation are of immediate interest to every taxpayer.

The revenue act of 1924 requires that returns be filed by every single person whose net income for 1924 was \$1,000 or more, or whose gross income was \$5,000 or more, and by every married couple whose aggregate net income was \$2,500 or more, or whose aggregate gross income was \$5,000 or more. Last year returns were required of married couples whose aggregate net income was \$2,000 or more. Husband and wife, living together, may include the income of each in a single joint return, or each may file a separate return showing the income of each. Net income is gross income less certain specified reductions for business expenses, losses, bad debts, contribution, etc.

The period for filing returns is from January 1 to March 15, 1925. The return, accompanied by at least one-fourth of the amount of tax due, must be filed with the collector of internal revenue for the district in which the taxpayer has his legal residence or has his principal place of business.

R. J. Williams was in from his Silver creek home the other day.

CATTLE DRIVE READS LIKE EARLY DAYS ROMANCE

Vaqueros Battle Boreas on The Desert Bringing Suffering Animals Here to Feed.

(From the Chewaucan Ripple)
The story of the hardships of the men who took the last band of cattle across the desert for the ZX company reads like a chapter from a romance of the early days of the history of Oregon. Battling storms and enduring the icy blasts of barren sage brush wastes, open, unprotected desert stretches, in cold which drove the mercury to almost unprecedented depths, these vaqueros took the cattle through without complaining or deserting their posts—all because it was a part of the day's work.

Shortage of hay on the Paisley ranch of the ZX company made it necessary to secure winter feed for the stock elsewhere, and it was found necessary to take several thousand head of cattle to ranches near Burns for winter feeding. Several bunches had been taken across the desert when the cold wave hit the State, and the men were caught in its grip when only one day out from the home ranch.

In going across the desert it was necessary to guard the cattle at night and during these cold watches the men were forced to fight the biting frost for hours at a time.

In the daytime those in the lead built fires at frequent intervals along the trails and the men who followed warmed themselves and kept the blazes replenished for their companions further back. Thus a continuous line of fires was left along the desert trail in the wake of the benumbed brutes that were being taken out of the way of almost certain starvation. This was the only way in which the biting frost could be kept out of the bodies of the men, even during the daylight hours.

Those who were permitted a few hours of sleep at night found no warmth in their beds. Breath froze on the blankets, leaving them stiff with ice around the necks and faces of the tired men.

The nostrils of the horses became caked with ice until, quite often, they could scarcely breathe, and the vaporous exhalations of the men froze on their beards and faces. The eyes of both horses and men were frozen shut at times when they were forced to be away from the fires for any length of time. These are only a few of the incidents about which the boys can laugh—now that it is over.

At Wagontire thermometers registered below zero—and the men still "singin' to 'em," on guard to keep the cattle from breaking the herd toward almost certain death. Ears, fingers, noses and toes often felt the bite of the frost which no clothing by day or bed at night could quite keep out. Fifty-one of the cattle were left, victims of the intense cold. That the others suffered is attested by the men, but no word of complaint came from man or beast. It was all in the day's work, and the cattle were taken through.

EARL HAGEY GETS LOVING CUP

Earl Hagey, of the Service Garage, arrived home Tuesday evening from a visit to Portland and Baker where he attended a convention of Chevrolet dealers and reports a fine time with much enthusiasm shown for the coming season in a new plan of sales for Chevrolet and the great chance and improvement in the car for this season.

Earl was awarded the silver honor cup for this territory for scoring the highest in his quota of any dealer in this territory during August and September of last year. This sales territory covers Oregon southwestern Idaho and a portion of Washington, therefore his victory was an achievement that is worth while. Mr. Hagey really won two cups but having been awarded the first prize he generously granted the second to the next highest which was a dealer in Pocatello, Idaho.

Mr. Hagey reports there were seventy-two dealers present at the convention at Baker last Monday and every one was a live wire, ready to start this year with vim.

