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JOHNSON WINS GRANT COUNTY CATTLE CASE

JOHNSON JURY AWARDS PLAIN-TIFF \$6000 DAMAGES

Attorneys Battle For Days in Famous Case Which Will Be Appealed

THE JURY

Jack, Hynd, W. H. Cronk, C. E. Johnson, E. R. Lundell, Andy Rood, Jr., J. D. Bauman, C. M. Whittington, Joe Howell, M. D. Clark, C. E. Jones, Malcolm Church.

The big damage case transferred here from Grant county went to trial in Judge Phelps' court Wednesday morning and has proven to be the star case of the term.

This is a case in which James Johnson is suing Ben Colvin to recover the value of some 30 head of cattle which were stolen from Johnson's range in the forest reserve in Grant county during the summer of 1912. In addition to the value of the cattle Mr. Johnson asks for reimbursement for his time and expenses while hunting for the cattle and also punitive damages in the sum of \$30,000.

Judge Fee, or Pendleton, and John L. Rand, of Baker, are attorneys for the plaintiff and Col. Raley, of Pendleton, E. Hicks, of Canyon City, and Sam E. Van Vactor, of Heppner, are looking after the interests of the defendant.

In his testimony Johnson told how when selling his beef in 1912 he cut out his best young cows and heifers and turned them back on the range intending to keep them for breeding purposes, and that a day or so after turning them out they were driven from the range. He recited how, after missing the cattle he started in search of the animals the trail finally leading to the Union Meat Co.'s plant in Portland where he found their hides. The cattle had been sold by the Benson Commission Co., of Portland, to the Union Meat Co., for one J. B. Jingles, who shipped the animals from Condon. Johnson recovered the price of all the cattle whose hides were found and identified, from the Benson Commission Co. and came home. Later he caused the arrest of Ben Colvin, Leonard Fix and Lester Goff on the charge of stealing the cattle and in a sensational trial at Canyon City Fix pleaded guilty, Goff was convicted and sent to the penitentiary and Colvin acquitted.

As an aftermath of the cattle stealing case Colvin was tried for perjury and was again acquitted.

The story as unfolded by the witnesses would make a thrilling scenario for a movie film with its background of cattle ranges, mountain trails and impenetrable canyons, its setting of slick-ears, saddle ponies, lariats and branding irons and its cast of cattle barons, cow boys, gun men and thieves. The latter term is adapted from testimony in the case and it may be said that if there are not nor ever have been any cattle thieves in Grant county the liars out that way must have grown taller than the chickens ever did in Cheyenne.

James Johnson, plaintiff, in the case, was the first witness examined. As indicated above Mr. Johnson told of turning the cattle on the range and salting them at his lick on the reserve and of his subsequent search for the missing animals and of finding the hides in Portland. Mrs. Johnson assisted her husband in turning the cattle out of the pasture and driving them to the salting ground and she followed him on the stand corroborating his testimony as to day and date.

Following Mrs. Johnson came James Clark who proved to be the first real thriller of the day. Mr. Clark lived on the north fork of the John Day for many years and according to his testimony he had a band of horses there and besides looking after them he worked on the range for Ben Colvin. He and Colvin were always friendly, Clark testified, and he went on and told in effect how Colvin came to his place one evening during the summer of 1912 and told him the he (Colvin) wanted to make it so warm for Jim Johnson that he would have to leave the country and proposed as a step in that direction

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MORROW BOYS HOME FROM THE ARGONNE

Phil Brady, Jim Dally and Roy Wakefield, well known Morrow county boys, who left Heppner together and remained together thru all the ups and downs of war have received their discharges and returned home. The three were twice at the front in the Argonne battle and Brady witnessed the death of Jim Snell, of Condon, who was killed by a shell explosion the story of which is told by Colin Dymont and reproduced in this issue.

Mr. Brady says he was not particularly crazy about going across in the first place but that now he would not take anything for the experience. The three boys were in France nine months and took part in plenty of heavy fighting during that time.

MAY TERM OF COURT CLOSED THIS MORNING

MOREY PLEADS GUILTY AND DRAWS LIFE

Number of Minor Cases Disposed of Yesterday by Judge Phelps Who Permits No Lagging

The May term of circuit court adjourned this morning shortly after 8:00 o'clock the last judicial act of Judge Phelps being to sentence Charles A. Morey to life imprisonment for the murder of Alfred Schafer. Morey was tried last week the jury disagreeing on a 11 to 1 vote. Saturday evening Morey withdrew his former plea of not guilty and entered a plea of guilty. Morey's own testimony while on the witness stand shut out every avenue that might have remained for acquittal or lighter verdict and it is understood that he refused to follow the instructions of his attorney either while his case was being prepared or during the trial.

The damage case of J. L. Davidson vs. Morrow county, on appeal from the county court involving damages for the opening of three new roads through the Davidson ranch went to trial before a jury and was decided in favor of the plaintiff who was awarded some \$1400 damages.

A criminal case from Irrigon in which one John Kuvallis was charged with pointing a gun at a neighbor was decided in favor of the defendant the state not having sufficient evidence to warrant a conviction.

The damage case between James Carty and John Doherty involving a sheep and range deal was settled and dismissed.

BACK FROM ENGLAND

Charley Ayers, who has been in the army for the past two years, spending most of his time in England returned to Heppner Sunday evening after having received his discharge at Camp Lewis.

Charlie isn't particularly crazy about the British Isles and says he would much prefer taking his chances at Argonne than to do another stint of police duty in England. Is he glad to be back in Heppner? Oh, boy!

Vic Groschen's crew have finished their work in Buttermilk canyon and will commence widening upper Main street tomorrow.

MEMBERS COMMERCIAL CLUB ATTENTION

There will be a meeting of the membership of the Heppner Commercial Club in the council chamber Wednesday evening, May 21st at which matters of importance to the interests of Morrow county will be considered. Hon. C. E. Woodson will discuss the different measures to be voted on at the June election and road matters of vital importance to the county will be considered and passed upon by the club.

Action by the club will also be taken either endorsing or refusing endorsement to the different measures on the June ballot.

A full attendance of the membership is urged at this time.

W. P. MAHONEY, President
S. A. PATTISON, Secretary.

THE GRADUATES

THE present week is a most important one in the lives of a considerable number of Heppner youth, boys and girls—or should we say young ladies and young gentlemen—the class of '19, Heppner High School, who are just now

“Standing with reluctant feet where the brook and river meet.”

Reluctant, perhaps to sever the happy relations of childhood's school days, yet impatient to step out into the larger affairs of life intent on the Great Discovery of just what this old world has in store for them, and just what they will be able to wrest from the fickle hand of Opportunity in the way of achievement, service and success.

It is well for them that they are young, filled with enthusiasm and courage for in this age courage and enthusiasm are two of the vital elements of achievement.

When we older ones witness the closing exercises of their public school days next Friday evening we will fervently bid them God speed on the wonderful journey upon which they now start as we recall Longfellow's lines:

“How beautiful is youth, how bright it gleams,
With its illusions, aspirations, dreams;
Book of beginnings, story without end
Each maid a heroine and each man a friend.

“In its sublime audacity of faith,
“Be thou removed,” it to the mountain sayeth,
And with ambitious feet, secure and proud,
Ascends the ladder leaning on the cloud.”

O. E. FARNSWORTH, RESPECTED PIONEER OF COUNTY, PASSES

With the passing of Orin E. Farnsworth, Heppner loses one of her oldest and most highly respected residents. His death occurred at his late home in Heppner, Oregon, May 14, 1919.

Orin E. Farnsworth was the son of Stephen and Mary N. (Loeke) Farnsworth, who were natives of New Hampshire and of Scotch and English descent. His birth was in Halverhill, N. H., November 27, 1846, in which place he was educated and passed the early years of his life. His educational advantages were good and well improved, being an alumnus of a leading academy. At the age of 16 years he enlisted in Company C, Seventh Kansas Cavalry, where he served for nearly one year or until the end of the war, being mustered out September 29, 1865. At the close of the war he came via the Isidore to California, remaining five years in San Francisco, four of which were spent in mercantile business and one in the service of the Internal Revenue department. In 1869, he migrated to Portland, Oregon, engaging there in the general mercantile business for four years and in

1875 came to this county, or the region that is embraced in Morrow county, settling on Rhea creek.

Here he took up a section of land and started in the stock raising business which developed into one of the largest personal achievements of any in this county. Four years ago Mr. Farnsworth retired from active business life.

He served as city councilman for 18 years and two terms as mayor of the city, giving universal satisfaction by his faithful efficiency in the discharge of the trust imposed upon him.

Mr. Farnsworth was married to Miss Catherine M. Pray in Portland, Oregon, on June 18, 1875. Besides the widow there are seven children left to mourn his demise; Frank P. Farnsworth, of Riverside, Wash., Mrs. W. L. Dinamoor, of San Francisco, Edward T., Mrs. J. W. Heymer, Miss Mary H., Mrs. L. E. Bisbee, and Karl Farnsworth, of Heppner, Oregon. There are also six grandchildren all of Heppner, Edward Karl Young, Orin and Katherine Bisbee and Katherine, Willis and Helen Farnsworth.

RETURNS FROM MAYO CLINIC

Dr. and Mrs. A. R. McMurdo and little son Teddy returned last Tuesday from a visit of several weeks duration at Rochester, Minnesota, where the doctor was doing special work in surgery at the Mayo Institute. The Mayo brothers are the most famous surgeons in America, if not in the world and Dr. McMurdo says their methods are the last word in surgical science.

While at the clinic Dr. McMurdo had several interviews with Dr. Rosenow, the famous bacteriologist, who was formerly with the Rockefeller Institute of New York, but who left that institution some time ago to join his talents with Mayo brothers. In these interviews Dr. McMurdo became familiar with all of the latest methods in the treatment of Spanish influenza as well as the latest ideas in modern medical methods thereby equipping himself with a fund of the best present knowledge in both medicine and surgery.

Dr. McMurdo says the trip was by no means taken as a vacation or pleasure trip but was devoted to hard work in acquainting RDLR hard work in acquiring information which will best serve his patients in Heppner and vicinity.

MILLINERY PARLORS REMOVED

Mrs. F. Luper announces the removal of her millinery parlors into the rear of the room occupied by Otto's music store where she will be pleased to meet her many friends and customers. Special reduction of prices on all hats will be made during the remainder of the season.

A GOOD BALL GAME

Speck Aiken's All-Star team of cat-em-alive artists cleaned up on the Eightmile team last Sunday in a hot game that was nobody's by default for several innings.

Manager Aiken showed good judgment in advance by securing Bob Neil, Heppner's former favorite pitcher, to pitch this game and the game was ours.

Eightmile has a husky bunch of players and it is no small job to take their several scalps but the All-Stars were equal to the task. Gay M. Anderson who has been mistakenly spoken of in these columns as a Has-Been proved Sunday that he is neither a has-been nor a “will-be” but strictly an “is.” Many other players are coming back in fine form and Manager Aiken says Heppner will soon be back on the map as an A No. 1 ball town.

GRADUATING EXERCISES CLASS OF '19

The graduating exercises of the Heppner High School will be held next Friday evening closing the present term of school.

The present is the largest class ever graduated from Heppner High. Following is the program for Friday evening:

Piano Solo, selected, Miss Radabaugh
Chorus, Glee Club
Invocation, Rev. F. A. Andrews
Chorus, Glee Club
Commencement Address, President Charles G. Doney, Willamette University.

Presentation of Diplomas.
Song, Senior Class
Benediction, Rev. F. A. Andrews

DANCE

Heppner, Saturday, May 24th. Good music and a good time assured. Bert Stone, floor manager. Tickets, one dollar.

ELKHORN RESTAURANT WILL CLOSE

Ed. Chin, proprietor of the Elkhorn restaurant, has decided to close the business for the present, store his furniture and fixtures and take a vacation. Ed's partner, Ben, went to China for a visit several months ago and according to the last word had from him should have been back in Heppner some time ago. Until his arrival Ed. does not care to purchase or take a long lease on other property therefore has decided to retire from business for the present.

Heppner people will miss the Elkhorn which for many years has been a landmark. Since the fire last summer the place has done an immense business. It is said the place fed more than 400 persons last Sunday.

GATES MAKES SURVEY POWER PLANT CONDUIT

SAYS CHEAP LIGHT POWER NOW ASSURED HEPPNER

Five Mile Conduit Will Drop Water 700 Feet—Develop 400 Horse Power

H. V. Gates president of the Heppner Light & Power company and who by the way is one of the leading hydraulic engineers of the Pacific Northwest, spent Sunday in the city after having been on upper Willow creek with an engineering party making a survey of the line for the proposed power plant where his company proposes to develop a water power for the purpose of developing electric power for use in Heppner, Lexington, Ione and the intervening country.

To a Herald representative Mr. Gates stated that the project has already reached the stage where he can say positively that the plant will be installed and when completed will supply the territory covered with electrical energy at a rate so attractive that not only will light and power be supplied at only a fraction of the present cost but that Heppner will cook their food and heat their houses with electricity as cheaply as they now do with wood and coal.

The water for this purpose will be taken from Willow creek at what is known as the Youkum place, some five miles above the forks of the creek and will be carried around the mountain side through a covered concrete conduit to a point near the forks of the creek where it will be given a sheer drop of 700 feet to the turbine. Some 400 horsepower will be developed and Mr. Gates now believes that his company can transmit the energy to Heppner and sell it to customers at about 5 cents per kilowatt or about one-third of the present rate.

An auxiliary steam plant will be installed at the same point as a precautionary measure to guard against any shortage of water during the late summer months or in case of accident at any time to the conduit or water power plant. There is an abundance of fuel within easy reach which will cost but a fraction of the present fuel cost at the all steam plant now in operation here.

Mr. Gates is enthusiastic over the prospects for cheap power for Heppner and he is firmly of the belief that when the city gets its gravity water system and his hydro-electric plant is in operation the old town will enter upon a hitherto undreamed of era of growth and prosperity.

Mr. Gates is still at work with his party this week and expects to complete the survey Saturday.

Mrs. Dr. V. L. Hamilton, of Coquille, Oregon, is here visiting her parents, Mr. and Mrs. Hiram Clark, her sister, Mrs. A. B. Bowker and other friends and relatives.

A CORRECTION

In referring to the burning of L. V. Gentry's car on the road last week the Herald was in error in stating the machine was a Reo. The car was not a Reo but an old car that had been in use for a year or so. The Reo agency was recently established here with the Roberts-Cohn Auto. Co., and that car is recognized as one of the most reliable standard cars.

WITNESSES DEATH OF CONDON COMRADE

JAMES SHELL INSTANTLY KILLED IN ARGONNE FIGHT

Cleo Drake, Eightmile, Close to Him At Time Escapes Without Scratch

Colvin V. Dymont, American Red Cross searcher with the 91st Division is writing a detailed account of the Argonne battle for the Oregonian and gives the following account of the death of Corporal James Shell of Condon, which was witnessed by Sergeant Cleo Drake, of Eightmile, this county. The story follows:

On the 29th the colonel started for Genes with his men. His reputation for indifference to enemy fire was put to the fiery test on that afternoon, twirling a cane. He was pretty well over to the right flank and it was improbable that, with fire from two sides, he would get far; and he didn't—only it happened to be a wound instead of death. He lay on the ground mourning. “For years I have been hunting an army,” he said, “and now that I've found one I can't go with them. Just see the _____ go.” The colonel was carried back and recovered. He became a colonel of military police in Paris, and the writer has heard one 91st man counselling another: “If you get in trouble in Paris, make the M. P. tell Colonel Parker. With him a 91st man can't do anything wrong.”

Fresh rations and tobacco put men in good spirits over in the damp fox-holes on Miller hill, and Private John Boyce of 99 Monte Cristo avenue, Oakland, Calif., and Private George Kennell of Hanford, Calif., had both just drawn rations and had tobacco. Sergeant Allen Passenger, of route 4 box 355, Seattle, had just talked with them, and now was in his hole 15 feet distant. It was 9 A. M. on the 30th, hundred hours having just begun. Kennell and Boyce were on the front line so close to the top of Hundred Hour hill that the trajectory of a shell would commonly carry it over. Fritz, perhaps crestfallen, over the taking of Genes, on the day before and not yet daring to come back to the town in force, was pelting the area heavily to prevent any more such attacks. A shell fell in with Kennell and Boyce, who were badly cut up and instantly killed.

Company C of the 347 machine gun battalion lost a pair of fine non-coms on the afternoon of the 30th. The company was in reserve with orders to wait a possible counter-attack. A plane flew over. A one-pounder came out, set up by the company and fired a few rounds, and at once a German counter-fire started. Corporal James Shell, Condon, Oregon, and Corporal Charles Trombly, of Pasadena, fell victims of the concussion of an extra large shell. Shell did not know what struck him but Trombly got as far as the dressing station. His carriers were worried about him. “We have a man here in very bad shape sir,” said Private Madden to the medical major—and we'd like to get immediate attention,” he added boldly. “Sure said the medical major, and in a moment was busy with scissors cutting of Trombly's clothes.

Lieutenant W. T. Newbery of 2306 West Pacific avenue, Spokane, commanded these men. “I do not think there were two better liked or more competent non-coms in the battalion,” he said. “Shell took fine care of his squad and his guns. Trombly was the life of Company C. Everything was always O. K. and pleasant to him. We felt their loss keenly.” Sergeant Cleo Drake of Eightmile, Oregon, was a witness of the death of Shell, who came from the adjoining county of Gilliam.

A big man of great strength in Company C, 347th., was Private Fred Domes, Warrenton, E. D. He was 25 yards from Trombly and Shell when concussion from one of the volley of German shells tore him so that he was bleeding tremendously, yet, perhaps not knowing what he was doing he picked up an ammunition box and began to walk off. He walked 20 feet and fell dead.

CARD OF THANKS

We wish to thank all our friends and neighbors who so kindly assisted us in our hours of sadness.
MRS. O. E. FARNSWORTH, And Family.