

## QUARTZ NOT TREASURE TROVE

**Important Decision of Supreme Court Regarding Quartz Found Upon Land Belonging to Another Person—Case of Ferguson Vs. Ray.**

### CAN BE HELD BY OWNER OF THE LAND.

In 1901 Robert Ferguson was in possession of the premises of Charles R. Ray, in Jackson county, under a lease. While cutting wood thereon he found a rich specimen of goldbearing quartz on top of the ground. He at once secured a pick and shovel and on scraping the leaves away he found one or two other pieces "on top," as he testified, "or almost on top of the ground." In digging through the surface he found others, extending to the depth of 10 or 12 inches, in all weighing about 17½ pounds. There were no indications present of any natural ledge or lode of goldbearing or other quartz in place, or of any pocket or placer or other natural deposit, the formation in which the specimens were imbedded being described as "a loose surface soil."

Ferguson sold half the quartz and delivered the remainder to Ray. Later he brought this action to recover the quartz given to Ray, alleging that it belonged to him and that it had been obtained from him by duress and threats of arrest, imprisonment, etc. Ray's defence was that the quartz specimens were his property by reason of having been extracted from his land, and also by virtue of an agreement between himself and Ferguson that he should pay Ferguson one-half the excess value, if any, between the rock delivered to him and that sold by Ray.

At the trial before Judge Hanna testimony was introduced tending to support the allegations made, and it was also shown by Ferguson's witnesses that trees near the spot where the ore was found bore old scars, made a number of years before with an ax or similar implement. Ferguson testified that the ore had the appearance of having been placed there a long time ago, and another witness testified that the quartz had marks of having been broken from a vein of ore. Still another witness told of having found pieces of old rotten duck cloth at the place where the ore was discovered.

This was the substance of the evidence concerning the circumstance and conditions under which the goldbearing quartz was found. The trial court denied a motion for nonsuit and judgment having been rendered in favor of Ferguson for the recovery of the ore, Ray appealed.

In an opinion written by Justice Wolverton, it is held that the motion for a nonsuit should have been granted. "The theory upon which the cause is sought to be maintained is that the quartz was either lost or abandoned property, and that in either event plaintiff (Ferguson) is entitled to its possession as against the defendant, and all others, except the true owner. As the property was found beneath the surface, not upon it, the question has been presented whether or not it is treasure trove. We are firmly impressed that it cannot be so considered.

Authorities are quoted showing that treasure trove is money, coin, gold, silver, plate or bullion hidden in the earth, the owner being unknown, and the court says this quartz does not come under any of those classifications.

Taking up the question whether the quartz was lost or abandoned property, the court holds that the evidence does not show that it was either lost or abandoned in the sense that the finder is entitled to its possession or ownership as against the owner of the soil. "The quartz was not found on the surface of the earth and the presumption that it was lost, which attends property

found on the surface, is wanting. The property was valuable. It had certainly at some time previous been detached by human agency from a ledge, and the evidence that it was once contained in a bag of some kind of cloth, and that trees near the place of finding bore some old marks, apparently made by design to aid in locating the property, would indicate that it was voluntarily deposited where found."

The Supreme Court, therefore, holds that since this quartz, not being treasure trove, was found imbedded in the soil under circumstances repelling the idea that it had been lost, the presumption is that the possession is in the owner of the land.

### Take State Census Next Year.

County Assessor-elect Peter Applegate, who begins his four year's term of office on the first of next January, will have a large amount of extra work to perform with no extra compensation, for he will have to take the census of Jackson county in addition to the regular property assessment.

Although the next federal census will not be taken until 1910, the state laws of Oregon provide for a decennial census, to be taken midway between the government's enumerations. The next state census, therefore, will be compiled in 1905.

It is made the duty of the county assessors throughout the states to take the census in their respective counties, the work commencing May 10. Each assessor to ascertain the number of legal voters in his county, the number of males who are of age, the number under 10 and 21. He must also ascertain the number of females who are of age, the number under 10 and the number between 10 and 18.

It is also the assessor's duty to gather full information as to the agricultural products of the county, the number of acres under cultivation, the quantity of salmon taken during the preceding year and other statistics of commercial and industrial value. When the census has been completed, it must be copied by the county clerk and then transmitted to the secretary of state.

### Oregon Development League.

The Portland Commercial Club has issued a call for a convention of the Oregon Development League, to be held at the Marquam Grand Theater in Portland August 2nd and 3rd. All commercial, agricultural, mining, stock-raising and irrigation interests will be represented. Every editor in the state will be invited to attend as a delegate. County commissioners and mayors of all towns and cities, will also be called upon to name delegates. The Portland Women's Club will look after the comfort of ladies accompanying delegates, and, among other entertainments, have arranged for a trolley ride on August 2nd, taking in the most interesting and beautiful environs of Portland, and on August 3rd ten street cars will be provided for a trip over the entire city.

The Southern Pacific Co. will sell tickets at the very low rate of one fare for the round trip, from all points on Oregon Lines to Portland and return, for this occasion, and it is hoped that every section of the state will be well represented at the convention, to work in harmony for the development of Oregon.

### Night Was Her Terror.

"I would cough nearly all night long," writes Mrs. Chas. Applegate, of Alexandria, Ind., "and could hardly get any sleep. I had consumption so bad that if I walked a block I would cough frightfully and spit blood, but, when all other medicines failed, three \$1.00 bottles of Dr. King's New Discovery wholly cured me and I gained 58 pounds." It's absolutely guaranteed to cure Coughs, Colds, La Grippe, Bronchitis and all Throat and Lung Troubles. Price 50c and \$1.00 Trial bottles free at City Drug Store.

## Great Clearance Sale

of  
FASHIONABLE MILLINERY

Miss Katherine Chapman, the Jacksonville Milliner, having removed her stock of goods from Dunsmuir, Cal., to this place, is now overstocked. In order to clear out before the fall season arrives she has made GREATLY REDUCED prices on all summer millinery, consisting of STREET HATS, READY-TO-WEAR HATS and PATTERNS, FLOWERS, etc.

PRICES WILL ASTONISH YOU

Buy from Miss Chapman - - - Save Money

## Garden Tools Shovels, Spades Wheelbarrows Pruning Tools

ANY TOOL THAT THE FARMER, GARDENER  
AND ORCHARDIST MAY NEED

**D. H. MILLER'S**

Hardware Store, Tinning and  
Plumbing Shop.

MEDFORD, - - - OREGON

## Union Livery Stables

Rigs on short notice for timber cruisers, commercial men, mining men, sawmill men, all kinds of men or parties. Horses fed at reasonable rates.

Geo. N. Lewis, Prop., Jacksonville

## OREGON NURSERY CO

Established 1867

SALEM, - - - OREGON

Oldest and Largest Nursery on Pacific Coast. All our stock is Home Grown and guaranteed True to Name. All Trees that fail to live replaced at Half Price. Can fill orders for any kind of Tree, Shrub or Flower that can be grown in Oregon. Large Illustrated Catalogue sent Free on application to

R. D. MAPLES DEN, AGENT  
MEDFORD, - - - OREGON

## WHITE & TROWBRIDGE THE BIG LAND AGENTS MEDFORD, - - - OREGON

We have the largest and best list in Southern Oregon of Fruit, Alfalfa, Dairy and Stock Lands, Timber Lands, Mining Bargains and Town Property.

Dealers in

Sewing Machines, Lime, Cement and Shingles.

We buy wool and mohair.