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FORMERLY THE PIOCHE WEEKLY RECORD.

VOL. LII | PIOCHE, NEVADA, FRIDAY, JUYL 5, 1901. | NO. 3.

ATTORNEY GENERALS OPINION.

In answer to a letter written by District Attorney F. R. McNamee to Attorney General Woodburn, in regard to the ownership of the railroad grade and the right of the County Commissionees to dispose of the same, the Attorney General hands down the following decision:

Office of Attorney General.

F. R. McNamee,

Dear Sir:—

Your letter of May 18th received and considered, whereby you submit for my consideration the following questions:

1. Can the County Commissioners of Lincoln County divest the County of its title to the property described in your communication, in any other manner than at public auction sale, after first giving legal notice?

2. Can the said property be sold as an entirety; or can it be segregated, and the part so segregated be sold separately?

3. Can the taxes assessed against said property for the year 1894, up to and including 1900, be collected; it appearing from the records that said property has been assessed for each of these years to the County Treasurer of said county, who held the same in trust for the County and State?

As to the first question propounded it appears that during the year 1893 the O. S. L. and U. N. R. R. company's right-of-way and improvements on their grade in Lincoln county were assessed at a valuation of one hundred thousand dollars; in default of payment suit was brought, judgment obtained, the property was regularly sold to satisfy the same, and at the sale, in default of any other bidder, it was bid in by the County Treasurer to hold it in trust for the county and State. The time of redemption having expired, a deed was duly executed and delivered by the Sheriff of said county to the Treasurer thereof as required by law.

Upon this state of facts I am of the opinion that the County Treasurer has no right to make, execute and deliver to any purchaser an absolute deed of said property upon a bare order entered upon the record of the proceedings of the Board of County Commissioners without any public notice of the sale. Board of County Commissioners are of special and limited powers and must always exercise their powers as prescribed by the Legislature. Hess vs Com. Washoe county, 6 Nev. 104; Beck vs Com. Washoe Co, 22 Nev. 15; State vs C. P. R. R. Co. 9 Nev. 89.

County Commissioners have no power beyond those expressly granted by the Legislature. Waitz vs Ormsby Co. 1 Nev. 370; Lyon Co. vs Ross, 24 Nev.

By virture of the Act creating a Board of County Commissioners in the several counties of the State and defining their duties and powers, the Board can only make an order to sell the property of the county at public auction at the Court House after public notice (in the same manner as required by law for the sale of like property on execution,) and cause to be conveyed any property belonging to the county. Sec. 2111, 3318, 3320 Comp. laws.

If County Commissioners attempt to exercise any power otherwise than as prescribed by law, their action is absolutely void. Sadler vs Eureka Co. 15 Nev. 42; State vs Washoe Co. 6 Nev. 104.

The requirements of our Statute, that the sale should be upon notice at public auction, are mandatory upon the county officers. Winn vs Shaw 87 Cal. 631; Maxwell vs Board of Stanislaus Co. 3 Cal. 389; People vs Super, San Francisco 36 Cal. 595.

In the case of Lyon county vs. Ross all the statutory provisions of law relating to the mode of property bid in by the County Treasurer are held by him in trust for the County and State and the character of notice to be given of the sale are elaborately and forcibly discusses.

It will be observed that no kind of property held by the Treasurer in trust for the county and State, and by him offered for sale, is excepted from the operation of the rule laid down in the case above cited requiring notice of sale.

Sec. 991 of the Railroad, Telegraph and Telephone Act has no bearing upon the question under consideration, as it does not affect property bid in by County Treasurers for delinquen taxes.

My opinion, therefore, is that the title to property sold by the county Treasurer without giving legal notice of the sale is a nullity.

As to the second question, whether the said property must be sold by the county Treasurer as an entirety, or can be segregated and sold, I find a dearth of authority upon the subject, but I believe none is necessary.

The following citation from the authority hereafter cited may aid in the solution of the question: "When the State conveys to a private person land which is acquired at a tax sale, he will take it in the same condition in which the State held it, subject to the same equities and defenses."

Such land is not bought for speculative purposes or for corporate uses, but as a means of enforcing the collection of taxes. Black on Tax Titles 2nd Ed. 301; Martin vs Barbour 140 W. S. 634; 11 Sup. Ct. Rep. 944.

It appears that the right-of-way and improvements on the grade mentioned were assessed as an entirety and sold to the County Treasurer as an entirety. The right-of way is a franchise subject to taxation A franchise is a particular privilege conferred by grant from a Government and vested in individuals. Though taxable privilege, something that the eye cannot see, can be segregated, sold or assigned in fragments. The power to sell a mile of a right-of-way sixty miles in length would be more than dangerous. The remainder might be rendered valuless; its exercise might prevent the construction of a railroad, destroy competition, hinder the development of a county and be productive of gross fraud and injustice.

My opinion, therefore, is that the said right-of-way and improvements should be sold as an entirety by the said Treasurer upon giving due notice.

As to the last question, I believe it is well settled that a void sale does not divest the lien for the tax. Cooley on Taxation, 2nd Ed. 672.

The taxes for the year 1894 and every succeeding year up to and in the year 1900, were assessed to the County Treasurer who had the legal title to the property. See Sec. 1130 Comp. laws.

Wm. Woodburn,
Attorney General.

The Iri R. Hicks 1901 Almanac.

Whatever may be said of the scientific causes upon which the Rev. Irl Hicks bases his yearly forecasts of of storm and weather, it is a remarkable fact that specific warning of every great storm, flood, cold wave and drouth, have been plainly printed in his now famous Almanac for many years. The latest startling proof of this fact was the destruction of Galveston, Texas, on the very day named by Prof Hicks in his 1900 Almanac, as one of disaster by storm along the gulf coasts. The 1901 Almanac, by far the finest, most complete and beautiful yet published is now ready. This remarkable book of near two hundred pages, splendidly illustrated with charts and half-tone engravings, goes as a premium to every subscriber who pays one dollar a year for Prof. Hicks' journal, Words and Works. The Almanac alone is sent prepaid for only 25c. Order from Word and Works Publishing Company, 2201 Locust Street, St. Louis, Mo.

Carson, Nev., June 26.—The nine maps filed in the Land office here by the Utah, Nevada & California company were returned today from Washington, with a letter from the Commissioner instructing the Register and Receiver to order a hearing as to alleged frauds in the survey upon which these maps are based. The action of the Commissioner is the result of a protest and affidavits filed by Attorney Whittemore of the San Pedro company while in Washington recently and will have an important bearing on the injunction nearing. The U. N. & C. railroad company was relying upon the immediate approval of these maps as the basis for an injunction against the San Pedro company.

A Connecticut court has decided that there cannot be a legal partnership in buisness between husband and wife and when such a partnership is formed it is void. As a result of this decision a wife's property is not within reach of creditors where her husband fails, as the case cited notwithstanding the alleged partnership. A point of law worth knowing.

A clean, strong wholesome liniment, Trib does all claimed for it.

It is claimed that the washings from the dumps of gravel taken from beneath the ice at Dawson average thirty cents to the pan.

Notice To Creditors.

In the District Court of the Fourth Judical District, in and for the County of Lincoln State of Nevada.

In the Matter of the Estate
Of
Mary Williams, Deceased.

Notice is hereby given that the undersigned was duly appointed on May 16th 1901 by the District Court of the Fourth Judicial District of the State of Nevada, in and for the County of Lincoln, Administrator of the Estate of Mary Williams, Deceased, late of said county of Lincoln.

All creditors having claims against said estate are required to file the same, with proper vouchers attached, with the Clerk of said court, within 40 days after the first publication of this notice.

Joseph Cook,
Administrator.

Dated May 31st 1901.

Notice To Creditors.

In The Fourth Judicial District Court of the State of Nevada, in and for the County of Lincoln.

In The Matter of the Estate
of
Wm. Holt, deceased.

Notice is hereby given that the undersigned was on the 3rd day of May, 1901 duly appointed and qualified by the Fourth Judicial District Court of the State of Nevada, in and for the County of Lincoln, as the Administrator of the Estate of Charles Nelson, late of said county Deceased.

All creditors having claims against said estate are required to file the same with proper vouchers attached, with the Clerk of the Court, Within three months of the first publication of this notice.

Walter Reeder.
Administrator.

Dated, May, 23d 1901.

THE TAX OF THE Proceeds of the Mines.

Notice is hereby given that the Taxes of the Proceeds of the mines for the Quarter ending Mar 30th. 1901 are now due and payable at the Office of the County Assessor, at the Court House.

The law in regard to their collection will be strictly enforced.

CHAS. MATHEWS, County Assessor

Dated Pioche May 10th, 1901.

Notice of Sheriff Sale.

In the District Court of the Fourth Judicial District, Lincoln County, State of Nevada.

F. R. McNamee
Plaintiff
vs.
The Mineral Union Limited,
a corporation, Defendant.

By virture of an execution issued out of the Fourth Judicial District Court, of the State of Nevada, in and for the County of Lincoln, dated the 2nd day of January, A. D. 1901. in a certain action wherein F. R. McNamee, as plaintiff recovered judgement against the Mineral Union Limited a corporation, defendant, for the sum of One thousand and fifty-nine, ($1059) dollars, lawful money, and costs of suit, taken at Four hundred and seven and 25-100 ($407,25) dollars, on the 12th day of December, 1900.

I have levied upon the following described property, towit: All that certain mine, mining ground and claim 300 feet in width by 1500 feet in length, situate three hundred feet south of Good Springs, in the Yellow Pine Mining District, Lincoln County Nevada, together with all the improvements thereon, consisting of Mills, buildings machinery, pump, ice plant, water piping, and all fixtures of whatsoever nature attached to the soil within the boundaries of said claim. Said claim being known, located and recorded as the Hirsching Lode Mining Claim.

Notice is hereby given that on Monday the 11th day of February, A. D. 1901, at 1 o'clock p. m. of said day, in front of the Court House, at the town of Pioche, in the County of Lincoln, State of Nevada, I will sell all the right, title and interest of the said Mineral Union Limited, a corporation, in and to the above described property, at public auction for cash, lawful money, to the highest and best bidder, to satisfy said execution and all costs.

JAKE JOHNSON,
Sheriff, Lincoln County, Nev

Dated Pioche, Jan 15th 1901.

Application for Patent.

Notice No. 816.

UNITED STATES LAND OFFICE Carson City, Nevada December 13th 1900.

NOTICE IS HEREBY GIVEN THAT L. L. Woods, and his co-claimant Jesse Knight of Provo City, Utah, by their attorney in fact, Lafayette Woods of Barclay, Lincoln County, Nevada, have made application for a United States Patent for the Rattlesnake, Lucky Strike, Tirantula, Alhambra, Admiral Dewey and Opal Consolidated Lode Mining claim situate in an unorganized Mining District Lincoln County, Nevada, consisting of 1500, 1500, 1500, 1500 and 1500 linear feet respectively of said Lodes and surface ground as shown on the plat of the official Survey, being Survey No. 1905 and described in the field notes and plat of the official survey on file in this office, with magnetic variation at 16 degrees 30 minutes east, as follows:

Begining at Corner No. 1 a corner of the Opal Lode claim of this Consolidation; thence N. 1 degree 33 minutes east; 611 feet to Corner No. 2 of said Lode claim; thence north, 86 degrees 33 minutes east, 2111 feet to Corner No 3 of Tirantula Lode claim; thence south 1 degree 33 minutes west, 1501 7 feet to corner No. 4 of said Lode claim; thence south 14 degrees 37 minutes east, 3000 feet to corner No. 3 of Rattlesnake Lode claim; thence south 86 degrees 33 minutes west, 602.4 feet to corner No 4 of said Lode claim; thence N 14 deg 27 min w, 3000 feet to corner No 4 of Lucky Strike Lode claim; thence south 1 degree 33 minutes west, 611 feet to corner No 2 of Alhambra Lode claim; thence south 86 degrees 33 minutes west, 1222.4 feet to corner No 2 of Admiral Dewey Lode claim; thence north 1 degree 34 minutes east 1500 feet to corner No 3 of said Lode claim; thence south 86 degrees 33 minutes west, 278 feet to corner No 1 of Opal Lode claim, the place of beginning Survey of exterior boundaries of the Consolidated Claim, containing a total and net area of 123, 788-1000 acres all of which is hereby applied for, no conflicts. From corner No 1 of Rattlesnake Lode claim U. S. L. M. No 1 bears north 88 degrees 28 minutes west 1169.7 feet distant. From corner No 4 of Lucky Strike Lode claim which is identical with corner No 1 of Tirantula Lode claim, said monument bears south, 27 degrees 12 minutes west, 1398 7 feet distant.

From corner No 1 of Alhambra Lode claim which is identical with corner No 1 of Admiral Dewey Lode claim said monument bears south 4 degrees 54 minutes west 719.4 feet distant and from corner No 1 of Opal Lode claim said monument bears south 19 degrees 21 minutes east [illegible] feet distant.

Said Consolidated Lode claim running a portion of unsurveyed ground in Lincoln County Nevada, latitude north 37 degrees 21 minutes, said lode locations mining claims being of record in the office of the County Recorder at Pioche in Lincoln County, Nevada, in book "L" of Mining Notices at pages 16, 17, 18, 19, 20, 21, 299, 300, Records of Lincoln County, Nevada, there are no known locations near this Consolidated Mining claim as shown by the plat of the official survey.

I direct that this notice be published in the Lincoln County Record at Pioche, Nevada, the newspaper published the said mining claim, for the period of 10 weeks.

O. H. GALLUP,
Register.

R. L. R ss,
Claimant's Law Attorney.

First publication dated Dec. 21st 1900.

Application for Patent.

Notice No. 815.

IN THE UNITED STATES LAND OFFICE, AT CARSON City, State of Nevada, Carson City Land District, Dec. 13, A. D, 1900.

Notice is hereby given that in pursuance of the Act of Congress approved May 10th, 1872, "to promote the development of the Mining resources of the United States," A. W. McCune and Ben Johnson, by James Macfarlane, their Attorney in fact, whose Post Office Address is Fay, Lincoln County and State of Nevada, have made application for a United States Patent for themselves and the heirs of W. L. Hoge, deceased, for the Horse Shoe No. 1, the Horse Shoe No. 2, the Horse Shoe No. 3, the Horse Shoe No. 4, the Bryan, and the Bryan Extension lode mining claims consolidated as United States Survey, No. 1902. consisting of 1499-5-10 linear feet of said Horse Shoe No. 1; 1476-8-10 linear feet of said Horse Shoe No. 2; 1473-5-10 linear feet of said Horse Shoe No. 3; 1500 linear feet of said Horse Shoe No. 4; 1499-6-10 linear feet of said Bryan, and 1233-4-10 linear feet of said Bryan Extension lodes, or mineral deposits bearing gold, silver and other metals with surface ground as hereinafter bounded and situated in Eagle Valley Mining District, County of Lincoln, State of Nevada, which are more fully described as to metes and bounds by the official plat and field notes of the Survey of said mining claims now on file in this office with magnetic variation at 16 degrees, 15 minutes East, as follows:

Commencing at corner No. 1 of said Horse Shoe No. 1 mining claim, thence south 86 degrees, 18 minutes west 600 feet to corner No. 2 of the claim; thence north 16 degrees, 16 minutes west, 1499-5-10 feet to corner No. 3 of the claim; thence north 86 degrees, 18 minutes east 600 feet to corner No. 4 of the claim; thence south 16 degrees, 16 minutes east 1499-5-10 feet to said corner No 1., said place of commencement of surface bounds for said Horse shoe No. 1 claim.

Also beginning at corner No. 1 of said Horse Shoe No. 2 mining claim identical with said corner No. 1 of said Horse Shoe No. 1 mining claim, thence south 86 degrees, 18 minutes west, 600 feet to corner No. 2 of the claim, thence south 5 degrees, 57 minutes east. 1476-8-10 feet to corner No. 3 of the claim, thence north 86 degrees, 18 minutes east, 600 feet to corner No. 4 of the claim, thence north 5 degrees, 57 minutes west 1476-8-10 feet to said corner No. 1, said place of commencement of surface bounds for said Horse Shoe No. 2 claim.

Also commencing at corner No. 1 of said Horse Shoe No. 3 mining claim, thence north 76 degrees 39 minutes east, 496-7-10 feet to corner No. 2 of the claim, thence south 12 degrees, 5 minutes east, 1473-5-10 feet to corner No. 3 of the claim, thence south 76 degrees. 39 minutes west 549 feet to corner No. 4 of the claim, thence north 5 degrees, 57 minutes west 892-2-10 feet to corner No. 5 of the claim, thence north 16 degrees, 16 minutes west, 589-1-10 feet to corner No. 1, said place of commencement for the surface bounds of said Horse Shoe No. 3 claim.

Also commencing at corner No. 1 of said Horse Shoe No. 4 mining claim, identical with corner No. 1 of said Horse Shoe No. 3 claim, thence north 76 degrees, 39 minutes east, 496-7-10 feet to corner No. 2 of the claim, thence north 9 degrees, 46 minutes west, 1500 feet to corner No. 3 of the claim, thence south 76 degrees, 39 minutes west, 600 feet to corner No. 4 of said claim, thence south 9 degrees, 46 minutes east 589 feet to corner No. 5 of the claim, thence south 16 degrees, 16 minutes east 910-4-10 feet to said corner No. 1 said place of commencement for surface bounds of said Horse Shoe No. 4 claim.

Also commencing at corner No. 1 of said Bryan mining claim, thence north 81 degrees, 11 minutes east. 135.5-10 feet to corner No. 2 of the claim, thence north 6 degrees, 33 minutes east, 1519-3-10 feet to corner No. 3 of the claim, thence south 81 degrees 11 minutes west, 608 feet to corner No. 4 of the claim, thence south 9 degrees, 46 minutes east 542 4-10 feet to corner No. 5 of the claim, thence south 12 degrees. 5 minutes east, 924-7-10 feet to said corner No. 1, said place of commencement for surface bounds for said Bryan claim.

Also commencing at corner No. 1 of said Bryan Extension claim thence north 81 degrees, 11 minutes east, 600 feet to corner No. 2 of claim; thence north 14 degrees, 11 minutes west, 1233-4.10 feet to corner No. 3 of claim, thence south 81 degrees, 11 minutes west, 505 feet to corner No. 4 of claim, thence south 9 degrees, 46 minutes east, 1228 2-10 feet to said corner No. 1, said place of commencement for said surface bounds of said claim.

From corner No. 1 of said Horse Shoe No. 1. U. S. L. M. No. 1. bears north 65 degrees 57 minutes west, 309 feet. From said corner No. 1 of said Horse Shoe No. 2 claim, said U. S. L. M. No. 1 bears north 65 degrees. 57 minutes west, 309 feet. From said corner No. 1 of said Horse Shoe No. 3 claim, said U. S. L. M. No. 1 bears south 14 degrees, 55 minutes west 454-9-10 feet, From said corner No. 1 of said Horse Shoe No. 4 claim said U. S. L. M. No. 1 bears south 14 degrees, 55 minutes west, 454-9-10 feet. From said corner No. 1 of said Bryan claim, said U. S. L. M. No. 1 bears north 66 degrees, 15 minutes west, 867 7-10 feet. From said corner No. 1 of said Bryan Extension claim, said U. S. L. M. No. 1 bears south 26 degrees, 2 minutes west 1201-7-10 feet.

Total net area said Horse Shoe No. 1. 20,159 acres
Total net area said Horse Shoe No. 2. 20.526 acres.
Total net area said Horse Shoe No. 3, 16.601 acres.
Total net area said Horse Shoe No. 4. 19.543 acres,
Total net area said Bryan Claim 12 603 acres.
Total net area said Bryan Extension claim 15,575 acres. Total net area of consolidated claim 104 807 acres, being the number of acres to be patented.

The general course or direction of said Horse Shoe No. 1 vein or lode is about north 16 degrees. 16 minutes west, 1499 feet, and south 16 degrees, 16 minutes east 5-10 feet from its discovery; and the general course and direction of said Horse Shoe No 2, lode or vein is about south 5 degrees 57 min. east, 1476-3-10 feet and north 5 degrees, 57 minutes west 5-10 feet from its discovery; and the general course and direction of said Horse Shoe No 3 vein or lode is south 12 degrees 5 minutes east, 1309 feet and north 12 degrees 5 minutes west, 164 3-10 feet from its discovery; and the general course and direction of said Horse Shoe No 4 vein or lode is north 9 degrees 46 minutes west, 1500 feet from its discovery; and the general course and direction of said Bryan claim is north 6 degrees 33 minutes east, 912-5-10 feet and south 10 degrees 7 minutes east 567-1-10 feet from its discovery and the general course and direction of said Bryan extension lode or vein, is north 14 degrees 11 minutes West 1233-4-10 feet from its discovery and as shown upon the plat herewith posted as near as can be determined from present developments. This consolidated application being for 1499-5-10 linear feet of said Horse Shoe vein or lode No. 1, and for 1476-8-10 linear feet of said Horse Shoe No. 2. vein or lode and 1473-5-10 linear feet of said Horse Shoe No 3. vein or lode and for 1500 linear feet of said Horse Shoe No. 4. vein or lode and for 1496-6 10 linear feet of said Bryan vein or lode and for 1233-4-10 linear feet of said Bryan extension vein or lode and for surface ground as hereinbefore bounded.

Said mining claims are recorded in and upon the county records of said Lincoln County, at Pioche, as follows.

Said Horse Shoe No. 1. claim in Book "H" of mining notices, page 91; said Horse Shoe No. 2 claim, in said Book "H" page 91; said Horse Shoe No. 3, claim in said Book "H" page 92; said Horse Shoe No. 4 in said Book "H" page 92 and 93; said Bryan claim in book "H" page 93 and 94; said bryan Extension claim in said Book "H" page 94. The said Horse Shoe No, 1. the Horse Shoe No. 2, the Horse Shoe No, 3, the Horse Shoe No. 4. the Bryan and Bryan extention mining claims consolidated are designated in the official plat aforesaid and herewith posted as Survey No. 1902. The nearest known locations or mining claims are; the Homestake the Mewhawk and Mule-shoe lode mining claims.

That there are no adjoining or conflicting mining claims.

Any and all persons having any adverse claim to said Horse Shoe No. 1. said Horse Shoe No. 2. said Horse Shoe No. 3, said Horse No, 4 said Bryan and said Bryan Extension mining claims, vein or lode or premises, or any portion thereof as hereinbefore described surveyed platted and applied for are hereby notified that unless their adverse claims thereto are duly filed according to law and the regulations thereunder within the 60 days period of the publication hereof with the Register of the United States Land office at Carson City, Nevada, they, and each of them, will be barred by virtue of the provisions of said statute, laws, rules and regulations.

I direct that this notice be published in the Lincoln County Record, a weekly newspaper published said claims for the period of ten weeks.

O. H. GALLUP,
Register.

Date of first publication Dec 21st 1900.

$900. YEARLY to Christian man or woman to look after our growing business in this and adjoining Counties; to act as Manager and Correspondent; work can be done at your home. Enclose self-addressed, stamped envelope for particulars to H. A. Sherman, General Manager, Corcoran Building, opposite United States Treasury, Washington, D. C.

I. O. O. F.

PIOCHE LODGE NO. 28.

MEETS EVERY TUESDAY AT 7:30 o'clock in their hall on Main street. Visiting Brothers cordially invited to attend.

A. A. Carman. N. G.
J. D. Campbell, Secretary.

A. O. U. W

PIOCHE LODGE NO. 26.

THE REGULAR MEETINGS OF Pioche Lodge No. 26, A. O. U. W., are held in Odd Fellow's Hall on Wednesday evening of each week at 7:30 o'clock sharp. Visiting brothers cordially invited to attend.

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4:40	Milford		8:00
4:19	Upton		8:21
3:56½	Thermo		8:45
3:37	Nada		9:02
3:00	Lafitner		9:15
2:55	Sulphur Well		9:20
2:55 Lv. / 2:50 Ar.	Lund	Ar. / Lv.	9:40 / 9:55
2:38	Covena		10:07
2:20	Sahara		10:25
1:59	Beryl		10:46
1:35	Escalante		11:10
1:20 Lv. / 1:10 Ar.	Modena	Ar. / Lv.	11:28 / 11:38
1:01	Searl		11:44
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