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FUTURE HOLDS FAIR PROMISE

Hard Work and Perseverance Are Gradually Reclaiming the Arid Bench of Rock Creek.

MOORE IS A PROSPEROUS TOWN

New and Thriving Village Is Pushing Steadily to the Front and Has a Bright Future.

Dotted with comfortable homesteads and intersected by many well built fences, the Rock creek bench now represents a prosperous and fertile appearance. Ten years ago this plateau, which embraces a district twenty miles in length by six in width, was desolate, waterless and uninhabited. Bunches of horses and cattle grazed there and returned to Rock creek to water. Anybody who entertained the idea of settling there with the notion of making a living by raising grain would have incurred the ridicule of his friends and the sympathy of his enemies.

But a few years ago a company of hardy settlers from Nebraska, Iowa and other overcrowded farming centers, broke the virgin soil of the Rock creek bench and since that time many homeseekers have settled there with benefit to themselves and profit to the community. Some seasons the crop was heavy, others it was a hard struggle to make both ends meet, until by brave endeavor and practical cultivation the land has been made to yield a generous return for the arduous labor of the first few seasons.

Last year in the neighborhood of 150,000 bushels of grain was hauled off the Rock creek bench, besides small crops that were not marketed being used for home consumption and sold in small quantities. Not much diversified farming has been accomplished; the almost entire attention of the community has been turned to the raising of winter wheat, to which the land is particularly adapted. Oats and potatoes make a good crop and garden truck can be raised with success.

The average yield of wheat to the acre is from 40 to 60 bushels and is graded No. 2 hard. A large quantity of it was purchased last fall by the Bozeman Milling Co., and used in the manufacture of high grade flour. A percentage of this wheat is bought by the Judith Milling Co., of Lewistown, and converted into White Satin, a flour which is universally used throughout the Judith Basin.

The price of wheat per bushel last fall was from \$1.25 to \$1.75. The market price of grain has raised materially since the advent of the Montana Railroad, owing to the fact that this means of transportation enables outside milling companies to enter the home market. The Rock creek bench proper, as shown by the governmental surveys, embraces thirty-two townships, which represents 32 square miles or 128 entries of 160 acres each. The larger portion of this land is already occupied and improved. A number of patents have been issued and several choice farming properties are now in the market.

Practical farmers with capital, recognizing the possibilities of the district, have bought out some of the smaller owners and with the aid of up-to-date machinery are raising heavy and valuable crops of grain. Some of the crops raised on this land under the most primitive methods are simply wonderful, and farmers who started in with absolutely nothing and in debt a few years since are now in a fair way to become owners of valuable properties which are entirely paid for.

What is commonly known as the Rock creek bench land comprises an area of seventy-five square miles which is bounded on the north by the Judith river, on the south by the Belt mountains and east and west by Ross' Fork and the Snowy mountains. This entire region, which a few years ago was used only for the purpose of raising stock, is rapidly becoming settled by the small farmer and bought up by the larger operator who is engaged in the raising of grain.

Some stock is raised in this section yet, and though the quantity is limited, yet the quality is becoming better as the years pass by, and last

fall some of the best prices obtained on the eastern markets were paid for cattle from this section. Winter feeding is practiced by nearly all the small farmers in this district and the stock is in better shape in the spring to rustle and get in marketable condition earlier and easier than cattle which have had to scratch through the winter as best they might.

The Rock creek bench proper, a comparatively small district comprised in a plateau situate between Rock creek and Ross' Fork, is arid land, but with intelligent summer fallowing, irrigation and the thorough cultivation it has been submitted to by the hardy settlers who have made it their home, it is now in a state of reclamation and in a fair way to become a fertile region. The raising of winter wheat is the principal industry engaged in this immediate district and the growing of spring crops is a rather hazardous experiment, depending on the natural water supply. Were a system of irrigation instituted in this district in a manner to insure a constant and bountiful supply of water this locality would undoubtedly be one of the most fertile in the state. The water used for irrigating purposes is obtained from the headwaters of Rock creek. The outlying portions of the Rock creek district, in the foothills and in the breaks of the Judith, are extremely fertile and on the lands embraced in those portions any kind of a crop can be raised that will grow in the northern section of the United States.

Good coal is being obtained from the properties at the head of Beaver and Rock creek, and though the mines are only lately opened up the quality of fuel obtained is very fair and is used by the settlers generally. Harry Spense on the head of Beaver creek has opened up a good looking piece of coal land, while Dan Sharpe and R. I. Jenkins have good coal claims at the head of Rock creek.

The aridity of this region has been considerably decreased by the cultivation of the land and the consequent sub-irrigation caused by the holding of the water fall by the ploughed lands. The results gained by the arduous labors of the settlers on Rock creek shows conclusively what can be accomplished in the direction of the semi-arid lands of Fergus county by honest cultivation. Improved land in this section is worth from eight to fifteen dollars per acre and as the majority of the farmers of the district seem to be doing well, the investment would seem to be a good one. Some government land is still available through the outlying sections of the district and this is fast being taken up by settlers from the overcrowded regions of the east.

A few months over two years ago the Montana Railroad was built through this section and shortly afterwards the Moore townsite was laid out by the Montana Townsite Co., consisting of E. W. King, Nate Godfrey and F. T. Robinson. Building commenced and in a short time a very proficient trading center was established. Today the town of Moore is in a position to supply the surrounding ranchers and farmers with anything in the shape of supplies.

The mercantile business is ably represented by The Moore Mercantile Co., Wm. Barney and G. R. Wilson. The former organization is capitalized at \$30,000 and carries a very complete stock. Wm. Barney has a very nice little business and a good trade, while the Moore post office is situated in the store of G. R. Wilson of Two Dot, who was one of the first to establish a business in the town. H. G. Phillips, formerly of Utica, owns a heavy interest in the Moore Mercantile Co., and acts in the capacity of manager. A. D. Barney, his assistant, also holds shares; other shareholders are J. C. Hauck and J. Gallagher of Philbrook.

Louis Corryel runs the meat market and is doing a fairly good business. The Montana Lumber Co., carries a \$10,000 stock of lumber and general hardware, Mr. C. C. Long, formerly of the Lewistown Lumber Co., being interested in this venture. The company has a very neat office and yard near the stockyards.

A grain elevator with a 30,000 bushel capacity is just in a state of completion. The chief promoter of this enterprise is A. W. Warr of Lewistown, while Mr. McClave, brother-in-law to B. C. White, holds an interest and acts in the capacity of manager. The elevator is built in a first-class manner and has all modern improvements; a large warehouse has been built in order to facilitate the heavy input of grain through the fall. Thirty-two carloads of grain were

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COURT RULES FOR THE CITY

Judge Cheadle Refuses to Issue Peremptory Writ of Mandamus and Cornell Puts Up a Bond.

FULL TEXT OF THE DECISION.

Holds That the Bond Ordinance Does not Conflict With the Statutes of the State.

Judge Cheadle last Thursday morning rendered his decision in the case of Cornell vs. Albert Pfau as city clerk and Gordon O. Shafer as city treasurer of Lewistown. The decision recognizes the right of the city to impose a bond for the regulation of saloons and denies to Cornell the writ of mandamus for which he had applied.

The case is one of more than ordinary interest to the people of this city. It was the outgrowth of an ordinance passed the last of January by the city council, the provisions of which require that every saloon keeper in the city should give to the city a bond in the sum of \$2,000 that they would not violate the city or state laws. The saloon men generally opposed the ordinance but all but George Cornell, who has always conducted a quiet and orderly place on Main street, complied with the ordinance.

Cornell refused to file a bond and when he made an application for a renewal of his liquor license, the city treasurer, Gordon O. Shafer, refused to issue the same to him. He thereupon filed an application for a writ of mandamus directed against the city treasurer and city clerk compelling them to issue a license. The matter was argued before the court last Saturday morning by City Attorney DeKalb and R. von Tobel for the city and John C. Huntoon and W. H. Smith on behalf of the relator. Judge Cheadle took the matter under advisement until Thursday morning when he delivered the following decision:

This is a proceeding of mandamus to the city treasurer to compel him to issue a retail liquor license to the relator.

"It appears that the relator duly tendered to the city treasurer the sum of \$150.00, and demanded a city license for the retail of intoxicating liquors. The treasurer refused to issue the said license for the reason that the relator had not tendered the bond required by City Ordinance No. 71 of the City of Lewistown. Upon the refusal of the city treasurer to issue the said license, the relator brought this proceeding.

"It is urged on behalf of relator that the city council acted ultra vires in the enactment of the ordinance requiring a bond in the sum of \$2,000.00, to be approved by the city council, and conditioned that the licensee would not do or suffer certain illegal acts upon the premises where his retail business is conducted. It is further urged that the requirement of this bond is obnoxious in that it makes possible a double penalty for any violation of law included in the condition of such bond; that it is a restraint upon the retail liquor trade and an unjust discrimination; also that the said ordinance is repugnant to and inconsistent with the laws of the State of Montana.

"The court has been unable to find any adjudicated case on all fours with this one. There is a long line of decisions upholding the validity of such an ordinance as No. 71 of the City of Lewistown, but all of them, so far as can be discovered, in states where the statutes authorize the requirement of such bond as a condition precedent to entering upon the retail liquor business. The court is unable to find any such adjudication in any state where the statutes do not provide for such a bond.

"In all matters of regulation of business there is a broad distinction between the retail business man and almost all other lines of business. The regulation of the retail liquor traffic falls within the police power of the state. Every state has the right and the duty, either acting directly through statute, or indirectly through its municipalities, to restrict and regulate all manner of business and

other matters which tend to injure the internal safety, health, good order, general intelligence, prosperity and welfare of the state or of its several municipalities. There can be no doubt that each state has this power. There is no dispute that the State of Montana might enact a statute requiring such a bond to be given as a condition precedent of doing a retail liquor business. The state has not done this directly. The only question remaining is: Has it delegated its authority in this matter to its municipalities?

"Section 4800 of the Political Code, as amended by an act of the Fifth legislative assembly, provides, among other things, as follows:

"Sub-section 1. The city or town council has power to make and pass all by-laws, ordinances, orders and resolutions not repugnant to the constitution of the United States or of the State of Montana, or of the provisions of this title, necessary for the government or management of the affairs of a city or town, for the execution of the powers vested in the body corporate, and for carrying into effect the provisions of this title.

"Sub-division 16. To license, tax and regulate saloons.

"Under these and certain other provisions the power of the municipality to tax and license saloons is unquestionable. In a certain sense the licensing and taxation of saloons are a regulation of the saloon, but more than this is evidently intended because of the use of the word 'regulate' in addition to the words 'license' and 'tax.' The power of regulation must then include more than the mere power to license and tax. In a broad sense the power to regulate anything includes all reasonable measures of restriction and direction which are not prohibitive. The idea of prohibition is inconsistent with the idea of regulation. Any ordinance prohibiting the retail liquor traffic in any municipality in this state would undoubtedly be repugnant to the laws of the state. Any reasonable regulation of such traffic, however, is, in the opinion of the court, entirely consistent with the statutes of the state.

"The only question before the court for determination at this time is whether the power to require a reasonable bond as a condition precedent to engaging in the retail liquor traffic in Lewistown is conferred under section 16 of section 4800 of the Political Code, enabling cities and towns to license, tax and regulate saloons. The court is of the opinion that this power is so included. Unquestionably the state might enact a statute of exactly the same effect as ordinance No. 71 of the City of Lewistown. If the state might do this, and has not done it, is it possible to say that such an ordinance is repugnant to or inconsistent with the laws of the state? The court holds that it is not. It is true that such ordinance, if attempted to be applied to the ordinary avocations of the community, could not be upheld, for the reason that such avocations would not be subject to the police power of the city or municipality; but the decisions of a great many years uniformly hold that the regulation of the liquor traffic is within the police power of a state, on account of its known injurious tendencies.

"There has been some discussion of counsel relative to the details of the ordinance and of the bond required thereunder. The form and conditions of the bond, however, are not before the court for decision, nor is the extent to which the sureties on such bond may be held liable before the court at the present time. The sole question is whether the city has acted ultra vires in requiring the said bond of persons proposing to engage in the retail liquor business. The court believes that the city has not exceeded its powers.

Therefore, The petition to make this writ peremptory is overruled.
E. K. CHEADLE,
Judge.

Bids Wanted.

Sealed bids for the stone work and excavation for the new flouring mill will be received up to March 18, 1905, at the office of the Judith Basin Milling Co., Lewistown, Montana. Plans and specifications may be seen at the office of the company at the mill. A certified check of 10 per cent of the bid must accompany all bids. Bids will be opened at 4 p. m., March 20, at the office of the company. The company reserves the right to reject any and all bids.

JUDITH BASIN MILLING COMPANY.

Read the Fergus County Democrat.

FORM STRONG ORGANIZATION

Ranchers and Stockmen of Rock Creek Bench Have Combined to Protest Their Rights.

THEY WILL FIGHT LAND JUMPING

Contest Cases Against Desert Entries Will be Fought to the Highest Authority.

About sixty-five ranchers and stockmen who reside on the Rock creek bench and tributary lands met in Moore last Thursday and formed the "Ranchers & Stockmen's Protective Association," the object of which is to put up a united fight against the contests of the desert entries made upon lands of the Rock creek bench. It was one of the worst days of the year, otherwise, there would have been from 100 to 150 men present at the meeting. The feeling which has been aroused by the action of some alleged land jumpers can be appreciated when it is known that a number of those present faced a blizzard for fifteen or twenty miles in order to participate in the meeting.

The meeting was called to order at 1 o'clock in Tooley's or the M. W. A., hall over the G. R. Wilson store. There were probably 75 persons present, a number of Lewistown gentlemen who are interested in lands on the bench being in the hall. The meeting was called to order by W. J. Owen. After briefly stating the object of the meeting, Chairman Owen called for the report of the committee on resolutions which had been appointed at a previous meeting. Chairman Pat Nihill of the committee handed to the temporary secretary, Frank Robinson, the report of the committee, which embraced the constitution and by-laws of the proposed organization. After the reading of this report, which was attentively listened to by all present, and which we have published below, Hon. David Hilger of Lewistown was called upon to address the meeting.

Mr. Hilger, through his position in the U. S. land office in this city and his long and varied experience as a land office attorney, has a most intimate knowledge of the force and effect of the land laws and he gave a concise, cogent statement of the situation on the Rock creek bench and of the necessity of the organization which was that day being perfected.

"We have met here," Mr. Hilger said in part, "for the purpose of outlining a plan of concerted action in the defense of certain contests of desert proofs which have recently been filed against settlers of this bench. You are mutually interested, and if there is any danger to one there is danger to all.

"The government has always recognized that this is an arid region. For years after the surrounding valleys had been settled, this vast tract lay here unsettled, fruitless, profitless except for a small value as a grazing country. It glistened hot and dry under the summer sun and not a house broke the monotonous sheet of shimmering snow in the winter time.

"It has always been considered that water is the only thing which would transform this vast region from waste to productive land. After a while a few settlers pitched their tents here on the bench and found that under exceptionally favorable circumstances a crop of wheat can be raised. Others followed and at the present time the entire bench is occupied. But the occupation of the land and the fact that one or two good crops of wheat have been raised on it, do not deprive it of its desert character. There are degrees of aridity. This is not a sagara, but the fact remains that with sufficient water furnished from a storage reservoir located up yonder in the foothills of the Snowies, the productivity could be increased materially.

A few years ago there was a region in the Yellowstone valley adjacent to Billings where about 1,800 sheep could be run successfully. At the present time, by means of irrigation, that land yields sufficient feed for from 30,000 to 40,000 head of sheep. So it is with this country. With that reservoir up there furnishing sufficient water to properly irrigate

every foot of this bench a crop would cease to be the very great uncertainty that it is at this time.

"This bench would have remained a barren desert region until the end of time had there not been men of sufficient hardihood to try to make it productive. It was through the efforts of the men whose lands are now being contested that we discovered that even an occasional crop can be produced here. After they had undergone the privations of the first hard years and suffered the numerous difficulties which were met with by the first settlers on this bench, these other fellows come in and think to rob them of their well earned lands. This government has always stayed with the man who has become a bona fide settlement of land and who has honestly complied with the provisions of the land law. Knowing that you have done these things, you need have no fears of the government taking your land away from you at this time."

At the conclusion of Mr. Hilger's speech, which was received with applause, the constitution and by-laws were unanimously adopted and about 65 members of the association were quickly enrolled, each plunking down his entrance fee of \$1. When the meeting had again been called to order after a short recess, the following officers were chosen for the year: President, W. J. Owen; vice-president, Charles M. Clary; secretary, A. D. Barney; treasurer, J. J. Louck. John B. Clark, Pat Nihill, P. T. Elston, J. C. Hauck and Frank Robinson comprise the executive committee of five members. After the organization had been completed, the Hon. B. C. White of Garnett was called upon and made a rousing speech.

Mr. White stated that he had been acquainted with the Rock creek bench lands for a quarter of a century and they were never considered anything other than desert lands. They were settled as such and only the unremitting industry of the settlers had succeeded in partially reclaiming them. The speaker said that the fight of the ranchers of the Rock creek bench is the fight of every man in the county who has taken up land under the desert land law. In order to obviate any further difficulty of this sort, Mr. White favored the bringing in of a government land agent who shall classify the vacant land as to its desert or homestead character.

"The men who have settled on this bench have had enough to do to make a living and comply with the letter and the spirit of the prevailing land laws without this further harassment from these 'latter day saints' concluded Mr. White.

A more harmonious meeting was never held in the county, and one but has to interview some of the men present to become convinced of the earnestness of the men behind the movement. It is expected that the membership will reach at least two hundred, and all who have not signed the prepared documents can do so by calling upon Secretary A. D. Barney at the Moore Mercantile company, Moore.

Following is the preamble and constitution adopted by the new organization:

Whereas, The farmers and ranchmen residing in the vicinity of Moore, Fergus county, Montana, have been harassed by a set of irresponsible real estate boomers who file contests and protests against desert land and other entries, for the evident purpose of blackmail and extortion; and

Whereas, The members of this organization are honestly endeavoring to comply with the letter and the spirit of the several agricultural land acts of the United States and are striving to make homes for themselves and their families, and to improve, reclaim and develop the wild lands of Fergus county; and

Whereas, The subscribers hereto have been beset with many difficulties incident to the settlement and development of the agricultural and stock-raising districts of Fergus county, Montana, most of them being poor men with large families to support, and striving to the best of their abilities to build homes and to improve, reclaim and cultivate the lands of this country, and particularly the lands adjacent to Moore; and

Whereas, Irresponsible land sharks and speculators are attempting to blackmail and cast odium and suspicion of the land department as to the good motives of the settlers of this section in the reclamation of their desert and other entries; and

Whereas, Harassing litigations have

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