

MARKET REPORTS

Local quotations today: Butter—Fancy creamery 40 cents 1 lb. roll; 2 lb. roll, 80c. Ranch butter, 65c and 70c 2 lb. roll. Ranch eggs—25c. Vegetables and Miscellaneous. Potatoes—Per cwt, \$1.50. Sweet potatoes—4lbs, 25c. Spinach—10c lb. 3 lbs. for 25c. Rhubarb—15c lb, 2 lbs, 25c. Hot house green onions—5c bunch. Onions—\$2.25 per cwt. Cabbage—3c. Celery—Per bunch 15c, two for 25c. Sugar—cane, cash price \$6.95; 30 days' time, \$7.35; per cwt., beet sugar, cash price, \$6.75; 30 days' time, \$7.15. Beans—White, 2 1-3c; Lima, 10 cents.

Fruits. Home grown apples—\$1.00 to \$1.50 per box. Grade establishes price. Cranberries—20 cents per quart. Oranges 40c to 50c. Bananas—40c per doz.

Feed and Grain. Alfalfa Hay—\$13.00 (retail). Timothy—\$16.00. Grain Hay—\$13.00. Snowdrift Flour, Sack \$1.35. Bluestem—\$1.35. Patent—\$1.25. 10s Corn Meal—35c per sack. Bran and Shorts—\$1.30 and \$1.40. Oats—\$1.60 per cwt. Rolled Barley—\$1.70 per cwt.

Cattle, Hogs and Fowl. Cows—3 to 4 1/2c. Steers—4c to 5c. Sheep 3c and 4c. Light hogs \$5.75. Heavy hogs—\$5.00. Chickens—Hens, 10c; old roosters 8c and spring fries 10c to 12 1/2c. Turkeys, live weight, 17 to 18c. Ducks, live weight, 12c. Geese, live weight 10c. Fresh smelt are in the markets today.

Mabel Tallafiero has started on a limited season in vaudeville over the Orpheum circuit. She opened this week at the Majestic theatre, Chicago, appearing in a one act play by Edward Peple, called "Taken on Credit." Helen Royton, a prima donna in comic opera, left New York for Ger-

many recently to study for grand opera under King Clark in Berlin and Jean de Russke in Paris. Victor Herbert will compose the music for Mlle. Emma Trentini's new comic opera, which will have its premiere, under the direction of Arthur Hammerstein, in October at Syracuse, N. Y.

A sketch called "The Still Voice," written by George Cameron who is Mrs. Sidney Drew, will be presented by the Drew-Barrimore-Rankin family at the Fifth avenue theatre, New York. The characters will be played by Mr. and Mrs. Sidney Drew, Lionel Barrymore, Doris Rankin and S. Rankin Drew.

Industrial disputes were less numerous in New York state in 1911 than in 1910, the bureau of mediation and arbitration having recorded 215 strikes and lockouts in 1911, as compared with 250 in 1910.

KNOWLES

(Continued from page one)

estate and upon the order of the county court distributed the proceeds of the sale of the personal property to the alleged heirs of John Morrison.

Afterwards, in examining the title to the real property, which has recently been appraised at \$22,500 by the state land agent, the law firm of Cochran & Cochran were apprised of facts that led them to believe that Morrison was an illegitimate, and as he was an unmarried man and therefore had no direct descendants, his estate would escheat to the state, under the law of this state, if his mother was dead.

Illegitimate Son. After a great deal of correspondence and after sending a man to Alva, Scotland, where Morrison was born, it was ascertained that Morrison was an illegitimate son of Catherine France and James Morrison. That after the birth of John Morrison, his mother had married a man by the name of Lockhart, and they had moved to New Zealand and further, that the mother of John Morrison was dead.

These facts were laid before Governor Chamberlain, and on January 12, 1907, he wrote a letter to F. S. Ivanhoe, district attorney of the Tenth judicial district, directing him to commence proceeding to escheat this land to the state and also authorizing Cochran & Cochran to assist in the prosecution of the proceedings as special counsel.

The escheat proceedings followed and were tried by a jury before myself

sitting as judge, which after a trial lasting nine days, resulted in a verdict for the state. The case was appealed to the supreme court and reversed upon one error of myself in trying the case, out of an assignment of over 300.

Second Verdict for State.

The case was again tried in the circuit court, before myself and again resulted in a verdict for the state. It was again appealed to the supreme court and this time affirmed. Unless one is conversant with the facts in the case, one cannot understand the immense amount of work required in getting this case ready for trial. A great deal of the evidence was foreign record evidence, and many depositions were taken. I dare say there was five times as much work required in trying this case and preparing the evidence for trial as in a damage action involving the same amount. Unlike a damage case against a corporation, in which the sympathy of the jury is with the plaintiff, in this case the sympathy of the jury was with defendants, the alleged heirs of John Morrison. It was necessary for the state to demonstrate to the jury, almost beyond a reasonable doubt, the illegitimacy of John Morrison. The special attorneys controlled the trial of this case and tried it with remarkable skill and ability.

On January 5 this year, application was made to me for an order for the sale of the real estate escheated to the state and fixing the attorney fee to be allowed the special counsel and the allowance of certain costs and expenses. Original Claim \$10,000.

Senator Oliver, who had represented the alleged heirs of John Morrison had previously asked to be present at the time of the hearing. I notified him and he was present. His right to appear was challenged by opposing counsel on the ground that the courts, having decided that his clients were not the heirs of John Morrison, he had no further right to appear. I allowed him to appear as a friend of the court.

The special counsel had asked for an allowance of \$10,000 attorney fee and in support of the reasonableness of their fee had filed the affidavits of such leading attorneys throughout the state as ex-Senator C. W. Fulton, William D. Fenton, Harrison Allen and A. C. Spencer of Portland, and J. P. Winter, Judge James A. Fee, J. H. Raley, Charles H. Carter and Douglas W. Bailey, of Pendleton, all attorneys accustomed to trying cases where large amounts are involved. They swore that a reasonable attorney fee for the services performed by the special counsel, as shown by the affidavit of C. E. Cochran, was from \$7,500 to one half of the amount involved, or \$11,250. District Attorney Ivanhoe who represented the state and assisted in the trial of this action, and who was perhaps better qualified to testify as to the reasonableness of the fee than

anyone outside of the special counsel themselves, made affidavit that in his opinion \$7,500 was a reasonable attorney fee.

Fee Fixed at \$7,500.

Senator Oliver asked for time in which to file counter affidavits, and I gave him until my return from Wallowa county, where I was about to go to hold court. While in Wallowa county, Governor West phoned me regarding the matter and said that he had some papers he wanted to send me before I passed on the attorney fee. I told him that I would not pass on it until my return to La Grande, which would be in about two weeks. Upon my return to La Grande, I received a letter from Governor West, inclosing a copy of a letter from Governor Chamberlain to Cochran & Cochran, appointing them special counsel to assist in the prosecution of the escheat proceedings, and stating that they were to receive a reasonable fee for their services.

Governor West had ample time to file counter affidavits, if he had so desired and I would gladly have granted him further time had he so requested. As no counter affidavits have been filed, and as Senator Oliver informed me he did not intend to file any, I fixed the attorney fee, at \$7,500, the lowest amount that any attorney had testified was a reasonable fee, and the amount sworn by F. S. Ivanhoe, the attorney for the state, to be a reasonable attorney fee.

A Contingent Fee.

The fee that special counsel received, as compensation for their services in the escheat proceedings, is a contingent fee. That is, if the state is not successful, the special counsel do not receive any compensation for their services. Section 7376 Lord's Oregon Laws which provides that the governor is authorized and empowered to employ additional counsel to assist in the prosecution of escheat proceedings, also provides, "Such counsel shall be paid such sum or sums for such services, as the court before whom such action, suit or proceeding is had shall deem reasonable, which compensation shall be paid out of the proceeds of the escheat property."

There are a great many ordinary damages cases arising in this county where the attorneys have received more than the fee allowed by the court. In this case, in the case of Fisher vs. the O. R. & N. company, which was an action for damages, in which the amount of the judgment recovered by Fisher, including interest, was \$22,000, about the same amount as the value of the land in these escheat proceedings.

FRATERNAL ORDERS OF LA GRANDE.

A. F. & A. M.—La Grande Lodge No 41, A. F. & A. M. holds regular meetings first and third Saturdays at 7:30 p. m. Cordial welcome to all Masons. N. MOLITOR, W. M. A. C. WILLIAMS, Secretary.

B. P. O. E.—La Grande Lodge No. 433 meets each Thursday evening at 8 o'clock in Elk's club, corner of Depot street and Washington avenue. Visiting brothers are cordially invited to attend. H. J. RITTER, Ex. Rul. H. E. COOLIDGE, Rec. Sec.

WOODMEN OF THE WORLD—La Grande Lodge No. 169 W. O. W. meets every first and third Thursdays at I. O. O. F. Hall. All visiting members welcome. D. FITZGERALD, C. C. J. H. KEENEY, Clerk.

M. W. OF A.—La Grande Camp No. 7703 meets every Saturday evening at 8 o'clock in K. of P. hall, over Lilly's hardware store. All visiting neighbors are welcome. W. A. DUNN, V. C. W. F. LANDRUM, Clerk.

KNIGHTS OF PYTHIAS—Red Cross Lodge No. 27 meets every Monday night in Castle hall, (old Elk's hall). A Pythian welcome to all visiting Knights. H. W. RILEY, C. C. R. L. LINCOLN, M. of R. & S.

REBEKAHS—Crystal Lodge No. 54 meets every Tuesday evening in the I. O. O. F. hall. All visiting members are invited to attend. LEAH R. COOLIDGE, N. G. MISS ANNA ALEXANDER, Sec.

O. E. S.—Hope Chapter No. 13, O. E. S. holds stated communications the second and fourth Wednesdays of each month. Visiting members cordially invited. MRS. MARIE JACKSON, W. M. MARY A. WARNICK, Sec.

L. O. O. M., La Grande lodge No. 850, Loyal Order of Moose, holds regular meetings every Monday at 7:30 p. m. in I. O. O. F. hall. Visiting brothers cordially invited to attend. R. J. GREEN, W. D. B. L. LEAVITT, Secretary.

ings, the attorneys for the plaintiff received 50 per cent of the amount recovered, or \$11,000. This case was only tried once in the circuit court, and once in the supreme court.

Damage Case Cited.

In the case of Linsey vs. the Grande Ronde Lumber company, which was an action to recover damages for a personal injury, a judgment was recovered against the company for \$17,000, and the attorneys for Linsey received one half of the amount or \$8,500. This case was only tried once in the circuit court, and once in the supreme court. I am credibly informed that Senator Oliver was to receive 50 per cent of the value of the land, or \$11,000, in case the alleged heirs were successful in this case. Senator Oliver has done a great deal of work in this case, and it is unfortunate for him that he was not successful. In lawsuits, as in elections, all cannot be successful and some must be disappointed. As to the charge of Senator Oliver, in his recent communication to the Journal, that in the trial of this case precedents of a hundred years were violated in the admission of hearsay evidence, I have only to say that the supreme court of this state, upon the first appeal in a very exhaustive opinion by Justice Slater, comprising 27 pages of the Oregon Reports (see 55 Oregon, page 419), examined all the alleged errors in the first trial of the case in detail, and reversed the case upon one error of the trial court in the introduction of testimony at the trial. If the su-

preme court had considered that hearsay testimony had been erroneously admitted at the trial, it would have undoubtedly reversed the case on that ground also.

Not Playing to Galleries.

Upon the second appeal to the supreme court, a very able opinion was written by Justice Henry J. Bean, affirming the judgment of the trial court. Thus, it will be seen, that this case has been tried out twice in the circuit court, twice in the supreme court, in the legislature, and is now being tried in the newspapers, the last recourse of unsuccessful litigants and disappointed attorneys. Unfortunately for Senator Oliver, ex-President Roosevelt's recall of judicial decisions has not yet been put into operation, or the amount of the attorney fee to be allowed the special counsel in these escheat proceedings might be submitted to the legal voters of this state for their decision at the November election.

Of course, I might have played to the galleries and ignored the affidavits as to a reasonable attorney fee to be allowed the special counsel, and allowed them a small fee, and thus deprived them of the fruits of their victory, but the galleries are being well entertained in this state and nation at the present time, and the competition is too great, even if I had any ambition in this direction.

J. W. KNOWLES, Circuit Judge, Tenth Judicial District.

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