

OREGON SUPREME COURT

OPINIONS HANDED DOWN IN FIVE CASES.

The Decisions of the Lower Court Were in Each Case Affirmed by the Higher Tribunal.

SALEM, Or., March 5.—The Supreme Court today handed down opinions in five cases, in all of which the decisions of the lower courts were affirmed.

The County of Multnomah, respondent, vs. Fenumbra & Co., appellants. The plaintiffs, from Multnomah County; Alfred F. Sears, Jr., Judge; affirmed. Opinion by Wolverson, C. J.

This was an action instituted October 25, 1897, by the plaintiff county against its former Sheriff, and the sureties upon his undertaking, for the faithful performance of his duties as tax collector, and for the payment to the Treasurer of all moneys collected by him in such capacity.

The duties imposed upon the collector while acting in the capacity of tax collector are not such as pertain to the ordinary functions of an officer, but are of a special character, and are not such as pertain to the ordinary functions of an officer, but are of a special character, and are not such as pertain to the ordinary functions of an officer, but are of a special character.

David Brand, appellant, vs. the County of Multnomah et al., respondents. From Multnomah County; Alfred F. Sears, Jr., Judge; affirmed. Opinion by Wolverson, C. J.

The facts attending the present controversy are, in brief, as follows: The plaintiff is the owner of lots 2, 3 and 4, in block 72 of the City of Portland, extending on the east to the Willamette River, and having appurtenant thereto the usual riparian rights and privileges.

The State of Oregon, respondent, vs. John E. Blazer, appellant, on motion to dismiss appeal; motion allowed. Opinion by Beane, J.

This is a motion by the state to dismiss the appeal, because the notice thereof has not been served upon the clerk of the court where the appeal was filed, as required by section 143, Hill's Annotated Laws of Oregon.

W. J. and F. H. Huffman, respondents, vs. John Knight, appellant, from Marion County; Alfred F. Sears, Jr., Judge; affirmed. Opinion by Beane, J.

On August 7, 1895, the defendant, as Sheriff of Marion County, attached a quantity of certain sheep, to-wit: 500, to the plaintiffs and other chattels under a writ of attachment issued in an action brought by Benton P. Taylor, against L. B. Huffman.

roll in evidence. The plaintiff recovered judgment, and the defendant appealed, assigning as error the refusal of the trial court to hold that the former action of the plaintiff was barred by the proceedings in the exclusion of certain testimony, and in giving certain instructions to the jury.

In approving the decisions of the lower court, the opinion says in substance as follows: "It is evident that the plaintiffs failed in their replevin action, so far as the undivided property is concerned, because replevin will not lie for an undivided interest. It will be observed that no judgment was rendered affecting the title to such property, but as to it the action was dismissed, which was equivalent to a mere judgment in favor of the defendant."

"The remaining question on this branch of the case is whether the property or interest therein is a single trespass which maintains replevin so far as it is the proper and appropriate remedy and recover the possession of so much of the property as can be included in such an action and trover for the remainder."

"It is also held that there were no errors in the trial court in its instructions to the jury, or in giving instructions to the jury."

M. P. Jones, appellant, vs. Polk County, Oregon, et al., respondents. From Polk County; H. H. Hewitt, Judge; affirmed. Opinion by Moore, J.

This is a special proceeding to review the action of the county Court of Polk County in its order establishing a public highway. From the record it appears that a petition was presented to said court for the location of a county road, and that notice of the application had been given as provided by law, and the required bond executed.

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RETURN TO DAIRYING

WILLAMETTE VALLEY FARMERS EMBRACE THE INDUSTRY.

Statement Which Shows the Profits of the Business—New Creameries in Prospect.

Since the attention of Willamette Valley farmers has been turned to the opportunities that await them in the line of dairying, the prosperous towns in that section are vying with one another in the matter of establishing creameries, and encouraging farmers to take up this profitable industry.

The Aurora Borealis calls the attention of readers to the fact that nearly every town in the state has established a creamery or is about to do so, and points out the benefits that will accrue if one is built and operated in Aurora. The Woodburn incident is giving every assistance to the farmers in that vicinity who have united to build a creamery, and says that the enterprise is well under way and beyond the reach of failure.

The Southern Pacific is doing everything in its power to help the growing enterprises along. General Freight and Passenger agent C. G. Markham is keeping himself informed on the progress of the various creameries, and has given the subject of dairy farming much thought and study. The following statement shows the business of the Albany Co-operative Creamery was compiled at his direction, and is furnished by him to the Oregonian.

The Albany Co-operative Creamery, representing a capital of \$5000, was built in the Spring of 1896. Taking figures for the year 1899, it received the milk of 383 cows from 123 patrons, handling 1,625,380 pounds of milk and made a product from the sale of which it realized \$18,237.15.

It will be seen that the average amount of butter fat per patron shows a steady increase, and that the farmers who are regular patrons of the creamery have been giving attention to the improvement of their cows.

When the British bark Sofia reported out at Bristol on this port, last week, there was some surprise expressed, owing to the fact that the vessel had cleared for Portland, Oregon, instead of being ordered to the outward trip from Antwerp.

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WHEN WHEAT WAS CHEAP.

Donna Francis Carried a Low-Priced Cargo Five Years Ago.

The British bark Donna Francis cleared yesterday for Queenstown or Fairmouth for orders, with 111,626 bushels of wheat, valued at \$70,000. She was discharged by Givens, Eyrre, and will leave down the river this morning, drawing 22 feet 9 inches.

The Japanese steamship line, entitled the Osaka Shosen Kaisha, according to advices from Osaka, is said to have determined to increase its capital from \$5,000,000 yen to \$10,000,000 yen for the purpose of extending its service in all directions.

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MORE JAPAN STEAMSHIPS.

Osaka Shosen Kaisha to Increase Its Capital.

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RAILROAD MEN.

Owing to the nervous strain to which they are daily subjected, the physical hardships of the constant jolting, exposure to all kinds of weather, and irregular meals, break down in health, unless nature is aided in the unequal struggle.

Eighty per cent of the railroad men who have been in service any length of time are afflicted with some form of kidney disease, and the standard remedy in use by them is Warner's Safe Cure.

Kindly read the subjoined testimonial from Mr. Charles B. Ross, of 284 Sixty-First street, New York City, a railroad conductor on the Metropolitan Railway, which is but a recent sample of hundreds of voluntary statements received by Warner's Safe Cure Company:

"By the use of Warner's Safe Cure I have just recovered from a severe attack of kidney trouble. My system was in very bad condition. Every movement of my body caused intense pain, and at last I was compelled to abandon work. For four months several specialists doctored me, but my ailment all to no benefit, until I began taking Warner's Safe Cure. After the use of this marvelous medicine, I was able to walk about briskly, and in a few days was so far improved as to be able to attend to my work, and I haven't suffered one day since. I heartily recommend Warner's Safe Cure as the best and safest cure that can be had."

Portland, March 5.—8 P. M.—Maximum temperature, 40; minimum temperature, 29; rain reading at 11 A. M., 0.9 feet; change in the last 24 hours, 0.3 feet; total precipitation, 4.9 P. M. to 8 P. M., 0.11 inch; total precipitation from Sept. 1, 1899, 27.23 inches; normal precipitation from Sept. 1, 1899, 33.05 inches; deficiency, 5.82 inches; total sunshine March 4, 6:30; possible sunshine March 11:15.

On account of a low-pressure area that still continues over the Northwest, precipitation has continued during the greater part of the past 24 hours, being rain west of the Cascades and snow east of them, except in Southern Idaho. Rain has fallen in California as far south as reports extend, that is, to San Francisco at least. Morning reports showed 0.90 of an inch to have fallen at Los Angeles, which will be of immense benefit to that locality. The temperature has changed only slightly. In Montana and North Dakota the cold wave is losing its intensity.

Portland, March 5.—Arrived in, at 9:30, and left at 12:50, steamer Home from San Francisco. Arrived—British bark Gulf Stream. Condition of bar at 5 P. M., smooth; weather, cloudy; wind, south.

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