

RECEIVER ASKED FOR LOGGING FIRM

Partners in Coos Bay Business Seek Accounting, Into Thousands.

CONSPIRACY IS ALLEGED

Action by Two Plaintiffs Is Brought Against Smith & Powers Company—Echo of Pater Case Is Heard in Proceedings.

Declaring that a conspiracy to defraud them of an alleged interest in the Smith & Powers Logging Company had been formulated by Charles A. Smith, of Minneapolis, and his associates, a receiver for the logging company was yesterday sought in the United States Court by E. W. Burnitt and Victor Wittick.

The Charles A. Smith mentioned in the complaint is the C. A. Smith, of Minneapolis, Minn., whose land holdings in Linn and Lane Counties have been attacked by United States District Attorney John McCourt, who is now in the East and has been engaged in taking evidence on behalf of the government.

It was in this case that S. A. D. Pater turned a flip-flop as a witness for the government.

After going to Washington and personally interviewing President Roosevelt, the prosecution of the case was ordered under the belief that the testimony of Pater would convict. Pater refused to "come through" on his return from the East, and made the statement that soon after the close of the trial he hoped that this indictment and suit pending against him in Minnesota would be dismissed.

Burnitt and Wittick succeeded to a partnership in a log-booming business established on Coos Bay in 1882, and which has for years been the distribution point for the material which supplied the Smith Lumber Company with logs.

The plaintiffs allege that in 1903 the Smith Lumber Company took possession of the logging business and since prevented the plaintiffs from entering upon the premises in which they assert joint ownership, as well as raising the question of title for the logs rafted from the Coos Bay boom.

An accounting, reaching into the thousands of dollars, is asked.

WATER RIGHTS BASIS OF SUIT

Three Cases From Malheur County Begun in Federal Court.

Presentation of three cases of extreme interest to Malheur County and Eastern Oregon was yesterday begun in the United States Court. They involve the construction of a dam and reservoir on the head of Willow Creek, in Malheur County, by the Willow Creek Land Company, the building of ditches by the same concern, and the right of way for a railroad.

Inductions are prayed to interfere with a ditch system which is already delivering water to the growers of the road which has only three miles of trails to lay to connect the two towns.

The dam and reservoir, when completed is to be an auxiliary water supply during hot months, and which is proposed to be used for irrigation in the early Spring as they rush from the snowclad hills on the head of Willow Creek.

As the owner of the old Dalles military wagon road grant, the Eastern Oregon Land Company yesterday contended for riparian rights along Willow Creek, claiming that the company realized large revenues from the Spring inundation of the flats along the banks of that stream. As the floods came down in the Spring they were said to have spread out over the asparian lands, seepage saturating the soil and making it highly productive of wild hay.

The Willow Creek Land Company, which has deeded to the development of the Willow Creek, is standing on its purchase of existing water rights from both settlers on the lands and placer miners who washed gold in the early days. It contends that the fact that the Eastern Oregon Land Company never made a beneficial use of the water by building ditches, reservoirs or filing appropriations, bars the grant-owners from an interest because of riparian rights. The case of Kansas vs. Colorado, decided by the Supreme Court, is being quoted by attorneys.

The cases of the right of way for the railroad and the ditches will follow, and it is probable that the hearing will be continued throughout Thursday.

The Willow Creek Land Company will contend that it had verbal permission to build the dam and the Malheur Valley Railroad will justify its presence on the land in question by a similar plea. The plaintiffs urge that both companies have refused to comply with the conditions of the verbal agreements.

ASA THOMSON MUST PAY NOTE

Receiver of J. W. Scriber's Bank Wins Suit for \$6000.

Asa Thomson, ex-receiver of the United States Land Office at La Grande, was held responsible yesterday for the note which he obtained from the Farmers & Traders National Bank by a ruse, and in replacing which Jefferson W. Scriber committed forgery.

Judge Charles E. Wolverson gave the opinion, the judgment being in favor of the receiver of the failed bank at La Grande.

Thomson secured the note in 1906 from an employe of the bank in the absence of Cashier Scriber, but he might prevent an inspector of land office accounts from securing knowledge which might lead to the discovery of the fact that the land office official was interested with S. W. Spencer in land entries alleged to be illegal in Scriber.

Scriber had just lost a large amount of money through the financial operations of his nephew, Roy Miller, that was expected a visit from a National Bank examiner. Scriber forged the name of Thomson to a note to replace the original held by Thomson, and found it entirely successful in deceiving the expert representing the United States Treasury.

In fact, the plan was so "easy" that Scriber adopted it to convert all of the money belonging to the Farmers & Traders Bank that he had used in the

Miller affair. One forgery lead to another until at the time of the failure of his bank in 1906, Scriber was floating about \$50,000 of forged paper. Scriber is now awaiting sentence for wrecking the bank.

In refusing to pay the claim of \$6000 to the bank, Thomson testified that the money had been passed to the account of S. W. Spencer as an accommodation and the evidence was to the effect that the funds were used in the promotion of a fraudulent land deal. Summing up the testimony Judge Wolverson expressed the belief that Thomson was interested in the Spencer deal.

RINALDO IS THOUGHT INSANE

Italian Pleads Not Guilty to Crime Recently Confessed.

Frank Rinaldo, the Italian who recently confessed to having placed boulders and ties on the Estacada track, intending to wreck a passenger train, refused to return quietly to jail yesterday after he had been taken before Judge Morrow, and had pleaded not guilty. He protested that he should be sent either to Italy or South America, and through an interpreter said he had written a letter to his sister in Italy, but that the jailer had refused to send it.

Joe Morak, who acted as Rinaldo's interpreter, tried to quiet him, and two deputies seized him by the arms and hustled him downstairs again to jail. Once inside the corridor he let out whoop, when told to be quiet replied in Italian, "They'd better let me out of here by tomorrow or I will do worse than that."

He accused the jailer of having taken his confession at night while he was talking in his sleep. Morak thinks the man is crazy.

John Davies entered a formal plea of guilty yesterday to having forged a check for \$15, on May 16, 1909, drawn on the Scandinavian American Bank, 1902 at New York, in payment of a tenitory for this same offense, but Davies later confessed. C. Markoff pleaded not guilty to larceny on two counts.

STEAMER INTELLIGENCE. Table with columns: Name, From, Date, To, Date.

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EX-GOVERNOR WINS DEED SUIT

Accepting Delayed Payments Holds Company to Contract.

Holding that the acceptance of delayed payments of principal and interest by Eastern Oregon Land Company waived the right to enforce a cancellation of its contract to sell lands to ex-Governor Z. F. Moody, Judge Wolverson yesterday held that Moody is entitled to receive a deed for the property.

The land is situated in Sherman County, and not far from the present home of the ex-Governor at The Dalles. Mr. Moody agreed to purchase it in 1892 at a price of \$455,750, in installments. Many of the payments of both interest and principal were not tendered on the day named in the contract, but were paid in advance accepted by the agents of the Eastern Oregon Land Company at later dates.

As the years went by the land increased in value, and the company finally the land concern attempted a forfeiture of the contract. At that time the Moody's tendered the entire balance of \$455,750, and the company a deed. The court pointed out that after falling for many years to strictly enforce the terms of the sale the land company was now attempting to refuse to accept the purchase price and give the deed.

RIGHT TO TITLE IS ASSAILED

Judge Insists Fraud Cannot Be Charged After Title.

Judge R. S. Bean yesterday refused to allow the United States to derail the defense of C. F. Whitney, a Linn County farmer, in a suit for title. The court could not attack a patent issued after it had been in his possession, notwithstanding allegations of fraud. The case may now go to trial on the law question raised by Attorney A. W. Lafferty.

Whitney resided at Tacoma, and after he offered commutation proof of his entry it was subjected to an examination by special agents of the Department of the Interior. The results passed without action being taken by the Government and then Attorney Lafferty asked for a patent because of the purchase of the land.

In 1899 the Government attacked the title and attempted to cancel the patent by raising the question of fraud. So far as the records show, Judge Bean was the first Federal judge ever called upon to pass on the question.

The court did not uphold the law of 1896, but held that the question raised was a proper defense, and for that reason could be set up should the case ever be set for trial.

GOVERNMENT TWICE VICTOR

Two Verdicts Secured in Behalf of Reclamation Service.

The Government secured two verdicts in the United States court yesterday in behalf of the Reclamation Service.

Fred A. Yates, who was reported to have threatened to use a shotgun and other implements of destruction to cause laborers employed on the Umatilla project from operating a ditch across his lands was permanently enjoined from further interference. Yates purchased the land over which the ditch was constructed, declaring that the waterway was there without authority. It is being used as a part of the Umatilla system.

At Klamath Falls the settlers have heretofore contended that the Reclamation Service cannot collect maintenance fees until the entire system shall be completed. Among those who resisted the charges was Sophia Hennessy, one of the settlers who lost their cases as they appeared in court, and evidently Mrs. Henley decided to abandon the fight, as she allowed a default of judgment to be taken.

Articles of Incorporation.

Irvington Planning Mill Company, Incorporated: E. H. Miller, E. G. Leiby and N. Jacobs; capitalization \$5000.

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Shippers Hope to Profit by Rivalry Between Lines.

STEAMER AZTEC TO SAIL

Activity of Bates & Chesebrough for Business From Atlantic to Pacific Coast Stirrs American-Hawaiian Interests.

As the time draws near for the dispatch of the steamer Aztec from New York and Philadelphia for Portland, as the pioneer of the new line via the Straits of Magellan to be operated by Bates & Chesebrough, of San Francisco, local shippers are awaiting the next move in what has taken the aspect of a serious race war between that line and the American-Hawaiian interests.

While in Portland recently, Mr. Chesebrough announced that his firm had chartered the steamers J. L. Luckenbach and Lora to sail with the Aztec and that there would be a fortnight vessel taken later. It transpired that the American-Hawaiian interests overbid Bates & Chesebrough for the Luckenbach and Lora and have posted them at San Francisco for cargo to New York, via the Magellan route, at \$5.00 and \$6 a ton.

Pioneer Line Overbids.

Bates & Chesebrough have operated a line of clipper sailing vessels from the Bay City to Gotham for three years, via the Magellan run, the American-Hawaiian having abandoned that route after entering into a contract with the Mexican government in connection with the Tehuantepec line.

So long as Bates & Chesebrough were content to handle cargo on windjammers it is said the American-Hawaiian interests did not regard them as a strong competitor, but when arrangements were recently perfected for establishing the steamer service, then the pioneer line overbid the new line for steamers.

Rates Are Out.

Bates & Chesebrough have accepted cargo at San Francisco for the Atlantic coast on a basis of 10 cents per ton, the Pacific Mail tariff was \$3 and that of the American-Hawaiian, on a basis established by the rate on canned goods, at \$3. At the New York office of the American-Hawaiian, it has been asserted that it had not been decided to re-establish the service via Magellan and that in all probability the vessels there would be retained on the Atlantic side.

The Aztec is due here October 1 and will load this month at New York and Philadelphia. Local shippers provided a full cargo for her first voyage and it was the expectation of her charterers to work up business here in the way of canned salmon, other commodities for the Eastern markets.

WAKEFIELD MUST PAY \$1000

Damage Suit Won by Owner of Norwegian Steamship.

Holding that the departure of the Norwegian steamship Christian Mickelsen was delayed in November, 1909, by the danger of passing the wrecked east pier of the old Madison street bridge, Judge R. S. Bean yesterday granted a judgment against Robert Wakefield and the owners of the vessel for demurrage amounting to \$1000.

Wakefield entered into a contract with the City of Portland to remove a logjam tearing out the east pier of the bridge, taking it down to about seven feet above low water mark. With the high water of November the remnants of the pier were submerged, and when Balfour, Guthrie & Co. had the Mickelsen ready to put to sea, pilot captains refused to assume the responsibility of taking the ship through the space between the wrecked pier and the draw pier of the bridge.

Judge Bean held that Wakefield had been both negligent and dilatory in prosecuting the contract to remove the bridge.

NEW COMMISSIONERS NAMED

Port of Astoria Board Fills Vacancies—Law to Be Enforced.

ASTORIA, Or., July 5.—(Special.)—At the regular monthly meeting of the Port of Astoria Commission this morning, the resignation of Chris Schmitt as a member was accepted and George B. McLeod, manager of the Hammond Lumber Company was appointed to fill the vacancy for the term ending January 1, 1911.

The vacancy on the board caused by the resignation of the late Charles H. Callender for the term ending next January. The meeting adjourned until next Monday, when a new president will be elected. It has been reported to the board that some persons have been violating the statute in Oregon which prohibits the dumping of refuse in the waters of the streams within the jurisdiction of the port and it is probable that attorneys will be instructed at the next meeting to bring legal action.

LIGHTSHIP'S STEM ROTTED

Craft Floated Yesterday to Repair Machinery and Klamath is Next

When a section of the stem of Umatilla lightship, No. 67, now at the Willamette Iron & Steel Works, was removed yesterday, preparatory to replacing it because of a change in the location of her hammer pipes, the timber was found to have rotted in places. It is planned to change the location of the pipes so they will be almost perpendicular.

The lightship was floated from the Oregon drydock yesterday in order to make repairs to her machinery, including the substitution of a new thruster shaft. The steam schooner Klamath, which crossed in yesterday from the Bay City, will be the next craft lifted, as she will go to the dock to be cleaned, and painted, as soon as her cargo is discharged. The lightship is to be refitted later.

Bathers Disobey Ordinance

Warm weather has served to increase the duties of Harbormaster Speler, who is being kept busy driving from the beach men and youths who persisted in bathing without proper apparel. Complaints have become so general of the practice of careless bathers, particularly since the harbor affords such attractions for small boats, that Captain Speler has issued orders he will give no further warnings, but take into custody every offender.

Firm Makes Yacht of Cruiser.

When President Stewart, of the Union Bridge & Construction Company, adds the finishing touches to the tug Cruiser, it is

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FACTORS FOR MEN

Men Cured Quickly

NATURE'S DANGER SIGNALS

Examine Yourself

Thousands of young and middle-aged men are annually swept to a premature grave through nervous complaints and blood ailments, if you have any of the following symptoms, consult me before it is too late. Are you nervous, weak, specks before your eyes, with dark circles under them, water back, kidneys irritable, palpitation of the heart, bashful, sediments in urine, pimples on the face, eyes sunken, hollow cheeks, careworn expression, poor memory, lifeless, listless, lack of energy and strength, dried morning, restless nights, changeable moods, premature decay, bone pains, hair loss, sore throat, etc. If so, I can promise you a permanent cure or no pay.

WHEN OTHERS FAIL

Call and let us give you a careful, painstaking examination absolutely free. Our opinion and advice will cost you nothing. Perhaps a little advice is all you need. X-ray examinations, when necessary, free. No money required unless you are cured, and you can arrange to pay fee when cured.

MANY CASES CURED FOR \$5.00 TO \$10.00 FEE

Remember, There Is No Man Too Poor to Get Cured by Us

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Nerve Weakness

Varicose Veins

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THE OREGON MEDICAL INSTITUTE

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days, and the overhauling is to be carried on at her berth, foot of Taylor street.

MOVEMENTS OF VESSELS.

PORTLAND, July 5.—Sailed—Steamer Sue H. Elmore, for Tillamook, steamer George, for Tillamook. Arrived—Steamer John, from Tillamook; steamer George, from Tillamook; steamer Klamath, from San Francisco; steamer Catalina, from San Francisco.

ASTORIA, Or., July 5.—(Special.)—The bar tug Wallula left today for Portland to go on the drydock for a general overhauling and various minor repairs.

Beginning today the steamer Batesman will make regular trips between Portland, Sellwood and Milwaukie.

Carrying supplies and material to the Astoria station, the tender Columbia yesterday sailed from the river on a voyage that is expected to occupy three weeks.

The second steel barge for the Columbia Contract Company is being completed, and the third is being hurried and will be launched in a few days.