

Corvallis Gazette.

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CORVALLIS, OREGON, FEB. 3, 1906

PUNISHED.

The execution of Lloyd Montgomery was decently and skillfully conducted. Those who witnessed the youthful murderer's final taking off were the few who had invitations from the sheriff of Linn county. Several newspapers, however, published every detail of the ghastly ceremony, thus practically annulling any benefits that might arise from the privacy of the execution.

Many of the incidents associated with the closing hours of Montgomery's life reveals the fact that there were a number of people in Albany whose moral sensibilities were on a par with the parenticide. He was continually besieged with such questions as: "How does it feel to be so near death?" "Do you realize that you are about to be hanged?" revealing moral turpitude, as well as vulgar curiosity on the part of the questioners.

It was right that the boy should be hanged. The punishment, awful as it was, was not adequate when we realize the enormity of the crime. But the law in such cases, contrary to its profession, is vindictive rather than salutary. This execution will hardly have a deterring effect upon passionate youths who may be prompted to similar crimes. Passion knows no law—heeds no warning. The fate of this boy, should, however, impress upon parents the importance of training the child to control its temper. The crime was one of the most terrible in the criminal history of the state. His prompt and decent punishment reflects credit upon the people of Linn county and upon the several officers.

SENATOR NESMITH once went to Oregon City. A little Irishman was living there who imagined he had been greatly injured by the senator and desired revenge. He saw Nesmith on the street and ran up to him and began pounding him upon the small of the back. After some time Nesmith turned around and enquired what was the matter. "I'm a thrashing of ye, ye spalpeen," replied the fighting Irishman. "Oh, keep right on," replied Nesmith, "don't let me interfere with you." This story was recalled to the mind of an old Oregonian by the laughable attempts of the Salem Statesman to belabor Representative Hermann.

THE CONFIRMATION of Copinger's appointment seems to be due more to "influence" than to the merits of the case. There were many sound arguments advanced against his promotion and no good public reason given why he should be thus favored. He was advanced over 13 colonels of higher rank without any apparent cause. This appointment and this confirmation does not add luster to President Cleveland nor to the senate of the United States. No officer should be promoted over the heads of those higher in rank except for some known particular fitness or unusual merit.

NO FAIR-MINDED person in the state believes that Multnomah county should be deprived of her full representation in the legislature when the proper time comes for a new apportionment of the state. And the proper time would be now if the legislature were in session. But to have called that body together simply for the purpose of giving Multnomah six additional representatives, as the Oregonian insisted, would have been the height of folly. Governor Lord acted wisely.

THE ATTACKS of an Eugene paper upon Col. Alley on account of his criticism of the State University management are in exceeding bad taste. The large appropriation the Eugene school received this year was due principally to his efforts.

EVERY populist in Benton county has an Oregonian editorial in his hat band.

THE REFEREE'S REPORT.

The report of Referee Woodcock as to the proper disposition of the Oregon Pacific purchase money delights the taxpayers of Benton county. If his ideas are finally confirmed, the debt of this county will be reduced nearly one half. This means a decrease in taxation, a relief that property owners will gladly welcome.

Tax claims of the several counties were allowed priority. As Benton has the largest claim, the other counties relied upon her to a great extent to impress upon the referee the equity and legality of the demand that the taxes be declared a prior lien. The attorneys for this county, Judge W. S. Hufford and Joseph H. Wilson, are entitled to a great deal of credit for their able presentation of the case.

Some popular fault is found that Receiver Hadley's claim as cut down by the referee should be declared prior to the claims of the employees under him. It seems, however, to be the necessary rule of courts that their immediate officers be protected first. It is estimated that the labor supply and similar claimants will receive about ten per cent. on their claims.

Mr. Woodcock has given the matter a deal of attention and careful study. Whatever the legal merits of his findings may be, they are received with general favor by the public.

COLLAGE NOTES.

Miss Leora McFarlan left for San Francisco Monday.

Any one wishing instruction in duck shooting should call on Mr. Lee Beall. He has had great experience.

A union meeting of the three societies, Sorosis, Pieram and Amaceti, was held in the college chapel Saturday evening, Feb. 1. The program, which was exceptionally well rendered, was as follows:

The sophomore class has decided to perform a play at commencement and every sophomore possessing histrionic ability will be enabled to display their talent. The official program has not been announced.

The monotony of military drill at the college is to be relieved by a court martial to be held in the college chapel Friday evening, Feb. 7. This promises to be very interesting. Every one is invited to attend.

After the program was rendered, the societies adjourned to the mechanical hall, where, in the recreation rooms of Frois, Emmet and Covell, games were indulged in, after which refreshments were served. Several toasts were made and responded to, when the societies adjourned. Only members were present.

Piano solo, "Feast of the Roses," Miss Uhlman; oration, "Moderation," F. E. Edwards; vocal solo, "Waiting, Yes, Waiting for Me," Miss Mabel Johnson; essay, "The Ladder," Colista Murray; declamation, "The Tramp," Dennis Stoval; essay, "The Mormons in Utah," Carrie Lyford; piano solo, "The Jolly Bachelor," Edith Gibson; recitation, "Waiting by the Gate," Lylal Lawrence. Debate—Resolved that the pulpit furnishes a greater field for oratory than that of the bar. Affirmative, E. R. Doughty; negative, J. S. McQuinn. Vocal solo, "The Sweetest Story Ever Told," W. T. Lee; recitation, "Rienza," Miss Mildred Linville.

ALSEA JOTTINGS.

Regular meeting of Hope Grange, No. 25, next Saturday.

Miss Belle Gray, of Philomath came over with the mail carrier Friday. She commenced school in Missouri Bend district Monday.

Miss May Headrick, who completed a very successful term of school in the North district a few weeks ago, returned to Corvallis last week.

The farmers on the south side are going to build a public dipping pen for sheep. The flocks that have shown symptoms of disease will be carefully attended.

The steel head salmon are plentiful at Fall Creek now. W. J. Headrick, Tom Rycraft and Frank Warfield went down Thursday and returned Saturday. They got all the fish they wanted.

The boys who are at work on the new road are through blasting for a while. The two worst rock points on the road are now finished. There is a good force at work whenever the weather will permit.

Speaker Moore's letter should be read carefully by every voter in the state, as it contains a great deal of truth and would impress upon the average seeker for legislative honors (who is now busy telling his friends what he would do if he was sent there) that he would only be one in a body of ninety when he arrived at Salem. GEO. MOSSBACK.

MR. WOODCOCK'S REPORT.

How the Money Received from Bonner & Hammond is to be Disbursed.

Following is the table of findings by Referee Woodcock of the amount of the claims presented against the fund of \$100,000 paid for the Oregon Pacific railroad and found in his report filed Saturday. The items preceded by (*) are those wherein interest was claimed and the increased sum in the last column indicates where the interest was allowed and added:

NO.	NAME AND CLAIM.	Amount Claimed.	Amount Allowed.
1-	Material and supplies.....	\$ 59,167 84	\$ 68,632 99
2-	Laborers for receivers.....	118,976 44	138,013 43
3-	Heidellbach, assigned labor.....	40,000 00	48,132 88
4-	Insurance certificates.....	13,867 79	16,974 19
5-	Benton county taxes.....	19,466 63	19,466 63
6-	Corvallis city tax.....	423 00	423 00
7-	School district No. 9, tax.....	590 70	590 70
8-	Lincoln county taxes.....	20,619 22	15,911 55
9-	Linn county taxes.....	10,441 56	10,441 56
10-	Marion county taxes.....	9,343 15	9,343 15
11-	John P. Fay, attorney fees.....	8,861 09	8,861 09
12-	Bronough & Co., attorney fees.....	3,655 69	3,155 10
13-	L. F. Finn, attorney fees.....	1,250 00	1,250 00
14-	John Burnett, attorney fees.....	3,000 00	3,000 00
15-	J. K. Pendleton, attorney fees.....	4,000 00	4,000 00
16-	Pago & Ellis, attorney fees.....	12,734 43	
17-	E. C. M. Rand, export fees.....		
18-	F. L. & T. Co. and Turner, McClure & Ralston and J. R. Bryson, attorneys fees.....	38,276 50	
19-	W. L. Law, receivers' certificates.....	41,000 00	17,221 60
20-	D. B. Monteth, receiver's certificate.....	7,000 00	8,850 50
21-	W. L. Vance, receiver's certificate.....	12,000 00	12,000 00
22-	L. F. Finn, receiver's certificate.....	7,000 00	8,850 50
23-	John A. Crawford, receiver's certificate.....	5,000 00	6,240 00
24-	J. W. Whalley, former referee.....	500 00	
25-	M. O. Wilkins, stenographer's fees.....	50 25	50 25
26-	Roschberg, Review, advertising.....	55 00	55 00
27-	Oregon Statesman, advertising.....	207 10	207 10
28-	Geo. S. Co. trustee, rents.....	3,021 76	
29-	Wm. M. Hogg, rents and Gr. Dev. Co.....	15,941 78	
30-	T. E. Hogg, receiver.....	5,594 66	
31-	Chas. Clark, receiver, nothing claimed, accts. approved.....		
32-	E. W. Hadley, receiver.....	10,000 00	3,000 00
33-	T. E. Hogg, receiver, accts. not app'd short, 30,064 27.....	1,309 60	
34-	Levi & Ferguson, costs, etc.....	463 35	463 35
	Amount fund on hand.....	\$ 94,312 17	
	Expense of proceeding.....	1,309 60	
	Balance for distribution.....	\$ 92,992 57	

Another mile stone in the history of the Oregon Pacific litigation was passed last Saturday morning, when Referee Woodcock's report was filed with the clerk of the circuit court. It will be remembered that in the fall of 1891, The Farmers Loan & Trust Co., as trustee, commenced foreclosure proceedings against the Oregon Pacific and Willamette Valley & Coast railroad companies. T. E. Hogg was appointed receiver, and served until March, 1893, when he was removed, and E. W. Hadley appointed. After Mr. Hadley had served ten months, Charles Clark was appointed, and held the position until the road was sold to Bonner & Hammond in December, 1894.

After the sale of the road to Bonner & Hammond had been confirmed, the next thing was the appointment of a referee to report upon the validity and priority of claims against the \$100,000 purchase money. Last September, A. C. Woodcock, of Eugene, was appointed such referee and at great labor and pains has gone through the hundreds of claims and presented his findings. Few persons can imagine the work and time required by Mr. Woodcock in examining into the different claims, together with the hundreds of affidavits and other legal documents filed along with them. His report is a voluminous affair covering 172 pages of closely typed matter, prepared by his official stenographer, M. O. Wilkins, and evidences much care and pains in its preparation. There are thirty-three findings of fact and eighteen conclusions of law.

In his conclusions of law, Mr. Woodcock finds that the claims for taxes are entitled to priority of payment. Benton county's claim is for \$19,466.63, and is allowed in full. Should the money in court be disbursed in accordance with the referee's report, Benton county's indebtedness will be reduced nearly one-half. The fortunate finding of the referee in regard to the tax claims is very likely due to the very able manner in which the matter was presented in the brief of Judge Hufford and J. H. Wilson of counsel for Benton county and also to the former's exhaustive argument before the referee.

The referee finds that there should be allowed to the 371 material and supply claimants for goods, wares and merchandise furnished the receivers the aggregate sum of \$68,932.99, and to the labor claimants, \$138,013.43. These amounts include interest at the rate of 8 per cent per annum for two years. The amounts due the individual claimants are set out in an itemized schedule forming a part of the referee's report.

That there is due A. S. Heidellbach, J. H. Halstead, John I. Blear, Joseph Wharton and others the sum of \$39,525.17, with 8 per cent interest from April 10, 1893, on receiver's certificates, issued to E. W. Hadley, the proceeds of which were used in paying a 40 per cent dividend on labor claims that accrued un-

der the T. E. Hogg receivership. The full amount of the claims for insurance, effected by Receiver Hadley, was allowed.

The claim of John P. Fay for services for Receiver Hadley is reviewed at length, and the referee concludes that Mr. Fay was employed in the interest of certain bondholders, and not by the receiver, and hence has rendered no services and incurred no expense which constitute a valid claim against the fund now in court.

Referee J. W. Whalley allowed the claim of L. F. Finn for attorney's fees to the amount of \$3155. Since then Mr. Finn claims to

have performed services for Receiver Hogg as attorney in five suits in Lincoln county, and asks to be allowed \$100 in each case. The latter item Referee Woodcock disallowed. J. K. Pendleton, another lawyer, had a claim for \$3,000, which was disallowed. E. C. M. Rand, a New York expert, who came to Oregon and looked the road during the winter of 1895, claimed \$12,754.43 for his services and expenses. The claim was not allowed. The claim of the Farmers' Loan & Trust Company, and of Attorneys Turner, McClure and Ralston, and J. R. Bryson, for attorney's fees and expenses to the amount of \$38,276.50, is not allowed. All but \$10,000 of the above sum, however, had already been passed upon by Referee Whalley, and approved by the court, in which report the referee found that the claims were due. In the order of approval, it was decreed that the claims should bear interest from January, 1892.

In regard to the \$10,000 not included at the time of Referee Whalley's report, Referee Woodcock deems it unnecessary to pass upon, as to its reasonableness. In his conclusions of law, he makes no provision for his payment.

Of the 24th claim Referee Woodcock says: "From an examination I find that said claimant Whalley was amply paid for all the services he rendered as referee in his suit, and that said additional claim should in justice be included, in the claim for which he has received compensation, and I therefore find that he is not entitled to any part of the fund now in court."

In his 31st finding of fact, Mr. Woodcock says: "I find from an examination of Receiver Clark's report, so far I am able to ascertain, that he acted honestly and diligently in the performance of his trust and that his report should be passed and allowed, and said receiver discharged from any further liability, and his bondsmen exonerated, upon his payment into court of the money now in his hands, as such receiver."

The amount now in Mr. Clark's hands is \$165.72. Commenting on Receiver Hadley's report, the referee says that no objections have been filed to it, and there is nothing in the report to show why it should not be allowed and passed. He notes, however, that, in the deposition of E. C. M. Rand, the affiant claims to have reported to Receiver Hadley a shortage of T. E. Hogg, and for some reason he also claims such deficiency was not reported to the court by Mr. Hadley. If this is true, Mr. Woodcock does not think Receiver Hadley has performed his duty—but, on account of meager evidence, does not feel warranted in making a special finding. Referee Hadley asks for \$10,000 due as salary for ten months' service. He was allowed \$5,000 by the referee, from which is deducted \$2,000 previously paid. Mr. Woodcock says:

"From the information I now have, I believe Receiver Hadley should be discharged and his bondsmen exonerated."

Relative to T. Edgerton Hogg's administration and report as receiver, Referee Woodcock says: "I find that the receiver's report should not be passed and allowed until the various matters are adjusted by said receiver, nor should he receive or be allowed any compensation for services until said adjustment is made. It appears that said receiver remained in New York and maintained an office there, when he should have been in Oregon, where the property was located. It further appears in the various claims in this proceeding that the actions of said receiver were unsatisfactory to the bondholders, and that after another receiver was appointed said Receiver Hogg refused to turn over books and other property to his successor. The total amount of the claims which are not approved in said report is the sum of \$30,064.27. This amount does not include the item of \$57,624.35 paid to the Oregon Development company, for the reason that with the information before me, I am not able to pass upon that item. I think, however, that said receiver should be required to explain more fully in reference to said items before it is allowed."

Levi & Ferguson's claim was for costs and expenses in a damages suit wherein they were bondsmen for the receiver and the claim was allowed. There is found to be in the hands of the court for distribution \$94,312.17. The expenses of the reference are:

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Referee's fees.....\$1,000 00
Stenographer and clerical assistance 254 60
Clerk's fees.....15 00
Total.....\$1,269 60

In his conclusions of law, Referee Woodcock finds that the various assessments are legally made and all proceedings in reference to the levy are regular, as by law required, but that claimants are not entitled to interest. Priority is given to claims, as follows:

First—
Expenses of this proceeding.....\$1,269 60
Compensation of E. W. Hadley.....3,000 00
Claim of M. O. Wilkins.....50 25
Claim of Levi & Ferguson.....463 35
Aggregating the sum of.....\$4,892 20

Second—
Claims for taxes.....\$55,746 62

Third—
Labor and material claims, attorneys' fees incurred by the receivers and allowed by the referee, receiver's certificates allowed and advertising.....\$41,971 00

It is estimated by the referee that .09846, or nearly 10 per cent. on the dollar will be paid on the claims in the third category.

Accompanying the report is an exhaustive legal argument prepared by Mr. Woodcock in support of his findings, which is important as it gives a thorough explanation of his interpretation of the law, particularly with regard to the tax claims and reasons why they are entitled to priority of payment. The work throughout appears to have been carefully and conscientiously executed.

THE New York Tribune reports that a Kansas populist is at work upon a new scheme to increase the sum of human happiness. He is trying to cross the milkweed and the strawberry, so that people may raise strawberries and cream together.

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