

SHERMAN COUNTY OBSERVER

Moro, Oregon

Entered as second class matter at the post office at Moro, Oregon, July 25, 1891

Official Newspaper for Sherman County
C. L. IRELAND, Managing Editor

FRIDAY, January 4, 1924

Lamentable indeed is the confession of President Pearson of the National Association of Audubon Societies that its efforts and those of other like organizations to protect the bird life of the country have failed, if not completely, at least to the extent that they have accomplished only the postponement of extinction for many species. The game birds are going fast, he says, and are doomed to follow the buffalo and the passenger pigeon unless prompt measures are taken to save them. Song birds, too, are showing the effect of a merciless persecution, with the domestic cat named by H. H. Forbush, the New England ornithologist, as the most murderous of their enemies. He declares that cats every year destroy 10,000,000 birds. That is a huge number, and its roundness suggests that it is little better than a guess; but guesses, when founded on knowledge, may be close to the truth, and that this one is not far from it will be believed by anybody who has noted the suburban and country cat's assiduity and success as a hunter of birds. That is only cat nature, of course, and not a reason for hating an animal with many charms and some utilities—one of the only two animals which man has succeeded in really turning into what the biologists call a commensal. It is a reason, however, for considering seriously the relative value of cats and birds. The chance of saving both is not large, and there is no real doubt as to which has the greater worth.

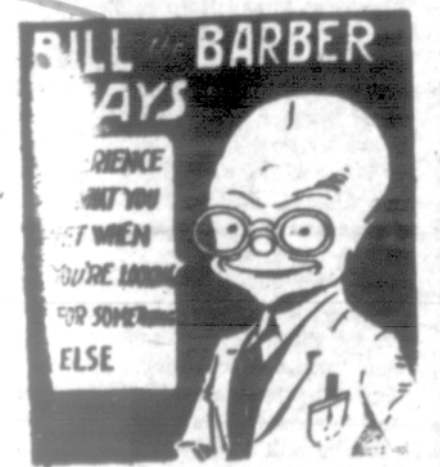
Clemenceau says his political life is finished forever. His impression may prove fallacious owing to the fact that there is no crisis at the moment of a kind that fits his particular personality and power so closely as to make him appear indispensable. However, content a statesman may be with retirement, there is no relaxing a genuine case of overwhelming demand.

An advantage of producing pork is that there is always a market and there is not such a great variation in the price of old and young animals. For example, old sows may bring as much as seven cents when top hogs are selling at ten cents per pound. Still another advantage of hogs is that they utilize waste products. Sometimes these are in the form of scraps from the table and sometimes they are culled potatoes or a poor grade of corn.

Ferdinand, former king of Bulgaria, flees from imaginary enemies. A king in that part of the world contracts habits of thought that time cannot efface. He is like the old fire engine horse, that wants to run whenever he hears anything that sounds like a bell.

There are men in Turkey who think they are statesmen who are advocating a return to polygamy because there is a surplus of women. However, it can hardly be possible that they are making a bid for the feminine vote.

College enrollment is heavier than ever before, notwithstanding a general stiffening up of requirements. Which proves either that the boys can work when they have to or that a smarter crowd are going to school.



Court Says Schamel Must Pay Wheat Growers Assn

Judge D. R. Parker of the circuit court for Sherman county last week over ruled the demurrer to the complaint in the case of the Oregon Co-operative Grain Growers, a corporation of Grass Valley, defendant, thus holding that the provision of the marketing agreement between the Grain Growers and Schamel, which fixes a specific sum as liquidated damages in case of breach of contract on part of the grower to deliver his wheat as provided in the contract, is valid and enforceable.

In effect, this means that Schamel must pay to the grain growers association the sum of 25 cents a bushel on 15,000 bushels of wheat which he failed to deliver to the plaintiff corporation, but which he sold and delivered to other parties.

Judge Parker's decision printed in full in the Condon Globe-Times in its issue of December 28th, is of such importance and deep interest to the wheat growers of Sherman county, members and non-members of the association alike, that it is reproduced in full:

"The plaintiff is a co-operative marketing association organized under and by virtue of the cooperative laws of this state; the defendant is a wheat grower in Sherman county, Oregon; the defendant executed the marketing agreement of plaintiff on or about the 4th day of February, 1921, wherein he agreed to deliver to plaintiff all the wheat raised by him during the years 1921, 1922, 1923, 1924, 1925, 1926; that during the year 1923 the defendant raised 15,000 bushels of wheat which he failed, neglected or refused to deliver to plaintiff, but which he sold and delivered to other parties; that the said agreement, among other things, provides that as it is impracticable and extremely difficult to determine the actual damage resulting to the plaintiff thru the defendant's breach of contract as to delivery of the wheat which he has therein agreed to deliver, that he, the defendant agrees to pay to plaintiff the sum of 25 cents per bushel as liquidated damages for each and every bushel sold, delivered, consigned or marketed by him other than in accordance with his agreement with plaintiff.

"This action is instituted to collect these stipulated damages, together with the costs, traveling expenses, and the attorney's fees provided for in the contract, and comes on for hearing on defendant's demurrer to plaintiff's complaint.

"The principal question involved seems to be whether the amount of damages stipulated in the contract will be regarded as liquidated damages and enforced, or as a penalty and enforcement, according to its terms, be refused.

"The distinction between a penalty and a provision for liquidated damages is that a penalty is in effect a security for performance, while a provision for liquidated damages is for a sum to be paid in lieu of performance. A provision in a contract for a sum to be paid in event of breach will, if it is a provision for liquidated damages, be enforced according to its terms; if it is a provision for a penalty, the recovery will be limited to the actual damages sustained. 17 C. J. 933.

"Chief Justice Bean speaking for the court in the case of Salem v. Anson, 40 Or. 329, 345, stated the rule to be that: 'When actual damages in a case of breach of contract must necessarily be speculative, uncertain and incapable of definite ascertainment, the stipulated sum will be regarded as liquidated damages, and may be recovered as such without proof of actual damages, unless the language of the contract shows, or the circumstances under which it was made indicate, a contrary intention of the parties, or it so manifestly exceeds the actual injury suffered as to be unconscionable.' Citing cases.

"Where the damages are uncertain and speculative, the presumption ordinarily is that the parties have taken that into consideration in making the contract, and have agreed on a definite sum to be paid in case of breach, in order to put the question beyond dispute and controversy, and to avoid

Blizzard Storm Freezes Water Pipes

Winter broke in upon the residents of Sherman county last Saturday night that was officially stated by the experiment station to be four degrees above zero. A strong east wind and blizzard traveled with the storm, freezing exposed water pipes quickly and thoroughly. Monday night the wind moderated and changed to the west, but the experiment station reported Tuesday morning five below zero. Conditions for the week have been close around the zero mark, part of the time with an east wind.

For the first time in thirty years, a three-quarter inch stream of running water on the L. V. Moore farm froze solid, this has with stood 30 below on former occasions; a water pipe in the Roy Axtell basement froze, burst and flooded the basement, giving swimming lessons to the fruit, vegetables, and canned goods stored there; S. P. Brishin had the pipes in two of his houses freeze and burst; G. E. Mathews had the pipes outside his new residence property freeze; Joe Truitt had the hot water tank in his barber shop spring a leak; several others had minor troubles because of the cold weather.

It is a well established belief among those who invest in Observer advertising that their money does in that way realize a double value.

the difficulty of proving actual damages." Other decisions supporting the rule are Learned v. Holbrook, 87 Or. 676; Alvid v. Banfield, 85 Or. 49; 17 C. J. 941.

"That these contracts come within the above rule is taught by the case of Anaheim Citrus Fruit Ass'n v. Yeoman, (Cal.) 197 P. 969 Washington Co-op. Egg & Poultry Ass'n v. Taylor, 210 P. 806; Oregon Growers Co-op. Ass'n v. Lenta, 212 P. 811; Washington Cranberry Growers' Ass'n v. Moore, (Wash.) 201 P. 773; and note to case of Phez Co. v. Salem Fruit Union, (Or.) 25 A. L. R. 1124.

"The question is further answered by the provisions of the amendment of section 6964 Or. L. found at page 487 laws of 1921, which contains, among other things, the following provision:

"The bylaws and marketing contract may fix, as liquidated damages, specific sums to be paid by the member of the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and any such provisions shall be valid and enforceable in the courts of this state."

"The provision fixing a specific sum to be allowed as liquidated damages in case of a breach on the part of the grower to deliver as provided in the contract, is therefore, valid and enforceable for two reasons: (1) By the provisions of the contract itself, the actual damages being difficult of ascertainment or admeasurement; and (2) by legislative enactment.

"The demurrer to the complaint should be overruled, and it is so ordered."

How it comes about that the piano has retained substantially the same form for nearly two hundred years is not quite clear. For some reason mechanical geniuses have apparently allowed the instrument to escape their attention. More recently, no doubt, they have been engrossed in the construction of automatic pianos. Whatever the cause, it has been left to a musical composer in Switzerland to discover that the difficulties of the piano keyboard may be largely reduced by a simple device involving a double row of keys. The new invention, judging from the fact that it set out to do. It may be hoped, however, that it does not make execution too easy, for it would be well for the peace of the community that piano-playing should remain as far as possible under the control of genuine lovers of music.

Home to Rest.
"Bertie," said mother sorrowfully, "every time you are naughty I get another gray hair."
"My word!" replied Bertie, "you must have been a terror. Look at grandpa!"

Gilliam Wheat Growers Trying to Quit the Association

A number of Gilliam county wheat growers have issued a call for a meeting at the Gilliam county court house, Saturday afternoon, January 5th, 1924, to discuss the manner and method of withdrawing from the Oregon Co-operative Grain Growers' Association.

Many of the growers, it is said, are highly dissatisfied with the returns received through the association. Some have refused to market their wheat with the association, in spite of decisions upholding the co-operative market agreements in Oregon, Washington, California and Idaho courts.

The Condon Globe-Times, in an article last week, discussing the proposed withdrawal by the members of the association, said that "there is no doubt that individual growers have sustained losses through marketing their wheat co-operatively—when comparing the average prices received in the association with price received by some growers outside the association. At all events, there is enough feeling among growers that this is so, that the meeting for January 8th has been called to discuss ways and means of severing their connection with the association. It is proposed to do this under the provisions of paragraph six of the co-operative membership agreement. This paragraph reads as follows:

"Every member of the association shall have one vote, but upon written demand or petition of 10 per cent of the members or by vote of 40 per cent of the district delegates at any regular or special meeting of the association, an appeal may be had to a referendum on any problem or problems of general concern to the association. When such a referendum is demanded each member shall have one vote for the first five thousand bushels or fraction thereof and an additional vote for each succeeding five thousand bushels or major fraction thereof. In determining the voting power of the members the number of bushels of wheat sold by the member the preceding year shall be taken as the measure of his voting power. Likewise a written demand of 10 per cent of the growers in any district shall cause a written vote on the above bushelage basis within the district on any question concerning the district."

Paragraph eleven of the membership agreement, however, seems to make withdrawal impossible. Paragraph eleven (a) says:

"If at any time before March 1st, 1922, signatures to this contract by growers of wheat, or owners, or lessors, or lessees of land in the state of Oregon together with the signature by growers of wheat or owners, lessors, or lessees of land to substantially similar contracts circulated in the state of Washington and Idaho shall have covered twenty-five per cent of the production of wheat by bushels in 1918, in Oregon, and Idaho taken as a whole, then this agreement shall be binding upon all the subscribers in all its terms and there shall be no right of withdrawal whatsoever."

Paragraph eleven (b) further says that if signatures covering 35 per cent of the wheat grown in 1918 in Oregon are secured before March 1st, 1922, then the agreement is binding and that there shall be no right of withdrawal whatsoever.

Section 17 of the "marketing agreement" is another rather binding one which all growers should have considered well before signing the "marketing agreement." Section 17 reads:

"If the association brings any action to enforce any provisions hereof or to secure specific performance hereof, or to collect damages of any kind for any breach hereof, the growers agree to pay to the association all costs of court, costs for bond or otherwise, expenses of travel, and all expenses arising out of or caused by the litigation, or any reasonable attorney's fee expended or incurred by it in any proceedings, and all such costs and expenses shall be included in the judgment and shall be entitled to the benefit of any lien securing any payment hereunder."

It is reported that the association officials recognize the wide spread

J. B. Crossfield Killed by Street Car

John B. Crossfield, aged 80, was hit and knocked to the pavement by a west bound Montavilla street car at East 30th and Gilliam street Monday night in Portland, death following from a fractured skull as he was being taken to the hospital. Funeral services were held Thursday noon with interment at Riverview cemetery.

John B. Crossfield was the father of George N. Crossfield of Waco. He is survived by three children: Mrs. C. V. Cooper, Charles W. Crossfield and George N. Crossfield; five grandchildren: Mrs. Jess Sexton, George N. Crossfield Jr., Charles W. Crossfield Jr., Dorothy Arnes, Mrs. B. A. George, and a great grandson, Newton Ladrus Crossfield.

Prominent educators consider that a knowledge of business integrity, gained thru reading advertisements, is an essential part of a serviceable education.

dissatisfaction that prevails among association members in Oregon and that there is some sentiment among the officials to follow the same plan that was tried in Washington—to submit the question of the dissolution of the association to a vote of the members. How strong this sentiment is remains to be seen.

Swine require a small amount of capital at the start. One brood sow is sufficient to start a farmer in the hog business. A small hog house can be built for \$25 to \$30. The hog makes a quick turnover of the capital invested. In less than twelve months the pig will grow to maturity, be sold to the butcher, and the farmer will have the money in his pocket.

A titanotherid has arrived in this country from Asia. That didn't mean anything to us until the scientists kindly explained that a titanotherid is a perissodactyl ungulate.

Geologists say there is small chance of serious earthquakes on the Atlantic coast. This is one slight advantage that glorious California will have to concede to the eastern states.

The geologists are discovering so many other interesting things it really seems a pity they are not able to dig up the core of the original apple.

Card of Thanks

We wish to thank our neighbors and friends for their kindness and help in our bereavement during the illness and at the time of death of our dear husband and father.

Mrs. M. L. Evans
Mrs. Edna Arnold
Herschel Evans
Worth Evans
Douglas Evans
Melford Jr. Evans

OBSERVER WANT ADS

Rates: Under 15 words, 35c
15 to 30 words, 50c
Over 30 words, 1 1/2c per wd.

FEED FOR SALE—Sample at the Observer office, and place your order with L. W. Amick, Kent, Oregon.

HORSES LOST. From the H. B. Belah pasture about first of November. One sorrel mare weight about 1450, has slight split in left ear and white face. One brown saddle horse, gelding, weight about 900, has three white feet, white strip in face, branded combination figure 4 and daal on left shoulder. Phone the Observer office or notify H. B. Belah, Moro, Oregon.

FOR SALE. Lease on dairy and poultry farm located in Sherman county. Stock includes cows, dairy outfit, chickens, hogs and sheep. Peterson & Freeman, Moro.

FOR SALE OR RENT—The William Schalls residence property in Moro, Oregon. Inquire of Roy Kesinger, administrator, or W. C. Bryant, attorney.

6% Loans under Reserve System on city or farm property Reserve Deposit Company 72 Fourth Street, Portland, Oregon.

We pay parcel post one way on all shoe repairing. Good quality leather and work. Joe Amore, The Dalles, Oregon.

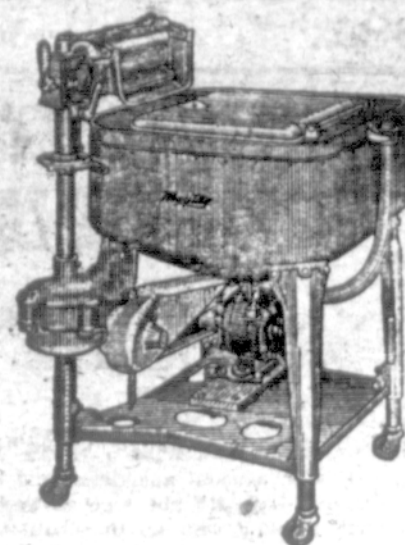
Abstracts promptly made by the Sherman County Abstract Co., Moro, Oregon.

O. A. C. SHORT COURSES
Intensive practical instruction in agricultural specialties varying from one week to 20 weeks as follows:
General Agriculture, Jan. 2-March 15
Horticulture, Jan. 2-March 15
Dairy Manufacturing, Jan. 7-Feb. 1
Herdsmanship and Cow
Testers, Jan. 2-June 15
Farm Mechanics, Tractors, Trucks, etc., Jan. 2-March 15
Farm Mechanics (one week), Feb. 18-Feb. 22
Third Annual Canner's School, Feb. 4-Feb. 22
Land Classification and Appraisal, Jan. 7-Jan. 12
Agricultural Economic Conference, Jan. 21-Jan. 25
For further information regarding any course address
The Registrar
Oregon Agricultural College
Corvallis, Oregon.

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Now, at its reduced price, it presents a more compelling value than ever. Although better looking, roomier, easier riding, it is at less than \$605.00 f.o.b. Detroit.
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These cars can be obtained through the Ford Weekly Purchase Plan.

Williams Motor Co., Moro, Oregon

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CARS - TRUCKS - TRACTORS



To our Customers and Friends:

On and after January 15, 1924, our goods will be sold for

Strictly Cash

We desire to express our appreciation to the public for their patronage in the past and, in the future, we will endeavor at all times to merit the confidence of our patrons and are sure that the change of store policy will benefit all.

Moro Trading Co., Moro, Oregon