DECISIONS

Made by the Supreme Court

Flagg & Cronise Win a Suit Against Marion County.

In receivership of the Oregon Pacific Railroad Company, from an order of the circuit court of Benton county denying the petition of certain employes of the receivers of the company for an order requiring the plaintiff in the foreclosure suit in which such receivers were appointed to pay the wages of petitioners. The decree of the lower court is affirmed. Opinion by Bean J.

The supreme court acknowledges this to be the first recorded instance in the judicial history of railroad receiverships in which the trust fund was insufficient to pay the employes of the receiver operating the road; hence there are no precedents in the case.

A receiver, the opinion says, is not like a sheriff in an attachment action, the agent of the plaintiff, and that parties to litigation have no control over him. He is the agent of the court and the liabilities incurred by him are the liabilities of the court.

"Receiverships of railroad properties," the court continues, "are peculiar appointments. A receiver represents no particular interest or class of interests. He holds for the benefit of all who may ultimately show an interest in the property. He stands no more for the creditor than the owners. They are not assignees, and the principles of common law applicable to assignees do not define or determine the character of a receiver's possession or its effects upon the rights of those interested in their possession."

The mortgage, applying for the appointment of a receiver with authority to operate the road, is not responsible, in the court's opinion, unless made so as a condition of the appointment, and without such condition the receiver and employes must look to the property in the court's custody for compensation: nor are their wages construed as costs of litigation in any sense:

Flagg & Cronise, appellants, vs. Marion County, respondent, for Marion county; opinion by Bean, J.; reversed.

This was an action against Marion county to recover a balance of $290, alleged to be due the plaintiffs for printing election ballots. A demurrer to the complaint on the ground that it did not state facts sufficient to constitute a cause of action being sustained, the plaintiff appealed.

The plaintiff contented that, while a county clerk may, under the law contract for the printing of election ballots, he has no authority to bind the county by an agreement as to the price to be paid therefore, and hence his action should have been upon a quantum meruit, and not for an agreed compensation; and that plaintiffs are estopped from maintaining this action for the reason that they accepted from the county the sum of $410 the balance of the claim being rejected by the county court.

The county court held that contracts of this character, made by public officers, when reasonable and valid will support an action for an agreed compensation. In regard to the matter of plaintiffs being estopped, there is not sufficient evidence to create a presumption that the payment was either made or accepted in full of the claim.

M. E. Baker, respondent, vs. State Insurance Company, appellant, from Multnomah county; opinion by Wolverton, J.; affirmed.

In Wyatt vs. Harrisburg Mercantile company it is held that, if a defendant denies the title of the plaintiff to property sued for, he cannot afterwards set up the defense that he retained the goods to secure his lien for changes. Held also that it was proper for the court below to reject a warehouse receipt offered in evidence by the warehouse man to prove the quantity of oats stored and the storage due, where the warehous man denied the title of plaintiff to the oats in question.

Osman Royal, appellant, vs. Ladru Royal, respondent, from Multnomah county; opinion by Bean J.; motion allowed.

Mary Isabella Wason, respondent, vs. Robert Pilz, defendent, and Annie C. Schmeer, appellant, from Multnomah county; modified opinion by Wolverton, J.

Meyer & Strom, respondent, vs. H. E. Edwards, appellant, from Multnomah county, opinion by Bean J.; reversal and remanded for further proceeding.

Donny Falconio, respondent, vs. E. S. Larsen, appellant, from Multnomah; opinion by Wolverton J. affirmed.

Columbia county, appellant, vs. G. A. Massie, respondent from Multnomah county; opinion by Bean, J.; affirmed.

J. R. Smith & Co., appellants, vs M. W. Wilkins, respondent, from Benton county; opinion by Moore, J.; affirmed.

Edith Fowler, respondent, vs. Joseph Fowler, appellant, from Multnomah county; affirmed; opinion per curiam.

STATE NEWS

Lebanon will celebrate the Fourth this year.

Mr. James, of Beagle, has a turkey ranch and has nearly 400 turkeys.

The dwelling of Richard Kiger, four miles north of Corvallis was burned. No insurance. Loss $600.

Grant's Pass is going to have a business men's carnival where their business will be represented.

County Clerk Dixon of Clackamas county turned in to the county treasurer fees amounting to $330,75 for the month of April.

Charles L. Tillotson has a logging contract with M. Gregson, of the Toledo (Lincoln county) sawmill. The contract is for 300,000 feet.

The recorders office of Clackamas county netted in fees $163,75. The number of releases exceed the number of new mortgages filed.

Mrs. Julia E. Flint, 49 years old, wife of Benjamin T. Flint, of Scholl's ferry, died at the farm residence Friday after a prolonged sickness.

Wm. H. Landon, aged 98 years, died of old age at the home of his son, Charles Landon, at Mohawk last Friday. Deceased leaves three daughters and one son.

Cass U. Barlow, of the Barlow mill mercantile company has been indicted by the grand jury, charging him with embezzlement of $2,000 while book keeper.

The semi-annual report of Malheur's financial condition shows that on March 31 last the county's liabilities amounted to $97,569, or $74,004 more than the resources.

J. E. Spires and E. Borrows undertook to take down Rogue river a raft of lumber, which struck upon a rock and is still fast. The rafters had to swin ashore.

John Hendrickson and his boat puller, August Koshela were capsized in the breakers near Clatsop spit at Astoria. Hendrickson was drowned but Koshela was rescued by one of the other boats.

Hamilton Bishop who resides near the foothills east of this city met with a serious accident last week. While engaged in hauling posts on a sled down the mountain, the load slipped precipitating Mr. Bishop between the horses and the load, the posts falling on top of him. The team became frightened and ran away, dragging the sled over the unfortunate man, breaking three ribs and inflicting other serious injuries. Mr. Bishop was unable to rise but by waving his hat attracted the attention of a man working near who went to his assistance.—Harrisburg Review.

A correspondent of Sand Lake Oregon says: King and Colton have finished cranberry planting having put in one acre using 200,000 plants; M. Lommer has finished planting 40 square rods using 75,000 plants; James Atikinson has finished plantisg 100 square rods using about 110,000 plants; E. Osborne has finished planting 40 square rods using 50,000 plants; H. Farmer will replant some of his old beds where the vines did not grow. The vines were shipped from the east. He says he will patronize home markets hereafter. Sand Lake can furnish plants in abundance of almost any variety of cranberry.

Who wins in the race? Is it a sick man? Is it a man who is weak? Is it a man whose blood is impure? An athlete trains for every race. The best athletes train all the time. They are always in perfect condition. It is pretty safe to say that the best man will always win. The man who is strong and in the best condition will surely distance his competitors.

In the race for success, the best man will win if he takes care of himself. He cannot win if he neglects his physical condition. It doesn't make any difference how smart he is. If his body isn't strong, he will never finish the race. He must look first for a clear, healthy, strong body, because the body makes and supports the brain. If the heart pumps impure blood into the brain, you cannot expect the man to be clear-headed, you cannot expect him to accomplish much. If a man's blood is pure and rich, there can not be much the matter with him. If it isn't pure and rich, he may have almost any disease under the sun, and Dr. Pierce's Golden Medical Discovery will cure it. It doesn't make any difference what form the disease takes, or by what name it is called. Nearly all diseases spring from impure blood. If you make the blood pure, you remove the cause and cure the disease. That's common sense—and medical sense—and scientific sense.

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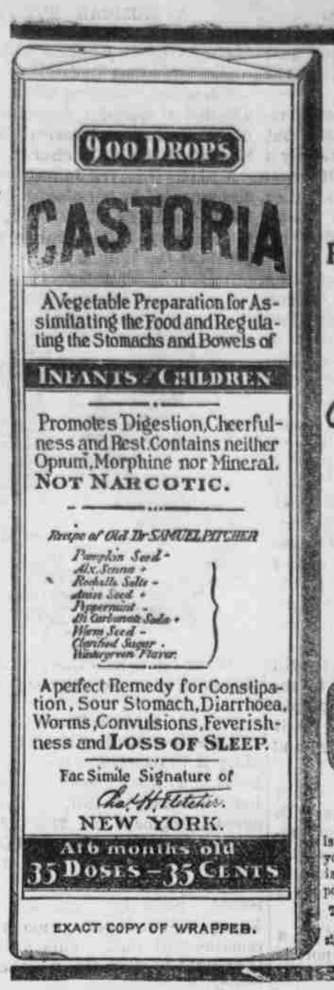

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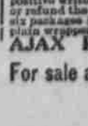

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