

What do you think of those Schilling's Best advertisements? Is other tea colored? Is Schilling's Best pure? Is Schilling's Best money-back if you don't like it?

DAILY CAPITAL JOURNAL

BY HOFER BROTHERS.

MONDAY, OCTOBER 31, 1898.

Daily, One Year \$3.00, in Advance. Weekly, One Year \$1.00, in Advance.

BINGHAM ET AL. KNOCKED OUT

Continued from First Page.

The suit of Bingham and Davis for an injunction and receivership against THE CAPITAL JOURNAL was heard before Judge Boise at 8 a. m. on affidavits of the plaintiffs seeking to stop the execution of a judgment for \$1,945.49 obtained against THE CAPITAL JOURNAL Co. by Hofer Bros. in Judge Burnett's court for wages due them.

Bingham and Davis appeared through their attorney, John A. Carson, and Hofer Bros. were represented by Wm. H. Holmes and D.C. Sherman.

Mr. Carson stated to the court that this special action at 8 a. m. was begun to get first, an injunction to restrain an execution that was to take effect at 10 o'clock today.

The second branch of the suit was to secure the appointment of a receiver. An affidavit was read from Mr. Bingham claiming that the judgment was obtained in default, that none of the officers of THE CAPITAL JOURNAL would defend against the suit.

That the claim for wages was invalid, the defendants had no claim at law, as it was not founded on any contract entered of record on the books of the corporation. This Mr. Carson called to the special attention of the court. The reply of defendants was that Bingham and Davis had procured their stock for political purposes and not for a valid consideration. This he claimed not to figure and was not to be considered. He charged that Hofer Bros. had conspired to wreck the corporation, and to fraudulently and unlawfully get control of the entire property.

Mr. Carson concluded his review of the case for plaintiffs and concluded with a demand that unless restrained from further prosecution, A. F. Hofer would take judgment.

He dwelt especially on the clause of their petition alleging that for mercenary purposes Hofer Bros. had changed the policies of THE CAPITAL JOURNAL. For years they had published it in the interest of the Republican party. This was denied. They had changed the paper to advocacy of free silver and other false and chimerical ideas.

Judge Boise asked if plaintiffs had not had knowledge that defendants had a judgment and would take execution.

He said they were in court when judgment was taken, but had no idea that Hofer Bros. would proceed to put it into judgment.

Mr. Carson read authorities asserting the rights of minority stockholders. Any scheme to freeze out a minority stockholder should be frowned upon by the courts.

TALKED AGAINST TIME. The majority stockholders were in the saddle and were riding the minority with whip and spur. If this judgment was executed the corporation was insolvent. They would not ask the court to hastily appoint a receiver. They would ask an injunction to restrain this sale which would exhaust all the assets. Mr. Bingham had found a case that exactly fits this case. He would not read it in full, but would leave it for the court to consider. After the plaintiffs had absorbed all the earnings of this corporation, they had gone farther and taken a judgment against the company and would subject the stockholders to still greater expenditures.

Mr. Carson now picked up volume after volume of receivership cases handed him by Mr. Bingham, and read and commented. Mr. Bingham occasionally helping him to a felicitous thought. He was talking to kill time and seemed to want to consume all the time until 10 a. m. and not give the court a chance to act or consider the matter before the sale would take place at 10 o'clock.

MAJOR SHERMAN TALKS. C. O. Sherman now reviewed the case of Hofer Bros. They had been in control of THE CAPITAL JOURNAL for ten years, and not until a few months ago had their management ever been called in question by any stock holder, and not then until plaintiffs Bingham & Davis became alleged stockholders.

He showed that it was agreed that A. F. Hofer and E. Hofer should each receive \$25 a week as wages in conduct

of the newspaper. The answer as published was read in full and Major Sherman proceeded with his argument.

Plaintiffs as good business men had not invested in this stock without fully investigating the same. After Hofer Bros. began their suit these plaintiffs began an action that bore all the evidence of bad faith.

They had taken no steps to secure a temporary injunction. They had allowed Hofer Bros. to take all steps in protecting their claim and now came in at the last moment. Their complaint set out no facts showing insolvency of the company as required by the code. No such facts had been set out in their petition. Not a claim was shown to be in existence against THE CAPITAL JOURNAL.

Mr. Bingham made his affidavits entirely on information and belief. He made no charge of positive insolvency or even danger of insolvency. He did not show the necessary condition to authorize appointment of a receiver.

Mr. Sherman now showed by authorities that a receiver could only be appointed on clearest proof of its propriety and necessity, which was utterly wanting in the demands of plaintiffs.

All that the plaintiffs contended for was that by delaying this execution and granting a receiver, they could do no harm. Plaintiff had introduced no evidence to disprove the answer of Hofer Bros to their petition.

Then Major Sherman read affidavits in reply to Mr. Bingham's affidavits from E. Hofer, A. F. Hofer, and M. L. Chamberlain, showing that the sums claimed by Hofer Bros. were due and actually owing to Hofer Bros. Mr. Chamberlain as president of the company, swore that Bingham had requested Chamberlain to defend against the claim of Hofer Bros., but had produced no facts to constitute a valid, legitimate, or meritorious defense against such claim. A. F. Hofer as business manager also filed an affidavit showing that the corporation owed no debts of any character except to Hofer Bros., for wages.

Mr. Sherman showed in conclusion that plaintiffs had not acted in good faith, or taken the necessary steps to protect themselves as they had ample opportunity if they had any case to come into court with.

He concluded with a plea that their motion should be disallowed. If they were honest and sincere why did they not get a temporary restraining order when the case was in court instead of waiting until the last moment.

MR. HOLMES' ARGUMENT. Taking the record book of THE CAPITAL JOURNAL Co. senior counsel arose and read the contract and accounting of Hofer Bros. with the company which plaintiffs claimed did not exist. Plaintiffs had not made the sheriff a party, nor given any bond to protect the adverse party.

His review was clearly a source of constant surprise to Mr. Bingham. He showed unconsciousness and jumped up and down several times as the careful and at times tactical analysis proceeded.

Women whose faces are disfigured by unsightly eruptions, pimples and blotches, frequently fail to understand that these are but the outward symptoms of an inward disorder. They resort to cosmetics, ointments and powders, not knowing that all the while the trouble is not in the skin, itself, but in the system. It is sometimes absolutely dangerous to use outward applications, for if the skin alone is cleared, the real disease is likely to attack some internal organ of the body, where it may prove fatal to life itself.

In the majority of cases these unsightly skin diseases are due to two things, weakness and disorders of the distinctly feminine organism, and impurities of the blood caused by them. The woman who suffers from disease in a womanly way will soon suffer in her general health. Her stomach, liver and other organs will fail to perform their proper functions, with the result that the blood becomes impure. Left to herself, she will probably resort to cosmetics, but she will tell her that the stomach or liver only is at fault. Her distinctly womanly ailment is really the first and only cause. For this she should resort at once to Dr. Pierce's Favorite Prescription. It acts directly and favorably on the delicate and important organs concerned. It makes them strong and well. Takes a course of Dr. Pierce's Medical Discovery will purify and enrich the blood, and give new vigor to woman. Medicine dealers sell both remedies.

I cannot say too much for Dr. Pierce's Favorite Prescription. It is a paper-covered copy sent to you on one-cent stamps, to cover mailing only. Dr. R. V. Pierce, Buffalo, N. Y., cloth binding, 35 stamps.

Safe, sure and simple ways to cure all milder skin diseases told in Dr. Pierce's Medical Adviser. For a paper-covered copy sent to you on one-cent stamps, to cover mailing only. Dr. R. V. Pierce, Buffalo, N. Y., cloth binding, 35 stamps.

Scrambled Snacks is a favorite dish with the Indians, but the Salem public much prefer the clean, delicious 25 cent meals at Strong's restaurant.

ceeded. A large crowd of lawyers had gathered and enjoyed the gleams of humor thrown into the situation by Mr. Holmes. Mr. Carson was called away part of the time by other business and was not present to enjoy the airing given his pleadings.

Holmes exposed the pretense of plaintiffs that they had acquired the stock as a business venture. They denied that they had objected to the editorial policy of THE JOURNAL except as it was abusive, scurrilous, foolish and venal. They had im-

properly alleged in a court pleading that silver was not money, that its coinage was a false and chimerical idea. At last it must be proven in court whether this was true or not. They allege improper conduct of this newspaper.

Yet these are the kind of men they are anxious to get into business relations with. Bingham and Davis were good business men yet it seems that as such they are anxious to put their good money into a concern they allege was insolvent.

Holmes concluded with an exposition showing the weakness and trifling of the groundwork of the whole proceeding on the part of plaintiffs. They waited until late Saturday night before taking any steps to start this preliminary hearing.

MR. BINGHAM TALKS. As counsel for himself and Mr. Davis, Mr. Bingham now arose to argue the case at 10 o'clock, the time set for the sale. When the Hofers constituted a majority of the board of directors they could make any kind of accounting they saw fit.

He showed that the debt of THE JOURNAL Co. to Hofer Bros. was reduced in 3 months \$600 due the Hofers. The business was so prosperous they were paying off their debts. He claimed there was not a word of evidence as to what their pay should be. He read

HOSTETTER'S
Don't make matters worse by trying this and that medicine for dyspepsia, indigestion, and nervousness. Take Hostetter's Stomach Bitters. It goes to the root of the cause and cures the whole body by curing the stomach.



WAS GRAND JURY LEGAL?

Question That is Being Discussed by Salem Lawyers.

Walter Lyon, who has read law, writes the Portland daily as follows: Questions of perplexity to Salem lawyers have grown out of the last term of circuit court for Marion county. Four persons were indicted and convicted, two of whom are serving terms in the penitentiary, one in the reform school and one in the county jail. Indictments were also returned against seven men, charging them with altering election returns. Upon motion the seven indictments were quashed and set aside on the ground that the grand jurors were illegally drawn. The grand jurors were first drawn from the full panel of 31. One became sick and was excused. By the order of the court, a name to fill the vacancy, was drawn from the jury box, while 12 names were out; that number having been drawn to serve on a case as petit jurors.

The court's ruling quashing the indictments in the election fraud cases was made after the first four persons had been indicted, tried and convicted. Counsel for the convicted men claim that since their clients

THE STATE OF OREGON

Sech of Governor Lord at the Portland Commercial Club Banquet.

Predicts a Prosperous Future for the Peerless Willamette Valley of Western Oregon.

The state of Oregon presents a unique personality, arising from causes that belong to her formative period. Lying within a disputed boundary, without political autonomy, subject to joint occupation by treaty, the Oregon country, on the threshold of its history, was a bone of contention, involving international complications that were inimical to its well being and threatened its stability. Settlements were few and widely scattered, and over the territory British interests predominated and mainly controlled direction of public affairs.

There was no regular government, entrusted with powers that had for their object the protection of person and property, or the conservation of the public good. To establish trading posts and absorb the territory as a colonial dependency of the British kingdom, wherewith to enrich its people and extend its domain, was the animating and controlling thought of those who represented British interests and policy. "While this state of things existed, a few missionaries with their families came from the east by way of Cape Horn to Oregon. The object of their mission was to teach the savage and reclaim him from barbarism. They sought to plant in his darkened mind the germs of light and liberty, of Christian love and charity. To aid in the accomplishment of this high undertaking they located land claims, built houses, schoolhouses and churches, and established rules and regulations for the government of their society. This was the beginning of social organization or government, and though not invested with the attributes of sovereignty, it represented and put in practice, through the intelligence and wisdom of those who were authorized to control and direct its affairs, the principles of a progressive and Christian civilization, which are always a guaranty of fair dealing, and of rights of person and property.

From the records that they were to have "reasonable compensation." But they held a majority of the stock and a majority of the board of directors and they could "audit their own bills." This daily raised a smile as coming from Mr. Bingham.

THEY WERE HELPLESS. He argued, unless this action was granted for the protection of their rights. If the sale could proceed, minority stockholders had no rights. Here the counsel shed tears over the loss of minority stockholders. He renewed the request that he was not particular about a receiver at this time if this sale could be restrained, and set down.

THE COURT RULES. Judge Boise now called for Mr. Bingham's affidavit, in which he asked that proceedings be restrained. He examined it carefully for a few minutes and then ruled against plaintiffs for the reason that whereas the suit for an injunction and receiver was filed before judgment was rendered but no steps had been taken to press it. If the proceedings had been stayed at the time an equitable defense could have been made and the rights of the parties fully investigated in ample time before the execution went into effect.

The sheriff was now sought to be restrained but he had not been made a party by plaintiffs and no bond had been offered. Before an injunction could issue against the sheriff he must be made a party and bond given to protect the adverse party. This had been neglected by plaintiffs and they could not now interfere.

That joyful feeling. With the exhilarating sense of renewed health and strength and internal cleanliness, which follows the use of Syrup of Figs, is unknown to the few who have not progressed beyond the old time medicines and the cheap substitutes sometimes offered but never accepted by the well-informed. Buy the genuine, manufactured by the California Fig Syrup Co.

UNCLE BENJAMIN, assessor and tax collector, Beverly, Mass., who has used the 8th Life Medicine, says: "Dr. Miles' Restorative Nervine has done a great deal of good. I suffered from nervousness and nervous heart trouble. Would feel weary and used up in the morning, had no ambition and my work seemed a burden. A friend recommended Dr. Miles' Nervine, and I purchased a bottle under protest as I had tried so many remedies unsuccessfully. I thought it no use. But it gave me restful sleep, a good appetite and restored me to energetic health. It is a grand good medicine, and I will gladly write anyone inquiring, full particulars of my satisfactory experience."

Dr. Miles' Restorative Nervine is sold by all druggists under a positive guarantee, first bottle free, and money refunded. Back to diseases of the heart and nervous system. Address: DR. MILES' MEDICAL CO., Elkhart, Ind.

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NOMINATE A CITY TICKET.
By Direct Vote of the Resident Qualified Electors of the City of Salem.

(Fill out ticket below, cut out, and then get your neighbor to do the same, and let the people name the candidates.)

DIRECT NOMINATION BLANK

CANDIDATE FOR—

MAYOR _____

RECORDER _____

TREASURER _____

MARSHAL _____

(Fill out for ward in which you live.)

ALDERMAN—First Ward _____

To Fill Vacancy _____

For Full Term _____

ALDERMAN—Second Ward _____

ALDERMAN—Third Ward _____

ALDERMAN—Fourth Ward _____

Signature _____

Residence _____

(Fill out the above and deposit in Direct Nomination Ballot Box at CAPITAL JOURNAL Office.)

For a Freeholders' Charter.

(Fill out blank below and also get your neighbor to sign it and vote the same and let the people make the city charter.)

FREEHOLDER'S CHARTER BLANK

THE UNDERSIGNED FAVORS A FREEHOLDER'S CONVENTION TO BE COMPOSED OF SIGNERS TO THESE BLANKS, WHO SHALL BE FREEHOLDERS OF THE CITY OF SALEM OR ITS SUBURBS, TO DRAFT A CHARTER.

Name _____

Residence _____

(The above ballots will be collected in a separate ballot box at the CAPITAL JOURNAL Office.)

When you call on DeWitt's Witch Hazel Salve don't accept anything else. Don't be talked into substitute or piles for sores by Stone Drug Store.

DYSPEPSIA CAN BE CURED BY using Acker's Dyspepsia Tablets, one little tablet will give immediate relief or money refunded. Sold in handsome tin boxes at 25c. Lunn & Brooks, druggists.

More than twenty million free samples of DeWitt's Hazel Salve have been distributed. What better proof of their confidence do you want? It cures piles, burns, scalds, sores in the shortest time. Stone Drug Store.

EXPERIENCE IS THE BEST TEACHER. Use Acker's English Remedy in any case of coughs, colds or croup. Should it fail to give immediate relief money refunded. 25c and 50c. Lunn & Brooks, druggists.

For broken surfaces, sores, insect bites, burns there is one reliable remedy, DeWitt's Witch Hazel Salve. When you call for DeWitt's don't accept counterfeits. You will not be disappointed. Stone Drug Store.

One Minute Cough Cure surprises people by its quick cure. It has the best reputation of any preparation for colds, croup, or obstinate coughs. Stone Drug Store.

SICK HEADACHE ABSOLUTELY AND permanently cured by using Moki Tea. A pleasant herb drink. Cures constipation and indigestion, makes you eat, sleep, work and happy. Satisfaction guaranteed or money back. 25c and 50c. Lunn & Brooks, druggists.

You lose disappointment when you experiment. DeWitt's Little Early Risers are pleasant, easy, thorough little pills. They cure sick headache as sure as a take them. Stone Drug Store.

Truth wears well. People have learned that DeWitt's Little Early Risers are reliable little pills for regulating the bowels. They don't gripe. Stone Drug Store.

DeWitt's Witch Hazel Salve has the largest sale of any. This fact has led dishonest people to attempt to counterfeit it. Look out when you call for DeWitt's Witch Hazel Salve, the great pile cure. Stone Drug Store.

PROPOSALS FOR STATIONERY. Office of the Secretary of State, SALEM, Or., Sept. 3, 1898.

Sealed proposals will be received at this office until noon, November 4, 1898, to furnish the following articles for the State of Oregon; for the use of the 20th Biennial Session of the Legislative Assembly.

35 reams legal cap, 14 lbs. No. 7 ruling, white laid, Charter Oak, Scotch linen, or other good paper.

30 reams first class Congress Note, 7 pound, No. 7 ruling, white laid, or other good paper.

20 reams typewriter paper, legal size, Paragon letter size No. 34, Valley Paper Company, or other good paper.

6 boxes Little's satin finish carbon paper, blue, size 8x10.

EAST AND SOUTH VIA THE SHASTA ROUTE OF THE SOUTHERN PACIFIC CO.

EXPRESS TRAINS RUN DAILY

6:00 P.M. Lv. Portland. Ar. (9:30 A.M. 8:25 P.M. Lv. Salem. Ar. 7:00 A.M. 7:45 A.M. Ar. San Francisco. Lv. 8:00 P.M.

8:30 A.M. Lv. Portland. Ar. (4:30 P.M. 10:55 A.M. Lv. Salem. Ar. 1:50 P.M. 5:30 P.M. Ar. Roseburg. Lv. 7:30 A.M.

7:30 A.M. Lv. Portland. Ar. 5:30 P.M. 12:15 P.M. Ar. Corvallis. Lv. 1:35 P.M. At Albany and Corvallis connect with trains of the O. C. & E. Ry.

4:50 P.M. Lv. Portland. Ar. 12:50 P.M. 7:30 P.M. Lv. McMinnville. Ar. 5:50 A.M. 8:30 P.M. Ar. Independence. Lv. 4:50 A.M.

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For Yaquna: Train leaves Albany 12:50 p. m. Train leaves Corvallis 1:45 p. m. Train arrives at Yaquna 6:00 p. m.

Leaves Yaquna 7:00 a. m. Leaves Corvallis 11:40 a. m. Arrive Albany 12:25 p. m.

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Leaves Detroit 12:40 p. m. Leave Albany 6:05 a. m. Arrive Corvallis 6:55 p. m.

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200 Miles shorter and a whole half day quicker than any other line to Omaha, Kansas city, St. Louis and all other southern and southeastern cities.

Three routes east via Denver, St. Paul, and Billings, Mont. Tickets at offices of connecting lines. If you go east via Omaha, you can stop off and see the Trans-Mississippi exposition.

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It will be seen that the difference between the cost of Country Gentleman and that of other agricultural weeklies is which even attempt to cover the agricultural news of the day may readily be reduced by making up a small club.

LESS THAN A CENT A WEEK! Does such a difference as that justify you in contenting yourself with some other paper in stead of the best?

SEND FOR SPECIMEN COPIES. Which will be mailed free, and compare them with any other rural weekly. It will not take long to see the difference. Address: LUTHER TUCKER & SON, Albany, N. Y.

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For Infants and Children. The Kind You Have Always Bought

Bears the Signature of J. C. Watson

Very respectfully, H. R. KINGALD, Secretary of State.

O.R.&N.

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Fast Mail 8 p.m. Salt Lake, Denver, Fort Worth, Omaha, Kansas City, St. Louis, Chicago and East.

Spokane Flyer 2 p.m. Walla Walla, Spokane, Minneapolis, St. Paul, Duluth, Milwaukee Chicago and East.

8 p.m. OCEAN STEAMSHIPS. All sailing dates subject to change. For San Francisco: Nov. 1, 4, 7, 10, 13, 16, 19, 22, 25, 28.

8 p.m. ex. Sun. Saturday to Astoria and way landings.

7 a.m. Thurs and Sat WILLAMETTE AND YAMHILL RIVERS Oregon City, Dayton and way landings.

6 a.m. Mon Wed Fri WILLAMETTE RIVER Portland to Salem and way landings.

Leave Riparia 1:45 a.m. Leave Riparia daily except Saturday.

WILLAMETTE RIVER DIVISION, PORTLAND-SALEM ROUTE—Steamer, St. Paul, Tuesday, Thursday and Saturday at 7:15 a. m.

Transfers to street car line at Oregon City if the steamers are delayed there and trip tickets to all points in Oregon, Washington, California or the east.

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Canadian Pacific Railway Co's. Express line of steamships to Japan and China. The latest and finest ships on the Pacific ocean. Shortest and best route to the orient.

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For rates, tickets and any information call on or address, Salem Agency 288 Commercial St. H. H. ABBO T. Agent, 146 Third street, Portland, Or. E. J. COVLE, District Passenger Agent, Vancouver, B. C.

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Use a first-class line in traveling between Minneapolis, St. Paul and Chicago, and the principal towns in Central Wisconsin.

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Immense New Engines Vestibule Double Door Coaches Delightful Sleepers

There is nothing left to be desired. Rate always low to all points east. For particulars see THOMAS WATT & CO. 227 Commercial Street.