

Oregonian
**Jimmy McCool's Late Whale Declared
Neither Fish Nor Fowl in Court Trial**
11-6-31

BY WEBSTER A. JONES.

If Jimmy McCool's exploring whale had miraculously stalked into District Judge Mears' court yesterday and had been able to crowd close enough through the packed banks of curious spectators to hear the fine-spun arguments, that lamented whale would have been more bewildered and befuddled than it was when 20 boats tried to surround it one day after the arrival in Oregon slough.

From the drift of the arguments the whale would have known it wasn't a bird, but there was no telling whether it was a fish or an animal.

On the point of whether or not Jimmy McCool's whale was a fish, rested the arguments of the prosecu-

tion and the defense for two hours of swift examination in the case against Edward O. Lessard and his son, Joe T. Lessard, admitted slayers of the whale, charged with unlawfully killing a fish within the boundaries of the state with a harpoon and spear. After refusing the defense request for dismissal, the court took the case under advisement until 9 A. M. today.

Basing their arguments on the statements of zoologists in printed volumes and the testimony of William L. Finley, Oregon naturalist, magazine writer and lecturer, Delmore Lessard, attorney for the two slayers, attempted to prove that the whale was an animal, while George Shepherd and William Ralston of the district

attorney's office attempted to prove that it was a fish.

In presenting his motion for dismissal of the case at the close of the trial, Attorney Lessard summed up his arguments to show that the whale was an animal.

"No fish has been killed," Attorney Lessard stated. "If there is ever a question, it is incumbent on the state to prove beyond a doubt that it is a fish. In no authority is a grampus—as this beast has been identified by Mr. Finley—ever classified as a fish. A fish breathes water or oxygen from the water; a grampus takes oxygen from the air through the hole in the top of his head. A fish lays eggs; a grampus gives birth to and suckles its young.

"If the court refuses dismissal, it maintains that the grampus is a fish and in so doing is contrary to all authorities.

In his closing argument Mr. Shepherd cited the definition of a fish from the Standard dictionary, which states that a fish is an animal habitually living in the water such as cetacean and other forms.

"This killer whale is a grampus and a grampus is a cetacean, so the whale is a fish, according to this definition," continued Mr. Shepherd. "That's all there is to it!"

Judge Mears denied the plea for dismissal on the grounds that the act was prohibited by law and that the whale was a fish.

The other charges against the Lessards, of disturbing the peace and of fishing with grappling hooks, will come before the court at 1:30 P. M. today.

"This whale is commonly known as a killer whale," explained William L. Finley, who was the principal witness. "Technically, it is a cetacean of the grampus variety.

"It is commonly known as a fish because of its difference from animals living on land. It is a fish-like animal. A fish is a vertebrate animal and a whale is a vertebrate animal. It lives in water and develops in water, and its covering or skin is different from the covering of animals which contain hair.

W. A. Cornell, state policeman, and F. W. Arnold, tender of the Spokane, Portland & Seattle railroad bridge over Oregon slough, told of the killing of the whale and the part taken by the two Lessards, and of the harpoon and spear used on October 24 at 8 A. M., when the deed was done.

Finley Lectures Tonight—Illustrating his talk with moving pictures, William L. Finley, naturalist, author and explorer, will lecture at 8 p. m. today in the Shrine auditorium under auspices of the Duluth chapter of the Izaak Walton league.

Duluth News Tribune
Nov. 10, 1931

DULUTH HERALD
IZAAK WALTON LEAGUE
11-9-31—Presents—
WM. L. FINLEY
NATURALIST, AUTHOR, EXPLORER
With His New Thrilling
Motion Picture Story
**"GETTING PERSONAL
WITH
MOUNTAIN LIONS"**
ALSO MOVIES OF BIRDS AND
ANIMALS SELDOM SEEN ALIVE
Shrine Auditorium
TUESDAY NOV. 10
8 P. M.
Reserved Seats at Bldg Duluth
125 West Superior Street
Adults, 50c; Children, 25c
Reserved Seats, \$1

Duluth News Tribune 11-9-31
Closeups of American Wild Animals

There is something diverting about wild life that never fails to attract people. That explains the unceasing popularity of the zoo, but wild animals and birds in their native haunts have even more absorbing interest.

It is fortunate, indeed, for the sake of the future generations, that there is an active, aggressive organization like the Izaak Walton league engaged in the conservation of wild life.

To keep people interested in its work and concerned with the preservation of wild life, chapters of the league bring well known authorities to their respective communities to lecture about and show pictures of wild animals.

Tomorrow night the Duluth chapter of the Izaak Walton league, in its second entertainment of the season, will present William L. Finley, famous naturalist, author and explorer, who will appear at the Shrine auditorium with five thousand feet of motion pictures taken in the American Southwest, and a new lecture which he calls "Getting Personal With Mountain Lions."

For twenty-five years Mr. and Mrs. Finley have hunted through the wild Cascade and Rocky mountains and in the national parks with camera and notebook, in the haunts of big game in the United States, Mexico, Canada and Alaska. The new lecture is the result of several expeditions with Arthur N. Peck, president of the American Nature association, into little known regions of Utah, Colorado, Arizona and New Mexico.

The intriguing thing about Mr. Finley's lecture and pictures is that they depict American scenes and animals. Here is a chance to "see America first," and a part of America not seen by the ordinary tourist.