

THE TRIBUNE.

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OUR AGENTS:

A. B. Sams, Bandon, Oregon.

ADVERTISING RATES REASONABLE.

ISSUED EVERY WEDNESDAY EVENING.

One woman of a hundred is said
to tell gossip, while the ninety
nine handle it by wholesale.

Cortelyou is said to have been
rebuked by the President; but as it
was not by a bank or railroad presi-
dent—one of the real rulers—he
won't mind it much!

The government hatcheries are
going to adopt R. D. Hume's meth-
od of feeding young salmon until
they are large enough to escape
their enemies, but the pretended ex-
perts are going to steal away from
Mr. Hume the credit of the discov-
ery if they can.

We have received from Senator
Fulton a copy of his Bill to amend
the Interstate Commerce law, and it
appears to us that if his amend-
ments should pass he will have ef-
fectively closed every hole through
which the railroads could possibly
escape conviction in case of further
violations of the law.

Roosevelt evidently loves a fight,
as he hardly gets out of one before
he has another. This time it is
with Rear Admiral Brownson, who
is a stickler for red tape, which
Roosevelt proposes to cut. The
snapping of the tape has caused a
naval explosion, but it will only be
noise, with the President victorious.
It appears to us that he should see
the red tape used in the Land De-
partment and snap it also.

King Pater, chief of all Land
Stealers, has been Heneyized and
pardoned, to be used as a tool to
convict better men. He will be re-
garded by jurors as entitled to the
same credence as Harry Orchard.
To add to the Heney farce, Pater's
Lieutenant McKinley, has been ar-
rested in China, and is being brought
back at great expense, and much
"hellobelloo" to enact another farce
—to be eventually pardoned also,
if he will only tell just what they
want him to tell. This is "Heney-
ism" unmasked.

Judge Lewis of Col., a Federal
Judge, has decided that it is not un-
lawful for a locator on government
land to bargain to sell his claim at
any time prior to acquiring title.
That there is no law, only Depart-
ment rulings forbidding such collu-
sion, and criminal prosecutions
cannot be brought on such rulings.
The case will be appealed to the
Supreme Court of the United States
and if the decision is sustained it
will stop all land fraud prosecutions
except those for perjury, or for actual
crimes which are forbidden by
statute.

The Christmas Dinner.

In spite of the fact that the word
dyspepsia means literal y bad cook, it
will not be fair to lay blame
on the cook if they be, in the Christmas
Dinner with little appetite and food
with distress or nausea. It may not be
fair for any to do that—let us hope so
for the sake of the cook. The di-
gestive dyspepsia indicates a bad stomach,
that is a weak stomach, rather than a
bad cook, and for a weak stomach
there is nothing else equal to Hood's
Sarsaparilla. It gives the stomach
strength and tone, cures dyspepsia, creates
appetite, and makes eating the pie is-
sure it should be.

Catarrh

Is a Constitutional Disease
It originates in impure blood and
requires constitutional treatment, acting
through and purifying the blood, for its
radical and permanent cure. The
greatest constitutional remedy is
Hood's Sarsaparilla
In usual liquid form or in chocolate tab-
lets known as Sarsatabs. 100 doses \$1.
Nasal and other local forms of catarrh
are promptly relieved by Antiseptics or
Catarrhals, 50c., druggists or mail.
C. I. Hood Co., Lowell, Mass.

AN IMPORTANT DECISION.

Supreme Court Sustains Judge
Hamilton in Hume Fish-
ery Case.

The celebrated fishery case of R.
D. Hume, vs. E. B. Burns, et al., in-
volving the right to fish for salmon
in the Rogue river, was finally de-
cided last Tuesday by the Oregon
supreme court on an appeal from
Curry county where the case was
heard by Judge J. W. Hamilton over
two years ago. In handing down
the decision of the lower court Judge
Hamilton at that time rendered an
exhaustive opinion in the case, oc-
cupying about ten printed pages.
That decision is now fully sustained
by the supreme court, and the mat-
ter involved is of such importance
and general interest, we give the
following complete synopsis of the
supreme court's decision:

This is a suit to enjoin the de-
fendants from trespassing upon the
plaintiff's alleged several fishery.
There was a decree dismissing the
complaint, from which the plaintiff
appeals. The material facts are
stated in the opinion.

Slater, C. Plaintiff, who is a citi-
zen of this state, seeks to establish
by this suit a private and exclusive
right to take salmon fish with seines
and nets, in the waters of Rogue
River from its mouth where it en-
ters the Pacific ocean and extend-
ing up the river for a distance of
about 18 miles, and by virtue of his
alleged rights he petitions that the
defendants be perpetually enjoined
from fishing therein with seines and
nets for salmon fish. His claim is
based on (1) grant, (2) custom and
usage, and (3) prescription. The
defence is that Rogue River is a
navigable stream within the limits
of the free or several fishery claimed
by plaintiff, wherein all the citizens
of this state, of which class defend-
ants are, have a free and common
right to fish in any manner not pro-
hibited by the laws of this state;

that plaintiff has no grant from this
state of a several fishery, and that
it is not within the power of the
state to grant such a right; that such
right could not be acquired by an
individual by custom or usage; that
the facts upon which plaintiff pre-
dictates his right by prescription are
not sufficient to establish it, and if
they were such right cannot be thus
acquired because a prescriptive right
presupposes a grant, and, where a
thing cannot be granted it cannot
be prescribed for.

Rogue River is affected by tides
for a distance of from four to five
miles from its mouth, and is nav-
igable, in fact, for several miles
above tide waters, and also above the
limits of the alleged fishery. Plain-
tiff is the owner, by grant from the
state, either directly to himself or
by mesne conveyances from others,
of all the tide lands bordering on
the river, excepting one small frac-
tion which is unimportant, as well
as of all the uplands adjacent to the
river above tide water by convey-
ance from the United States, which
run by description to meander lines.
He has no title by express grant
from the state to any part of the bed
of the stream as such, but he does
claim title to the entire bed of the
stream at the mouth of the river,
where by reason of the shifting of
the channel of the river from north
to south, and vice versa, and by
successive purchases from the state
as tide land of the uncovered sands,
on both sides of the river, his deeds
overlap, and apparently at least, he
is, at that point of the river, the
owner of the bed of the stream, but
this fact, we apprehend, will be of
no avail in support of his claim of
ownership of the water when flowing
over such land, for in any event he
could acquire no greater rights
thereby than would be given the or-
dinary and legal effect of such deed
by virtue of the statute authorizing
its execution and delivery. It is
when that part of the shore, to
which plaintiff claims title as tide
land by deed from the state became
submerged by the gradual shifting
of the river, he lost all title there-
to and it became revealed in the
state. Wilson vs. Shiveley, 11 Ore.
215. He is powerless, therefore, to
claim any dominion over the water
covering such land or the fish that
may be in it, by reason of his for-
mer title, for that is gone from him.

Upon the recession of the
water of Rogue River, plaintiff, by
reason of his ownership of what was
previously tide land thereon, be-
came the owner in the same right of
the accretions, and he gained an ad-

ditional right by receiving from the
state a deed to the accretions as
tide lands.

A fishery may be defined as a
right to employ within a particular
stretch of water lawful means for
the taking of fish which may be
found there. It is to be distinguish-
ed from a fishing place or the right
to use a particular shore or beach
as a basis for carrying on a fish-
ery. The latter is always vested
in the shore owner and is entirely
distinct from the right to fish, from
the water. Coullidge vs. Williams
4 Mass. 140. In the case at bar it
is admitted by the defendants that
where the plaintiff is the owner of
the shore he has the exclusive right
to use the same for drawing his
seines thereon, and defend-
ants have not attempted to inter-
fere with his rights at such places.
A person fishing by claim of
common right can be in no sense
the owner of a fishery. As said by
Woolrych, quoted by Mr. Farham,
at page 1876 of Vol. 2, of his work
on Water and Water Rights. "When
the soil over which the water runs,
and the water itself, belong to the
same person, the owner cannot be
correctly said to have a right of fish-
ery because the land and its profits
are so completely identified as his
inheritance that they cannot be sepa-
rated. \* \* \* There is an exception
to the rule that the fishery follows
the soil, in case the soil lies under
the water in which the public has
the right of fishing. In such cases
in order to pass the exclusive right
of fishing it must be mentioned in
the grant, and a mere grant of the
soil, without more, will give no
right to exclude the public from the
enjoyment of its common right.
And this exception includes the
taking of shell fish from the soil be-
low high water mark. \* \* \*

Even where a mere right of fish-
ery in public waters has been con-
ferred by the sovereign, it will not
be regarded as exclusive, in the ab-
sence of anything to indicate an in-
tention to make it exclusive, al-
though the title to the soil is also in
the grantor, Moulton vs. Libbey, 37
Me. 472; 57 Am. Dec.

The evidence herein shows con-
clusively that Rogue River is nav-
igable in fact for boats of small ton-
nage for some distance above the
fishery claimed by plaintiff, and is
therefore a navigable stream in a
legal sense as well as in fact, and all
the rights at common law incident
to navigable streams attach, and by
reason thereof it is a public highway
where all the people of a common
right may go, and prima facie have
a common right to fish. \* \* \*

It is apparent that plaintiff's title
to the uplands adjacent to that part
of Rogue River above tide water
runs only to ordinary high water
mark and cannot be made the basis
of an exclusive right to fish in its
waters. \* \* \* No language being
found in plaintiff's deeds from the
state which by unavoidable con-
struction imparts an intention to
grant an exclusive right to fish for
salmon in the waters opposite and
adjacent thereto, it follows that he
does not have that right by virtue
of his tide land deeds. \* \* \*

We are of the opinion, therefore,
that the grant to a citizen of an ex-
clusive right to fish in a navigable
stream where prima facie all have
a common right to fish, is the creation
of a monopoly which comes within
the prohibition of Sec. 20, Art. 1 of
our constitution, which is substan-
tially the same in that respect as
that of New York. For this reason,
whatever deductions or inferences
most favorable to plaintiff may be
made from the evidence in this case,
his claim of an exclusive right to
fishery in Rogue River must be held
to have no legal basis.

The decree of the lower court
should be affirmed.

\$100 Reward, \$100.

The readers of this paper will be pleased
to learn that there is at least one dreaded
disease that science has been able to cure in all its
stages, and that is Catarrh. Hood's Catarrh
Cure is the only positive cure now known to the
medical fraternity. Catarrh being a constitu-
tional disease, requires a constitutional
treatment. Hood's Catarrh Cure is taken in-
ternally, acting directly upon the blood and
mucous surfaces of the system, thereby destroy-
ing the foundation of the disease, and giving
the patient strength by building up the constitu-
tion and assisting nature in doing its work.
The proprietors have so much faith in its curative
powers that they offer One Hundred Dol-
lars for any case that it fails to cure. Send for
list of testimonials.
Address: F. J. CHESNEY & CO., Toledo, O.
Sold by all Druggists.
Take Hood's Family Pills for constipation.

Tired Mothers find help
in Hood's Sarsaparilla, which gives
them pure blood, a good appetite and
new and needed STRENGTH.

Notice of Hearing of Final Ac-
count of Executrix.

Notice is hereby given that the final
account of Anna C. Dart as Executrix
of the estate of George Dart deceased,
has been filed in the County Court of
Curry County, State of Oregon, and
that the 6th day of February, 1908, at
the hour of 10 o'clock A. M., has been
duly appointed by such court for the
hearing of objections to such final ac-
count and the settlement thereof, at
which time any person interested in
such estate may appear and file ob-
jections thereto in writing and contest
the same.

ANNA C. DART,
Executrix of the Estate.

Administrator's Notice.

Notice is hereby given that the un-
derdesignated has been duly appointed by
the County Court of Curry County, Or-
egon, Administrator of the Estate of
Fred D. Stewart, deceased. All per-
sons having claims against said estate
are required to present them within
six months from the date of this notice
with proper vouchers, to the under-
signed at his home at Port Orford, Or-
egon; and all parties indebted to said
estate are required to pay the same to
me without delay.

Dated at Port Orford, Oregon, this
7th day of January, 1908.
FRANK A. STEWART,
Administrator of the Estate
of Fred D. Stewart, deceased.

TRESPASS NOTICE.

Any person or persons trespassing
upon the Croft Lake Ranch—the Mc-
Lellan and Marshall Ranches, will be
presented to the utmost extent of the
law; and a reward will be given for in-
formation that will lead to the convic-
tion of the guilty parties.

EDMUND CROFT.

TREASURER'S NOTICE.

Notice is hereby given that all Curry
County Warrants issued and registered
prior to Dec. 7, 1903, are now due, and
will be paid on presentation to me at
my office in Gold Beach, Curry County,
Oregon. No further interest will be
allowed on the within described Warr-
ants after the first publication of this
notice, to-wit, Dec. 11, 1907.

JAS. CAUGHNELL,
County Treasurer.

TIMBER LAND ACT, JUNE 3, 1878.

Notice of Publication.
United States Land Office,
Roseburg, Oregon, Nov. 18th, 1907.
Notice is hereby given that in com-
pliance with the provisions of the Act
of Congress of June 3, 1878, entitled
"An Act for the sale of timber lands in
the States of California, Oregon, Nevada
and Washington Territory," as extended
to all the public land states by Act of
August 4, 1892,

JOHN E. CHURCH
of Eugene, County of Lane, State of
Oregon, filed in this office on Jan. 14,
1907, his sworn statement No. 8654, for
the purchase of the E 1/2 SW 1/4, 1/2 S-
E 1/4 of Section No. 14, in Township No.
31 South of Range No. 13 West, and
will offer proof to show that the land
sought is more valuable for its timber
or stone than for agricultural purposes
and to establish his claim to said land
before the Register and Receiver at
Roseburg, Oregon, on Tuesday, the
17th day of March, 1908.
He names as witnesses:
Dave Murphy,
Edward Howell,
Fred Howell, and
Ira P. Howell, all of Eugene, Ore.
Any and all persons claiming ad-
versely the above described land are
requested to file their claims in this of-
fice on or before said 17th day of March,
1908.
BENJAMIN L. EDDY, Register.

ECZEMA and PILE CURE

FREE. Knowing what it was to suf-
fer for, I will give FREE OF
CHARGE, to any afflicted a positive
cure for Eczema, Salt Rheum, Erysip-
elas, Piles and Skin Diseases. Instant
relief. Don't suffer longer. Write F.
W. WILLIAMS, 400 Manhattan Avenue,
New York. Enclose Stamp.

Advertisement for Oregon Journal featuring an illustration of a man in a hat and a woman, with text promoting the newspaper's content and subscription information.

Timber Claims.

I am purchasing fir, cedar and pine
Timber Claims from the original hold-
ers at prices warranted by their loca-
tion, quantity and quality of timber.
What have you to offer? Write to
ANGUS G. MACKAY,
Port Huron, Michigan

TIMBER LAND ACT, JUNE 3, 1878.

Notice for Publication.

United States Land Office,
Roseburg, Oregon, Nov. 7, 1907.
Notice is hereby given that in com-
pliance with the provisions of the Act
of Congress of June 3, 1878, entitled
"An Act for the sale of timber lands in
the States of California, Oregon, Nevada,
and Washington Territory," as
extended to all Public Land States by
act of August 4, 1892,

MONTIMER MITCHELL
of Satsop, County of Chehalis, State of
Washington, filed in this office on De-
cember 24, 1906, his sworn statement
No. 8566 for the purchase of the N 1/2
E 1/2 of Sec. 31, and N 1/2 NW 1/4 of Section
No. 32 in Township No. 31 South of
Range No. 14 West, and will offer
proof to show that the land sought is
more valuable for its timber or stone
than for agricultural purposes, and to
establish his claim to said land be-
fore the Register and Receiver of
this office at Roseburg, Oregon, on
Saturday, the 8th day of Feb., 1908.
He names as witnesses:
John P. Wood, of Cedarville, Wash.
Clark D. Smith, of Satsop, Wash.
A. B. Howell, and
J. W. Renfro, both of Roseburg, Ore.
Any and all persons claiming ad-
versely the above described lands are
requested to file their claims in this of-
fice on or before said 8th day of Feb.,
1908.
BENJAMIN L. EDDY, Register.

TIMBER LAND ACT, JUNE 3, 1878.

Notice for Publication.

United States Land Office,
Roseburg, Oregon, Nov. 8th, 1907.
Notice is hereby given that in com-
pliance with the provisions of the act of
Congress of June 3, 1878, entitled "An
act for the sale of timber lands in the
states of California, Oregon, Nevada, and
Washington Territory," as extended to
all the public land states by act of Aug-
ust 4, 1892,

CORNELIUS N. WILSON
of Satsop, County of Chehalis, State of
Washington, filed in this office on De-
cember 24, 1906, his sworn statement
No. 8563 for the purchase of the N 1/2
NW 1/4 sec. 31 and S 1/2 SW 1/4 of Section No.
28 in Township No. 31 South, Range 14
West, and will offer proof to show that
the land sought is more valuable for
its timber or stone than agricultural
purposes, and to establish his claim
to said land before the Register and
Receiver of this office, at Roseburg,
Oregon, on Tuesday the 11th day of
February, 1908.
He names as witnesses:
Clark D. Smith, Satsop, Wash.
John P. Wood,
A. B. Howell, Roseburg, Oregon.
J. W. Renfro, "
Any and all persons claiming ad-
versely the above described lands this
requested to file their claims in ad-
dition on or before said 11th day of
February, 1908.
BENJAMIN L. EDDY, Register.

OFFICIAL DIRECTORY.

- STATE AND DISTRICT OFFICERS:
U. S. Sen.—Jonathan Bourne Jr., of
Port and Chas. Fulton of Astoria.
Congressman, First District—Willis
C. Hawley, of Salem.
Governor—Geo. E. Chamberlain Sa-
lem.
Secretary of State—F. I. Dunbar, Sa-
lem.
State Treasurer—Geo. A. Steel of Sa-
lem.
Supt. Public Instruction—J. H. Aek-
erman, Salem.
State Printer—Willis Dunaway, Salem.
Attorney General—A. M. Crawford,
Salem.
Clerk State Land Board—G. G. Brown,
Salem.
Joint Senator for Coos and Curry—
John S. Coke.
Joint Representative for Coos and
Curry—Ed Rackleff.
Judge, 2d Judicial District—J. W.
Hamilton, Roseburg.
Prosecuting Attorney, 2d Judicial Dis-
trict—George M. Brown, Roseburg.
U. S. Commissioners—J. H. Upton,
Langlois.
COUNTY OFFICERS.
County Judge—E. A. Bailey, Gold
Beach.
County Commissioners—J. W. Cooley,
Chetco; Ed Sypher, Langlois.
Sheriff—S. E. Marsters, Gold Beach.
County Clerk—George W. Smith,
Gold Beach.
County Treasurer—James Caughell,
Wedderburn.
Assessor—A. J. Marsh, Port Orford.
School Supt.—Ames S. Johnston, Port
Orford.
Surveyor—D. Cunniff, Jr. Gold Beach.
Coroner—Dr. F. A. Schliemann, Wed-
derburn.
MEETINGS OF THE COURTS.
Circuit Court meets Fourth Monday in
August of each year.
County Commissioners Court meets
first Wednesday in January, April,
July and September of each year.
Probate Court meets first Monday in
each month.
CURRY COUNTY POST OFFICES AND POST-
MASTERS.
Chetco.....Miss Ida Cooley.
Harbor.....Fletcher Gardner.
Gold Beach.....J. W. Riley.
Wedderburn.....Geo. Kerr.
Illhoce.....Mr. E. H. Russell.
Marial.....T. W. Billings.
Agness.....Mrs. J. D. Cooley.
Ophir.....D. M. Moore.
Corbin.....S. K. Dart.
Port Orford.....Ames Johnston.
Denmark.....J. S. Capps.
Langlois.....E. Rackleff.
Eckley.....J. A. Haines.

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We fill them promptly and carefully.
When in Roseburg
Be sure to Come and See Us.
We'll Treat you Square!
Remember the Name!
Remember the Place!
JOSEPHSON'S
The Mail Order House Roseburg, Oregon.

AMES S. JOHNSTON
(Successor to John R. Miller.)
GENERAL MERCHANT,
Port Orford, Or.
NEW GOODS,
and fresh supplies will be received by every steamer. It shall be
my purpose to keep a full stock of everything required by the
trade in the line of
GROCERIES and PROVISIONS,
BOOTS and SHOES
MENS' and BOYS' CLOTHING,
LADIES' DRESS GOODS,
HARDWARE, GRANITE and TINWARE,
CIGARS, TOBACCO, PIPES
CANDY, NUTS and NOTIONS.
In fact, a supply of everything usually kept in a well stocked
General Merchandise Store.
ORDERS TAKEN FOR ANY ARTICLE NOT IN STOCK.
Call and examine goods and get prices.

GENERAL MERCHANDISE,
Groceries & Provisions
Port Orford, Curry County, Ore.
BARGAINS
In Everything.
Ladies' & Gents' Furnishing Goods,
Dry Goods
Hats and Caps
Boots and Shoes
Cigars and Tobacco.
Fine Assortment of
Ladies' Dress Goods, muslins,
calicos, flannels, etc.
Hardware & Tinware,
Harness, Leather, etc.
All Goods New and Up-to-date.
Orders taken for articles not in
A first class millinery shop in con-
nection with store.
Call, get our prices, and be convinced.
N. C. NIELSEN.