

OREGON CITY ENTERPRISE.

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OREGON CITY ENTERPRISE FRIDAY, OCTOBER 9, 1903.

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Capital, \$100,000
TRANSACTS A GENERAL BANKING BUSINESS.
Loans made. Bills discounted. Makes col-
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JEWELER
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FORTY YEARS EXPERIENCE IN
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BUY THE
NEW HOME
SEWING MACHINE

Do not be deceived by those who ad-
vertise a \$60.00 Sewing Machine for
\$20.00. This kind of a machine can
be bought from us or any of our
dealers from \$15.00 to \$18.00.

WE MAKE A VARIETY.
THE NEW HOME IS THE BEST.
The Feed determines the strength or
weakness of Sewing Machines. The
Double Feed combined with other
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the best Sewing Machine to buy.

Write for CIRCULARS showing the dif-
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The only first-class Second-Hand Dealer in Furniture
Stoves and Utensils. It is worth your time to come
and examine the stock. You will find a full line
of New and Second-Hand Furniture, Stoves, Crockery
Hardware, Etc.
Highest cash price paid for second hand goods.

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MAIN STREET
One Door North of Commercial Bank

WM. GARDNER & SON
WATCHMAKERS
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JEWELERS
All work given our prompt
and careful attention.
Prices Reasonable
Court House Block
OREGON CITY, ORE.

Oregon City
Machine Shop
BUCKLEIN & KLEINSHMIDT, Proprietors.

General Machine Work of all kinds done. We carry in stock a line of Shafting
and Pulleys—new and second hand. First class Engine and Saw mill machinery.
Orders by Mail or Telephone promptly filled.
At rear of Pope's Hardware Store. Oregon City, Oregon.

Oregon & Washington State Fair Victories
ON BARRED PLYMOUTH ROCKS
Oregon State Fair 1902
1-2-3 on Cock Birds, 6 in Competition
1st on Hen, 10 in Competition
1-2-3 on Pullets, 40 in Competition
2nd on Cockerel 21 in Competition
1st on Pen, 11 in Competition
1st in American Class
Have won 1st on pullets the past 3
years. Stock for sale, eggs in season.
Washington State Fair 1902
We only sent 3 pullets, 1 hen and 1
Cock and won on every entry but one
besides specials, including best pen in
the show. Prizes won 1st Cock, 1st
Hen; 1st and 2nd Pullet; 1st pen.
Exhibition Stock a specialty. Some
grand pullets for sale. Eggs \$3.00
J. MURROW & SON, Oregon City, Oregon.

FOR FINE CANDIES, NUTS,
FRUITS, ETC., CALL ON THE
KOZY KANDY KITCHEN
FINEST CHOCOLATE CREAMS
IN THE CITY. ALSO CIGARS
AND TOBACCO.

Brunswick House & Restaurant
Newly Furnished Rooms.
Meals at All Hours. Prices Reasonable.
Opposite Suspension Bridge.
Only First Class Restaurant
In Town. CHARLES CATTI,
Proprietor

PILES DR. WILLIAMS' INDIAN FILE OINTMENT is a SURE CURE
for Hemorrhoids, Piles, Itching, Bleeding
and Irritation. It absorbs the tumors, slays the
cells at once, gives instant relief. Every box is warranted. Sold
by druggists. Sent by mail on receipt of price, 50 cents and \$1.00
per box. **WILLIAMS' MED. CO., Props., Cleveland, Ohio.**
For Sale at HUNTLEY'S

SAY IT'S ILLEGAL

Validity of Initiative and Ref-
erendum Questioned.

Portland Attorneys Will Appear Be-
fore Supreme Court in Opposi-
tion to Measure.

The brief of City Attorney L. A. Mc-
Nary to the supreme court in the suit of
A. A. Kaddery et al against the city of
Portland, in which the four judges of the
state circuit court held the initiative and
referendum amendment to the constitu-
tion unconstitutional, has been prepared,
and will be filed at once, says the Ore-
gonian.

It is contended in the brief, as held by
the lower court; that other amendments
were pending at the time the amend-
ments were proposed, contrary to the
following section of the constitution.

"If two or more amendments shall be
submitted in such manner that the elec-
tors shall vote for or against each of such
amendments separately, and while an
amendment or amendments which shall
have been agreed upon by one legisla-
tive assembly shall be awaiting the ac-
tion of a legislative assembly, or of the
electors, no additional amendment or
amendments shall be proposed."

The brief assumes that the amendment
is unconstitutional for the reason that it
was ratified in violation of the Federal
Constitution, and not in accord with
fixed provisions for submitting and rat-
ifying amendments.

The brief states, referring to constitu-
tional requirements:
"Constitutional provisions relating to
amendments are as binding upon the
people as upon the legislative assembly,
and the people cannot, even by a unani-
mous vote, give legal effect to an amend-
ment which was submitted in disregard
of the limitations proposed by the con-
stitution."

"It matters not if not only every elec-
tor, but every adult person in the state
should desire and vote for an amend-
ment to the constitution, it cannot be
recognized as valid unless such vote was
had in pursuance of, and in substantial
accordance with the requirements of the
constitution."

"It follows that the conditions pre-
scribed in the Constitution of Oregon for
its own amendment, must be strictly ob-
served in all substantial requirements,
both by the legislative assemblies that
propose, agree to and submit the amend-
ment, and by the electors who ratify it,
and the failure of either the one or the
other to comply with those requirements
renders the proposed amendment uncon-
stitutional."

The brief is long, and discusses the
question very fully. It includes the de-
cision against the initiative and refer-
endum amendment rendered by Judges
Sears, Cleland, George and Fraser, and
closes with the following statements:

"From whatever point we view this
amendment it is unrepugnant and revolu-
tionary, and violates the limitations im-
posed by the Federal Constitution. That
government is not representative or re-
publican where the action of its de-
partments is subject to annulment by
the people, and particularly where the
people can exercise the delegated func-
tions upon their own initiative and ab-
solutely independent of the department."
"Such a government is an absolute or
pure democracy. This amendment is
obnoxious to the spirit of our republican
institutions, directly opposed to the ge-
nius of republican government. Nor is
it redeemed from the vice of unconstitu-
tionality by reserving a few shreds of
authority to the legislative assembly.

The legislative department is shorn of its
constitutional functions by it. If the
amendment is declared valid by this
court, similar amendments can be adopted
which will destroy the representative
character of the other departments.

"The decisions of this court can be
made subject to review by the people at
the polls. The acts of the executive de-
partment can be made subject to the
vote of the people. This amendment in-
vades the functions of the executive de-
partment. It places the people above
the executive department. If it is per-
mitted to stand we will have a republi-
can federal government and a pure de-
mocratic state government, an incongruity
which was never intended by the fram-
ers of the Federal Constitution or by the
people who adopted it. We conclude,
therefore, that the amendment was rat-
ified in violation of the provisions of the
provisions of the Federal Constitution. If
it violates that instrument, it is not a
part of the State Constitution, and it is
the duty of this court so to declare.

"The political department of the Fed-
eral Government does not intervene in
the case of an unconstitutional amend-
ment, and that department could not
either by declaration or acquiescence
legalize an amendment which was rat-
ified in violation of the terms of the Fed-
eral Constitution. Questions of constitu-
tionality are judicial, not political. The
Constitution of the United States does
not vest Congress with any power to de-
termine the constitutionality of amend-
ments to State Constitutions, and unless
this power is especially delegated to Con-
gress it resides in the judicial depart-
ments of the State and National Govern-
ments."

TAKEN TO SUPREME COURT.
Suit Involving the Legality of New
Assessment Law Appealed.

District Attorney Manning and Judge
Charles H. Carey have filed their appeal
to the supreme court in the case of Ma-
ria L. Flanders against Multnomah
county to enjoin the county officers in
assessing, equalizing, levying and col-
lecting taxes under the provisions of the
statute amended by an act of the last
legislature, to take effect after January 1,
1904.

In the appeal it is asserted that the
court must decide whether the act of
1903 supersedes the previous law Janu-
ary 1, 1904, or whether it is the inten-
tion that the new system shall then be
set in motion.

They argue that the new act simply
revises the old law by shifting the dates,
and that, with this exception, the pro-
visions of the old and new acts are al-
most identical. Instead of a repeal the
new act is simply a revision, making the
date of assessment January 1, instead of
March 1, and the levy and apportion-
ment by the county court at the Septem-
ber instead of the January term.

Attention is called to the fact that the
act is to provide a more efficient method
for the assessment and collection of
taxes, and does not indicate an inten-
tion to prohibit the making and equaliz-
ing of assessments during the year 1903,
nor to prohibit the counties from paying
their deputies during the year, but rather
that the purpose is to facilitate the as-
sessment and collection.—Oregonian.

MARQUAM FAIR WAS A SUCCESS
Farmers Made Creditable Display—
Talk of County Fair.

The seventeenth annual meeting of
the Marquam District Fair Association,
which was concluded Saturday, was a
great success financially.
This institution has been maintained
by the progressive people of the south
end of the county, without the aid of a
state appropriation, for seventeen years.
Agricultural products, fancy work and
live stock constitute the main exhibits
which have increased both in number
and quality each succeeding year. No
race are conducted in connection with
the fair which is self-sustaining from the
gate receipts and entrance fees charged
for the exhibits.
The aggregate of prizes this year was
\$300. Fully 2000 people were on the
grounds for the concluding day, Satur-
day.
There is a growing sentiment in Clack-
amas county for the organization of a
county fair. The plan under considera-
tion contemplates the forming of a stock
corporation for the annual exposition of
the county's resources at some central
and convenient point. It is possible
that the Marquam Association will be
absorbed in the company that expects to
organize.

FAVOR OF VETERAN

Certificate of Claim Must Be Is-
sued by Secretary of State.

Even if the State Appropriation Is
Exhausted—Case Will Be
Appealed.

Judge Sears this week decided that
Secretary of State Dunbar must issue a
certificate providing for the payment of
the claim of J. R. Boyd, a veteran of the
Indian wars of 1856-1858, amounting to
\$125.50, notwithstanding the appropria-
tion of \$100,000 made by the last
legislature to liquidate such claims is
exhausted.

Boyd's claim was examined and al-
lowed by the adjutant-general, whom
the law appoints as the supervising offi-
cer, and was rejected by the secretary of
state upon presentation, on the ground
that the fund of \$100,000 had all been
paid out. It appears that the claims
presented aggregated over \$130,000, and
there is, therefore, a shortage of \$30,000.

Boyd, represented by J. C. Moreland,
filed a mandamus suit against Secretary
of State Dunbar to compel the issuance
of the warrant, and the secretary of state
filed an answer that the appropriation
was exhausted. Judge Moreland argued
that the fact that the fund was empty
did not authorize the rejection of claims
by Secretary of State Dunbar, which
were approved by the adjutant-general.

In deciding the case, the court held
that the mere fact that the appropriation
had become exhausted did not have the
effect of putting an end to the force of
the act providing for the payment of the
veterans for their services, in recognition
of which the act was originally presented
to the state legislature and passed.

Judge Sears further based his conclu-
sion on the provision of a statute passed
by the legislature in 1901, wherein it
specified that where a claim is presented
in pursuance of the authority of law it
shall be audited, and, if allowed, a cer-
tificate shall be issued as evidence of
that fact. In sustaining the demurrer to
the answer, the court specified that the
writ of mandamus should issue in so far
as it required the secretary of state to
issue a certificate as evidence of the
claim presented, and this will cause the
secretary of state to certify that J. R.
Boyd holds a claim against the state of
\$125.50 for services rendered while he
was engaged in fighting Indians.

This ends the matter in the lower
court, but an appeal may be taken to the
supreme court by Attorney-General
Crawford, because, while the Boyd claim
is small, the total sum involved is \$30,000
and the present is only a test case.

TEACHERS ARE VERY SCARCE.
Some Clackamas County Districts Are
Without Instructors.

"Wanted—Several teachers. Apply
at once to County Superintendent Zinser
at the court house." Such is the sub-
ject of an unusual classified advertise-
ment given the local papers today by
County Superintendent Zinser.

Its purpose is to supply a big deficit
in the number of instructors in the pub-
lic schools of Clackamas county. Never
before, reports Superintendent Zinser,
were teachers as scarce in this locality
as they are this year.

Several causes contribute to this scarci-
ty. In the first place the average wages
paid teachers in this county are lower
than any other in the state. As a con-
sequence the great majority of peda-
gogues seek employment in other coun-
ties, where wages are better, while many
others have gone away to school or are
engaging in other business. With this
combination of causes, some districts in
this county find it practically impossible
to supply their schools and have applied
to Superintendent Zinser for assistance.

The majority of the reported vacancies
exist in the rural districts, which are
able to pay salaries ranging only from
\$33 to \$40 per month. Because of their
limited school fund, these districts can
not pay better wages.

TAXES ARE NOW DELINQUENT.
Clackamas County 1902 Roll Is Practi-
cally Collected.

Unpaid taxes on the 1902 roll for
Clackamas county became delinquent at
6 o'clock on Monday evening.
On a roll aggregating \$177,000, Sheriff
Shaver has collected approximately
\$108,000, leaving delinquent less than
\$100,000. Delinquent taxpayers will now
be obliged to pay 10 per cent penalty
and 12 per cent per annum interest in
liquidating with the county.

A great majority of the taxpayers of
this county took advantage of the new
tax law which gives the property own-
er the privilege of paying his taxes in
two installments. The principal heavy
property owners paid their assessments
within the prescribed time and received
the rebate, which in this county aggre-
gates \$4000.

It is the opinion of the Clackamas
county officers that this feature of the
tax law should be repealed since it is an
advantage only to the man of wealth,
who is in a position to pay his taxes at
any season of the year.

PROLIFIC CROP OF BERRIES.
R. K. Hartnell, of Clackamas, Real-
izes \$900 From Two Acres.

(Clackamas county against the world!)
R. K. Hartnell, a farmer residing near
Clackamas, this county, is now supply-
ing the Portland market with fresh, ripe
strawberries. The fruit is of average
size, plump, fully matured and delicious.
The variety was not learned, but it is de-
cidedly prolific.

From two acres of ground Mr. Hartnell
has already marketed this summer \$850
worth of berries. He is still picking
berries from the same field and expects
to harvest at least 150 boxes more before
the season closes.
Mr. Hartnell has been marketing ber-
ries from this field since the strawberry
season opened last June, and he now has
in his field berries in all stages of growth
from the bloom to the matured fruit.

Makes a Clean Sweep.
There's nothing like doing a thing
thoroughly. Of all the salves you ever
heard of, Bucklen's Arnica Salve is the
best. It sweeps away and cures burns,
sores, bruises, cuts, boils, ulcers, skin
eruptions and piles. It's only 25c, and
guaranteed to give satisfaction by
Chasman & Co., druggists.

FOR CUSTODY OF A CHILD.

Sarah Code, Former Wife of Charles
Wilkins, Wants Decree Opened Up.

Mrs. Sarah Code, the divorced wife of
Chas. Wilkins, filed an affidavit Monday
in the Clackamas county circuit court
asking that the decree of the court by
which Wilkins secured from her a di-
vorce, be opened up in order that she
may make the necessary showing to
gain the custody of one of the minor
children. In her affidavit, the woman
sets forth that she was married to Wil-
kins at Salem in August, 1892; that in
1901 Wilkins brought suit for divorce
and represented and agreed to her that
in case she did not appear and answer
the complaint, allowing the plaintiff to
secure a divorce without a contest, that
she would be allowed the care and cus-
tody of Lewis Wilkins, the younger child,
aged 5 years. Mrs. Code claims that she
subscribed to the agreement and fulfilled
her part of the contract, but alleges
that Wilkins took the child from its
home in Salem and placed it with a
family of strangers residing near Dallas;
that Wilkins violated his agreement with
her and had the court make and enter a
decree giving to him the custody of the
two children; that Wilkins works as a
deckhand on a river steamer and is not
in a position to look after the welfare of
the said child. The woman, who is rep-
resented by G. B. Dimick, of this city,
asks that the court make an order direct-
ing the said Wilkins to produce Lewis
Wilkins in court and show cause why
the child should not be awarded to its
mother according to the alleged agree-
ment between the parties.

R. L. Holman, leading undertaker
Oregon City, Oregon. March 27-1f

NEW OREGON CITY PASTOR.—In the as-
sessment of ministers by the General
Methodist Conference at Salem this
week, Rev. W. S. Grim, pastor of the
local church, was transferred to the As-
toria congregation, while Rev. J. Henry
Wood succeeds Rev. Grimm in the pas-
torate of the Oregon City church.

THE OLD RELIABLE
ROYAL
BAKING POWDER
Absolutely Pure
THERE IS NO SUBSTITUTE