FORMER, THEREFORE, LIABLE FOR SHORTAGE OF LATTER.

Argument Advanced by Those Who Favor This Course in Case of Ex-School Land Clerk Davis.

SALEM, May 5.-While the Oregon statutes governing the handling of state school land funds seem to relieve the State Land Board from all responsibility for the defalcation of the cierk, there are many who contend, with strong show of reason, that the statutes do not have that effect, and that the board i lawfully bound to make good the defal-cation of George W. Davis, amounting to \$31,000. Two grounds are urged upon which the responsibility of the board may be

First, that the defalcation of the clerk is in fact also the defalcation of the board, the same as in the case of the board in Chadwick's time

Governor Chadwick's time.
Second, that if the board is not itself in
default, it is liable for the loss because
it should have known whether the

accounts were correctly kept.

It is plainly in the interest of the state that the board should be held liable, for the clerk failed to account for \$31,000 and had given a bond for only \$5000, so that upon the question of the liability of the board hangs \$26,000 of school funds. The saving of this snug little sum is at least worth going to law about, especially since the state employs its attorney on an anual salary and can prosecute the case at very small expense, even if it should lose. The only reason that can be urged why the board is not liable is that the Legislature has taken away from this board the control of the money as it passes through the clerk's hands. Whether the Legislature could take the money from the control of the board and whether it did do so, are debatable questions. The State School Land Board is a crea-

ture of the Constitution and not of Legislature. It therefore has some herent powers and duties which it is not within the province of the Legislature to abridge. Whether the handling of funds is one of these powers, seems to be a Section 5, of Article 8, of the Constitu-

The Governor, Secretary of State and State Treasurer shall constitute a Board of Commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom, and their powers and duties shall be such as may be prescribed by law."

This section does not expressly say that the board shall handle any money, but since it must sell the land and invest the funds there would seem to be the implied duty of receiving the purchase money and paying it out. It may be said that the final clause "and their powers and duties shall be such as may be prescribed by law," authorizes the Legislature to limit their powers by providing some offier officer to receive the money and pay it to the State Treasurer. But the application of such a rule would lead to inconsistencles. The Constitution provides that a treasurer of the state shall be elected and that his powers and duties shall be such as may be prescribed by law. It is nowhere provided that he shall be the custedian of any money. Would any one contend that it is in the power of the Legislature, in prescribing the powers and du-ties of the State Treasurer, to enact a law authorizing him to elect a clerk who shall be responsible for the funds? It is the State Treasurer's inherent right and duty to be the custodian of all state funds and if the Legislature can deprive him of the custody of any part of the funds, it would seem that it could deprive him of all of them and seave him a mere figurehead drawing the munificent salary of \$800

The Legislature once undertook to transfer the control of the school funds to the county officers, and the funds were so handled until the courts declared the less unconstitutional, because the School Land Board had been invested with that power. That law went further than the present one, however, for it authorized the unty officers to invest the funds, while the law under which ex-Clerk Davis acted simply made it his duty to collect the funds and pay them over to the State Treasurer. Briefly stated, the board sold the land and the clerk received the money; the board had sole authority to loan money, but the clerk had sole power to collect it. This is proceeding upon the as-sumption that the clerk's acts are not the acts of the board and that the board was relieved of responsibility by having its power taken away. Section 262 of Hill's Code, under which Clerk Davis acted, reads as follows: "Said board shall have power, and they

are hereby authorized, to appoint a clerk, who shall be known as the clerk of the Board of Commissioners for the sale of school and university lands, and for the investment of the funds arising therefrom. He shall keep his office in the State House and shall have power to take and certify the prof and acknowledgment of a con-veyance of real property or any other written instrument authorized or reired to be proved or acknowl-ged; and it shall be his duty keep the seal of the board and affix it in all cases where he is required by law: to keep the record, files and other papers pertaining to the board; to attend all meetings of the board; to keep a faith-ful record of all their transactions; to administer paths; to receive and place on file all applications for the purchase of lands or loans of money; to receive and place the same on file: to conduct all correspondence required by the board; to receive, receipt for and make immediate payment to the State Treasurer of all money of the state for the sale of lands or payable to the board on any of the loans authorized by this act, taking his receipt therefor, specifying the particular fund to which such money belongs, and whether received as principal or interest; and to perform such other duties and acts as the board may direct."

It is contended that by this act the Legislature took from the board the power to collect money, but the board which employed Davis did not act consistently with such interpretation of the law. The statute plainly says that the clerk shall receive both money paid for land and money paid on loans, yet the board never allowed Davis, or any other clerk, to collect money paid on loans. Such moneys are paid directly to the State Treasurer, who is treasurer of the State Land

Now, if it is in the power of the board to deprive the clerk of some of the duties prescribed for him, the duties are not absolute. The board did not proceed upon the theory that the Legislature had deprived it of the power of receiving money. It refused to recognize the authority of the Legislature to make loan money pay-able to the clerk. It is difficult to understand, then, how it could take refuge behind the law authorizing the clerk to collect money paid on land sales. It seemed to have proceeded upon the theory that the act of the clerk was the act of the board. He collected only such money as it permitted him to collect, and it claimed authority to deprive him of the right to collect any funds, for if it could deprive him of the right in one instance, it certainly could in another,

It certainly could in another.

The intent of the Constitution would seem to be that the board should control the funds, and the methods pursued seem to indicate that the board did control dently of the Legislature. These are views of the law wnich have

BOARD AND CLERK ONE courts will not hold that, acting under this act of the Legislature, the board will be held liable for the acts of its clerk. The questions involved are purely ques-tions of law which require no expensive trials, so the status of the matter can be determined for less than I per cent of the amount involved. In the interests of the preservation of public funds, it is hoped that the law will be tested in order that that the law will be tested in order that the liability of officers in the future as well as in the past may be determined. The State Land Department is now the most important department in the state govern-ment from a financial standpoint. It han-dled money in the last two years to the amount of \$1,600,000, while the money that went into the treasury from all other

# MERITS OF NEW TAX LAW

SENATOR BOOTH ON PROPERTY-REDEMPTION ACT.

Counties Not Barred as Bidders-Talk of Heavy Losses an Unreasonable Assumption.

EUGENE, May 5 .- Senator R. A. Booth went into the treasury from all other chairman of the Senate Committee on bid in by the county instead of by some sources aggregated only about \$1,500,000. Taxation at the recent session of the individual, it is because of lack of value,

TRACK ATHLETES OF UNIVERSITY OF OREGON.

These objects must be conceded by every one to be commendable, and it therefore is only a question as to the best methods of accomplishing such purposes. That it

under three acquired to property som under the provisions of the law. "In most cases taxes are unpaid either because the owner has not sufficient funds or the property is not worth the amount of delinquent taxes. If such property is There should, therefore, be no uncertainty as to the constitutionality of so important an act as that which seems to

every valid certificate covering a period since 1892 had been subjected to the con-ditions of this law, would not exceed 1350. This fact is ascertained after a careof accomplishing such purposes. That it is not wise to permit private sales of such property all must concede. The Senate amendments to the House bill in question prevent the possibility of such a thing and conform to the best public policy of selling, at public sale, after due notice, to the highest bidder. They also validate titles acquired to property sold validate titles acquired to property sold to provisions of the law. conditions in other counties are different from those referred to, it is no fault of the law and simply because the wisest course was not followed under the old

"Other states have followed the course prescribed by the new law. In Washing-ton similar inducements were repeatedly offered until the old lists were cleaned up. If, under the provisions of the new law, the old tax rolls can be put in proper condition by July 1, the limit of time allowed, no better plan could have been adopted. For those that will still be dellinquent, some other and more vigorous method is necessary, and I can see no better plan than providing a time and proper manner of sale, as the new law does. If the county, after July 1, still holds property which it has acquired at tax sales, it is sufficient evidence that it will not recover under the old methods, and satisfactory reason for inaugurating If, under the provisions of the new law, and satisfactory reason for inaugurating some other plan. If any plan better than a well-advertised public sale, to the high-est bidder, has been found, I am not aware of it.

"Let it not be overlooked that the law applies only to land which has been bld in by the counties, after having been offered at public sale without getting a bid, and, in many instances, has been offered repeatedly; and no lands can be sold except those where rights of the individual have expired. The guarantee of a good title will cause the land to bring all the claim is worth, whether it be one-tenth or 10 times the amount of the tax. Nothing in the new law prevents the county from protecting its interest by bidding in property, if it is not satisfied with offers that may be made,"

### SOLDIERS ROBBED A BOY.

One Held Him Down, While Another Went Through His Pockets.

VANCOUVER, Wash., May 5.—The 15-year-old son of N. Dupois reported to the police this morning that two soldiers made him give up \$9 about 11 o'clock last night. The names of the soldiers could not be learned, but City Marshal Norton has a description of the men and Norton has a description of the men and shinks he will be able to locate them hefore morning. According to young Dupois, he, with another boy named Lambert, were invited by a party of half a dozen soldiers to help them drink a keg of beer. The invitation was accepted, and after the party had returned to town, the soldiers, who discovered that young Durch had come more manual him to Dupois had some money, wanted him to buy another keg. Upon his refusal to do so, the soldiers made threats which frightened the boy and he started to run. Two of the soldiers followed and overtook the boy when near his home, and demanded that he give up his money. He refused and one of the soldiers knocked him down, and while the other held him down, went through his pockets. He says he would have notified the police last night, but was afraid to go out.

County Will Soon Be Out of Debt.

ST. HELENS, May 5.—The County Treasurer has called in all outstanding warrants indorsed prior to November 10, 1900. Columbia County warrants are sell-ing at face, and have been for the last year. The Tax Collector has collected three-fourths of the tax for this year. During the first month fees and redemp-tions amounting to a little over \$1900 were collected by the officials, and as there is about \$7000 mortgage tax, and that amount or more in delinquent taxes on lands bid in by the county, which will be collected in the next two months, Columbia County will be out of debt by September, 1901.

Alleged Murderer Gives Bonds.

CHEHALIS, May 5.—Judge Rice yes-terday approved the \$10,000 ball bond of Commissioner J. W. Ferrier, charged with murder. Ferrier's other two bonds, each for \$5000, on other charges against hlm, were also approved by Justice Westover, before whom his preliminary hearing was held. This is the largest ever given in this section in a criminal

CHEHALIS, May 5.—Centralia School District yesterday disposed of a \$5000 issue of refunding bonds to Coffman & Kepner, of Chehalls, at 5 per cent interest, with \$3 premium, and bonds furnities. ished. There were seven other blds

Logger Accidentally Killed.

telegram this morning announcing that Joseph Noah, formerly of this city, was accidentally killed yesterday in a logging camp near Castle Rock.

which sent delegates to the National convention that year was held at Vancouver although the State convention was overcamp near Castle Rock.

# IS A BLOW TO HAZZARD Easy Colds

DAVID B. HILL'S INTERVIEW UP SETS HIS PLANS.

Eastern Newspapers Took His Letter Seriously and Thought He Spoke for Hill.

TACOMA, May 4.—The recent announcement of David B. Hill that he has no intention of touring the Pacific Coast within the next eighteen months is a decided blow to the hopes of his admiring friend and Northwest press agent, the irrepressible George Hazzard, of this city known subsequence "Thank God". irrepressible George Hazzard, of this city, known vulgarly as "Thank God" Hazzard. Hazzard is Hill's greatest living admirer, and for some months has been traveling up and down the state telling newspaper reporters he had it from Mr. Hill himself that he intended coming West within the next eighteen months, for the purpose of getting acquainted with what is left of the unter-

months, for the purpose of getting acquainted with what is left of the unterrified Democracy.

Although Hazzard has not said so openly, he has left the impression that Hill's visit would be for the purpose of strengthening his chances for the Presidential nomination in 1904. Many people believed that Hazzard stood close enough to Mr. Hill to reflect his opinions and desires, and the result is that many of the faithful have been building hopes of a visit from Mr. Hill, and of his assistance in the next Congressional campaign in this state. Now Mr. Hill comes along, and with one fell swoop, not only denies that he is coming West, but most positively asserts that he is not a candidate for the Presidency.

In anticipation of Hill's visit, however, Hazzard has sent the following letter to prominent Democratic politicians all over the West and Southwest:

Tacoma. Wash., April 17, 1901.—My Dear

over the West and Southwest;
Tacoma, Wash., April 17, 1901.—My Dear
Sir: The Democracy of this state has in contemplation for the Congressional and state
campaign of next year a visit from that most
eminent man, David B. Hill. It has occurred
to us that it would be polite to ask the Democracy of our eiter states to Join with us in
inviting Mr. Hill to make this trip through leviting Mr. Hill to make this trip through the States of Minnesota, North Dakota, Mon-tana, Idaho, Washington, Oregon, California, Nevada, Utah, Wyoming, Colorado, Nebraska, Iowa, Illinois, and Indiana, beginning at St. Paul and ending at Indianapolis. On such a trip the States of Michigan, Wisconsin, South Dakota, Kanssa, and Missouri could easily be taken in. Accordingly, an invitation has been drawn,

Accordingly, an invitation has been drawn, addressed to Mr. Hill, inviting him to make such a trip; likewise embodying a request to our Congressional committee of the 57th Congress to take cognizance of this trip, make up an itinerary therefor, and have the same made under the direction and control of the Congressional committee. Said invitation has already been signed by our National committeeman, William H. Dunphy, Walla Walls, and by the chairman of the state central commitready been signed by our National committee man. William H. Dunphy, Walla Walla, and by the chairman of the state central committee, Hon. Henry Drumm, Olympia. It will likewise be presented for their signatures to the Democratic Governors, or those not Republicans, in the States to be traversed, viz. Governors Joseph K. Toole, Montana, Frank W. Hunt, Idaho, John R. Rogers, Washington; Reinhold Sadler, Nevada; James B. Orman, Colorado, and A. M. Dockery, Missuuri, after which it will also be presented for their signatures to the Democratic Senators, or those not Republican, in the same states, viz. Senators, or those not Republican in the same states, viz. Senators, or those not Republican, in the same states, viz. Senators, or those not Republican, in the same states, viz. Senators, or those not Republican, in the same states, viz. Senators, or those not Republican, in the same states, viz. Senators, or those not Republican, in the same of the provided that the people had donated land and after which it will also be presented for their signatures to the Democratic Senators, or these not Republican, in the same states, via: Senators W. A. Clark and Parls Gibson, Montans, Henry Heitfeld and Fred T. Dubois, Idahoi. George Turner, Washington; Thomas M. Patterson and Henry M. Teller, Colorado, William A. Harris, Kansas; George Vest and F. M. Cockrell, Missouri, and Joseph L. Rawlins, Utah. When this is all done, it will then be presented to the Congressional committee, to be transmitted to Mr. Hill. The undersigned has been in correspondence with Mr. Hill regarding this very matter, and it can be stated as reasonably certain that he will accept the invitation and make the trip, delivering one or more specches in each of the states manned. Now, inasmuch as the proposed trip is 13 months off, the inquisy probably will at once arise in your mind, Why begin so soon! Weil, when you contemplate that this invitation is a joint one and must be sent around by mail and express to be signed by the parties, each above referred to, and then got all in shape to lay before the Congressional committee as early as January next, or as soon thereafter as said committee is organized, you can see that, instead of beginning too soon, we have that, instead of beginning too soon, we have that, instead of beginning too soon, we have as said committee is organized, you can see that, instead of beginning too soon, we have hardly time enough to do the work in. hardly time enough to do the work in. Yours very truly.

GEORGE HAZZARD.

It is understood that some Washington City newspaper men got hold of Hazzard's letter, and not knowing him personally, took him seriously, and came to the conclusion that Hill was making an active fight in the West for support, and that his interests had been commitand that his interests had been committed to Hazzard's keeping. The interview of Mr. Hill, while not positively stating that he does not want the Presidential nomination, does most emphatically state that he is not coming West on an elec-

tioneering trip, or any other sort of a trip, for that matter. Hazzard has been a worshiper at the Hill altar for many years, and in the Logger Accidentally Killed.

CHEHALIS, May 5.—Officers of the Modern Woodmen Camp here received a gation from Washington. The convention Although the State convention was over-whelmingly for Cleveland, it was finally

Are you frequently hoarse?

Do you have that annoying tickling in your throat? Would you feel relieved if you could raise something! Does your cough annoy you at night, and do you raise more mucus in the morning?

Then you should always keep on hand a bottle of

Ayer's Cherry Pectoral

If you have a weak throat, you cannot be too careful. You cannot begin treatment too early. Each cold makes you more liable to another, and the last one is always the harder to cure.

Three sizes: 25c., 80c., \$1.00.

If your druggist cannot supply you, send us one dollar and we will express a large bottle to you, all charges propaid. Be sure and give as your nearest express office. Address, J. C. ATER Co., Lawell, Main.

agreed not to instruct the delegation. This gave Hazzard an opening, and he sent this telegram to Hill: "The Washington delegation is for you, thank

God!" This telegram was given publicity through the Associated Press, and it aroused the ire of S. R. Flynn, at that time editor of the Spokane Chronicle, who time editor of the Spokane Chronicie, who sent his famous telegram to Cleveland: "Hazzard is a liar." This incident aroused considerable comment in this state at the time. Hazzard was secretary of the Democratic State Central Committee at the time. Since then he has supported Bryan upon both occasions of the latter's running, but he is lovel to his first love still. Hazzard is loyal to his first love still. Hasmard is a "character," and is known in every hamlet, village, city and town of the state.

Withdraws Petition for Franchise. OREGON CITY, May 5.-It is learned had the privilege of double tracks on Main street, and that the use of Front street was not a necessity. It also stated that the people had donated land and money to encourage the construction of

exception of Saturday evening. The early ng movement is the result of the re-organization of the Retail Clerks'

# Pears

Only they who use it know the luxury of it.

Pears' is the purest and best toilet soap in all the



## WHO WILL COMPETE TODAY AT EUGENE AGAINST UNIVERSITY OF CALIFORNIA.

EUGENE, Or., May 5.-The athletic team of the University of California arrived in Eugene this evening, and everything is in readiness for the big field meet tomorrow afternoon. This will take place at Bang's Park, and promises to be one of the most notable exhibitions of sport ever held in the state, being the first time a California university team has contested in track or any kind of athlettles with an Oregon college on the home grounds. The California team has in its number athletes of National reputation, such as Plaw, who holds the world's record in the hammer-throw; Cadogan, the champion sprinter of the Pacific Coast; Service, who holds the Coast record in the half-mile run, and Hoffman, one of the holders of the Coast pole-vault record. Manager Reno Hutchinson. istie, and Trainer W. L. Haywood, accompany the team.

With favorable weather, a new crop of Pacific Northwest records are certain to be established. The battle royal of the day will be with involute weather, a new crop of racine in the pole vault, and Hoffman, who holds the Coast record. Redmond will enter the quarter, but is much out of condition. The Berkeley team is divided up into the various events as follows:

Sprints, Cadogan, Brown, Squires; distances, Service, Redewell, Clifford; hurdles, Powell, Cheek; pole-vault, Hoffman; jumps, Cooley, ey; weights. Plaw For officials the following have been selected:

Beferee, Edwin Mays, of Portland; starter, Walter Christie, of Berkeley; Judges at the finish, Professor A. Lachman, Professor C. A. Burden and Luke L. Goodrich; field judges, W. L. Whittlesey, Jack Arnold, Professor E. D. Ressler; inspectors, Ray, Willoughby and Bruce Burnett; timers, B. Harder, C. N. McArthur, C. Griffin; clerk of the course, B. C. Jakway.

LAID TO REST AT CORVALLIS. Last Rites Pronounced Over Body of Professor E. B. McElroy.

family residence. It was one of the most largely-attended services of this nature ever held in this city, on account of the ever heid in this city, on account of the prominence of deceased in state and community affairs, and the large number of fraternal orders of which he was an esteemed member. Before the appointed hour a great throng had gathered about the house. Then came orders of which deceased had been a member, the Knights Templar, Ancient, Free and Accepted Ma-sons, Eastern Star, Elks, J. W. Geary Post G. A. R., Women's Relief Corps, A. O. U. W. and Degree of Honor.

The religious services were conducted by Rev. M. L. Rose, of the Christian Church, after which the funeral service of the Eastern Star was rendered. The remains were then taken in charge by the Masons and buried with the cere

hension when they contend that counties are barred from bidding on property sold for delinquent taxes. Senator Booth says the claim that the counties will suffer EUGENE, May 5.—The funeral of ex-State Superintendent McElroy was held today, services being conducted at the have expired. Following is his state-

"I write relative to the Property-Redemption Law passed at the recent session of the Legislature, not for the purpose of defending the Senate committee on assessment and taxation, which proposed the amendments that have been criticised by several of your correspond-fall upon the county is based upon the collaboration.

relieve the State Land Board from lia-bility for the acts of its cierk. the new property-redemption law. Sena-tor Booth sees many good points in the reclaim his property, no great violence act, which he sets forth in a concise will have been done to the public, no manner. He makes clear that critics of the law are laboring under a misappreand all costs. What loss occurs will be borne by the entire community, while the corresponding gain will be made to an individual who is poor and who has been stimulated to a new effort by reason of the favor that is extended by his credtaxes would have been paid, including penalty. He then goes on to give a few examples to dispel this theory. He points out that the law applies only to lands bid on by counties, after having been offered for public sale without getting a bid, and no lands can be sold except those where the rights of the individuals have expired. Following to the solutions and the solution of the balance of the ba "As stated heretofore, probably the greatest reason that countles are forced

ents, but simply in compliance with your request. Whether the Senate committee and the Legislature acted wilfully wrong, or were incompetent to pass upon the the Masons and buried with the ceremonies of the order. At 1:30 the cortege and the Legislature acted wilfully wrong, left the house for the railway station, Ivanhoe Commandery acting as escort. The remains were put aboard the 2:05 train and, accompanied by the pailbearers and a number of intimate friends and representatives of the different orders, conveyed to Corvallis, where they were deposited with appropriate rites. A large delegation of Masons from Albany joined the party at that place, and on its arrival at Corvallis it was reinforced by members at that place of the lodges of which Professor McElroy was a member.

The Masons and buried with the ceremonies of the Senate committee and the Legislature acted wilfully wrong, or were incompetent to pass upon the act to which reference is made, the recond to the state, and on this sult is the same to the state, and on this point I therefore will not plead.

What the community is now mostly interested in is not the intent of the law, but its practical workings. The purpose of this law is to enable counties to realize, within a reasonable time, upon those certificates that have been counted in district, where the conditions govern-rival at Corvallis it was reinforced by members at that place of the lodges of which Professor McElroy was a member. been expressed since the subject of the liabeen expressed since the subject of the liarival at Corvallis it was reinforced by
members at that place of the lodges of
hands of individuals who are concerned average of the counties of the state. The
There are many who believe that the
which Professor McElroy was a member, in keeping the taxes paid hereafter.

