TEST OF TAX SALE LAW

COUNTY ENJOINED FROM SELLING PROPERTY IT HAS BOUGHT.

Title Guarantee & Trust Company Alleges That the Land Descriptions Were Faulty.

A suit which may revive the old mortgage tax law question, was filed in the State Circuit Court yesterday by the Title Guarantee & Trust Company against Multnomah County and Sherin Frazier, A preliminary order was issued by Judge Frager on motion of E. B. Seabrook and William Munly, counsel for the plaintiff, enjoining the Sheriff from selling the property mentioned in the complaint under the act of 1901, providing for the sale of property heretofore bid in for taxes by the county, and to which the county has acquired title. The restraining order may reafter be applied to property similarly affected, and it is reported that other suits will probably be filed to fest the constitutionality of the law on other points.

The property involved in the case filed yesterday was owned by C. F. Gilham, who delivered nine mortgages to T. S. McDonald in 1891 and 1892. The Title Guarantee & Trust Company now claims to be the owner of a portion of the property. This was assessed as T. S. McDaniel, section 31 T. 1 N., R. 2 E., C. F. Gilham mortgage lien on real estate. When this property was sold by the Sheriff for delinquent taxes in May, 1899, it was sold under a corrected description, giving the boundary lines, and the other parcels mortgaged were also sold and bid in by the county under corrected descriptions. The little Guarantee & Trust Company contends that C. F. Gilham was the owner at the time of the assessment of several tracts of land in section 31 other than the one now owned by the company, and that the land as originally assessed was never bought by Multnomah County, and could not legally be bought in under a corrected description. These descrip-tions were corrected at the time of the Noble contract, which the courts subsequently declared invalid.

Another point made in the complaint, which will perhaps be the principal one relied upon, is that in none of the as-sessments were set forth in the book and page of the mortgage records where the same were recorded, nor any further or more definite description of the mortgaged premises specifically set out than as here stated. This criticism will apply to all mortgage tax assessments and if it is a fatai defect in one case would be so in all. The court is asked to enjoin the sale and remove the cloud from plaintiff's

District Attorney Chamberlain says he will ask the court to hear the case as soon as practicable. The sale mentioned is supposed to begin Monday, July 8.

WILL SURRENDER POLICIES. Judge Bellinger Rules That the Bo lander Bond Is Valid.

Another phase of the controversy be-tween L. P. Bolander and Andrew Saling concerning life insurance policies amount-ing to \$420 came on for hearing in the United States Circuit Court yesterday. After the decision of Judge Bellinger a few days and practical Saling. On the place After the decision of Judge Bellinger a few days ago against Saling, on his plea of abatement, Bolander's attorneys, Bauer & Greene, issued an alias writ of replevin to the United States Marshal with directions to take possession of the policies. Saling and his attorney, Milton W. Smith, again refused to deliver the policies, and the latter filed a motion to quash the writ on the grounds that no quash the writ on the grounds that no quash the writ on the grounds that no undertaking had been given to the Mar-shal, as required by law.

It appears that two years ago Bolander furnished the Marshal with a bond for \$5400, signed by the Fidelity and Deposit Company, of Baitimore. The defendant held that this bond was no longer valid and that a new bond should be furnished with the new writ. Judge Bellinger de-cided, however, that the old bond is a continuing obligation; that the delivery of the policies by Saling to the Marsha on the alias writ would constitute a consideration for the bond, and that the old ond is therefore good and affords the defendant adequate protection. tion was overruled. The Marshal had been graceed to produce the documen;s in court for inspection, and after the court had decided that they were "good and sufficient," the Marshal took them away with him for another demand upon Saling to produce documents in his possession, Saling's attorney afterwards notified Marshal Houser that they would give up the

Decisions This Morning.

Decisions will be announced in th State Circuit Court this morning at 9:30 o'clock as follows: Judge Frazer-Leve & Adler vs. William Fragier; Margaret Ross vs. T. W. White et al.; R. L. Sabin vs. Ames & Harris et al.; Emile Watson vs. A. O. U. W.; O. R. & N. Co. vs. Joseph Houston et al.; O. R. & N. Co. vs. Susie Gilbert

Judge Cleland-C. J. Cook vs. City of Portland; Mary O'Brien vs. John O'Brien; Balfour, Guthrie & Co. vs. North Pacific Lumber Co.; Louisa Bartlett vs. W. L. Bartlett et al.; B. Baruth vs. J. J. Febvet; A. H. Black & Co. vs. F. W. Ariss Co.; Cleveland Rockwell vs. Portland Savings Bank; Nannie Starr vs. W. L.

Judge Sears-Whale vs. Button; Bell vs. Lind; Grimes vs. McQueen; Stager vs. Troy Laundry Co.; Evans vs. Evans; Mays vs. Title Guarantee & Trust Co.; Thompson vs. Whalley. Judge George-Garretson vs. Nickum; Watts vs. Watts; Gaston vs. City of Port-

Court Notes. A judgment by default was rendered by Judge Frazer yesterday in favor of Su-sanne Jacobs in her suit against her husband, Morton B. Jacobs, for \$9500,

land et al.

Robert G. Morrow was appointed ad-ministrator yesterday of the estate of Fred Rehorst, deceased, consisting of real property valued at \$700 and personal property of unknown value. The heirs are brothers and sisters as follows: John and August Réhorst, Milwaukie; Mrs. Lizzie rtzham, Redwood City, Cal.; Mrs. Anna Peck, San Francisco.

MARKED CHINOOKS CAUGHT

Showing That the Salmon Weighs 40 to 50 Pounds at Four Years.

The young salmon which Fish Commis and bid fair to throw more light on the time required by chinook salmon to attain their growth than anything else has done so far. Last year quite a number of these marked fish were caught in the Columbia, having an average weight of 24 pounds. A few days ago Seufert Bros., of The Dalles, reported catching one of these marked fish weighing 50 pounds, and a day or two ago one was turned in at Pil-lar Rock cannery which weighed 40 nounds. From this it is seen that in three years the chinook salmon grows to a weight of about 24 pounds, and in four years attains a weight of from 40 to 50 pounds. Perhaps some of the marked fish may be caught next year, by which time they will probably have attained their growth, but the big ones of 70 pounds and upwards are doubtless more than five years old. A report was sent out from Astoria to the effect that a number of the marked chinook salmon had been found among the fish brought there from the Sacramento River, but Columbia River fishermen generally did not believe this They looked upon it as a fake story.

The C. R. & R. C. S. Steamer, P. J. Allas in a rasmon that evoked a storm of appliance. Miss Lawler was never in better voice, and her delightful interpretation of the song was a revelation to reach beach points not later than 5 those who had not heard her for some time, and a delight to the many friends this They looked upon it as a fake story.

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MEMBERS OF THE RIVER AND HARBOR COMMITTEE OF CONGRESS WHO ARE PORTLAND'S GUESTS TODAY



Walter Reeves. Dealya Stanwood Alexander. Stephen M. Sparkman. Ernest F. Acheson.

Page Morris. James H. Davidson. Thomas H. Tongue.

Thomas H. Ball. P. D. McCulloch.

Roswell P. Bishop. Albert S. Berry. J. H. Bankhead.

Geo. P. Lawrence. Thomas H. Catchings, Rufus E. Lester.

intended to show that the chinook salmon hatched on the Columbia found their way to the Sacramento, and that therefore the salmon of the Sacramento were the same as the chinook of the Columbia, which

NOT ENTITLED TO LAND.

Chinese Immigrants Were Neither Students Nor Merchants,

The four Chinese who arrived on the steamship Knight Companion returned to China on her, having been unable to convince the authorities that they were entitled to land. One of them alleged that he was a native-born, and when refused permission to land got himself before the United States Court op writ of habeas corpus. He failed to establish his citizenship, although he had two hear-ings. Another alleged that he had been an Astoria merchant, but as Astoria has not yet been made a common point he could not establish his right to land. The other two were alleged to be students anxious to receive instruction in the pri-mary department of a school or kindergarten. They could not be admit-ted for this purpose, for the latest ruling on this subject is that only Chinese who have gone through the lower grades at home, and who desire to study the higher branches, as calculus, Christian Science, astronomy and politics, can be admitted into this country as students. It was with sad hearts that the four poor benighted heathen started on their return trip across the Pacific, and as they watched the shores of this land of liberty and equal rights recede from view, the tears ran down like the Summer rain. They must cheer up, and try to get all the enlightenment they can from the mis-sionaries sent over there, and the soldlers sent to protect or revenge the mission-aries will put the finishing touches on lives depended upon it. Then one by one their education,

ASTORIA, ILWACO AND NORTH BEACH.

The O. R. & N. Co.'s steamer, T. J.

FINE AMATEUR SHOW

"TITANIA" DELIGHTS BIG CROWD AT THE MARQUAM.

Pretty Children, Singing and Dancing, Good Specialties and Clever Costuming.

The people who crowded the Marquam Theater last night to see the performance "Titania" expected something worth seeing, for Mrs. H. A. Foreman, under whose management the entertainment was given, never does things by haives, but they were completely surprised by the treat which was spread before them from the rise of the first curtain on the pretty woodland scene, through which flitted a host of dainty little fairies, to the con-cluding chorus, in which blended more than a score of sweet voices. In every particular was the event a complete suc-cess. The clever children, whose songs and dances formed such an important part of the programme, had been trained till they behaved like professionals; the principals were fully equal to the parts assigned to them, the specialties were unexpectedly good, and the costuming, the mounting and the music were all that taste and patience could make them. Such an entertainment by amateur talent has not been seen in Portland for many a jong day, and the applause which greet-ed every one of the many surprises which passed in succession across the stage was

richly deserved.

The rise of the curtain disclosed a land scene, which a second later was filled with a bevy of tiny fairies, clad in the principals were introduced-Miss Ida Jennings as the Butterfly Queen; Wesley Hugh, concealed under a veneering of powder, as Moth, the miller; Miss Grace Kanaber, as Prince Oberon, and Mrs. Clarissa Nichols as Puck. Miss Kathleen Lawler, who was Queen Titania, sang "Alas" in a fashion that evoked a storm

close of the entertainment in "Titania," from "Mignon," and mastered the diffi-culties of the song as only a well-trained singer could master them. Miss Lawler Burnside street. has made many appearances in public, but it is doubtful if she ever did herself more credit than she did last night.

Mrs. Nichols gave two dances, "The Dance of the Demon" and a Spanish dance, in her usually graceful and pleasing style, and easily proved the wisdom of her judgment in adopting dancing as a profession. Webber and Elliott gave a musical spe-

cialty which the audience enjoyed so well that they would have protracted it indefinitely, had not the musicians begged off from sheer weariness. Mr. Elliott's sing-ing of "She Was the Idol of My Heart" and "Absence Makes the Heart Grow Fonder" to the accompaniment of meri-mophone and harp and mandolin, was one of the most pleasing features of the evening's entertainment, and the "turn" as a whole has never been excelled in Portland.

All of the children's dames were pretty and well executed, and the little tots' heads must have been sadly turned if they valued the applause for what it was worth. The girls, wearing wings and brightly costumed as butterflies fairies, made a pretty picture against the dark background of the woods, and the boys, clad in long robes and arrayed in the long, white beards of gnomes, sup-plied considerable comedy. Mildred Meyers and Florence Judge, two of the smallest maidens in the troupe,

sang a pretty love song from "The Belle of New York" with an expression and sweetness that was well-nigh incredible. Tiny Georgine Nichols did a graceful lit-tle dance, and sang a coon song that brought down the house. Eola Richards and Amy Gerstel did a clever little dance. The lines of the poem which forms the play were all well read. Mrs. Nichols, Miss Lawler and Miss Jennings were par-ticularly good in their parts, as was also Charles Wilson, who, as the ogre, dis-

played considerable dramatic ability. "Titania" will be repeated this after-noon, and will be found not only of con-suming interest to the youngsters, but well worthy of their elders, attention as well

Burnside streets, is slowly being signed.

fere with the plan to locate the Lewis and Clark Centennial on the Peninsula. signed represent property sufficient to se. fere cure the improvement between Belmont and East Stark streets, but not to East

Will Not Interfere With Exposition. The sale of the Portland University prop erty for a Catholic school will not inter

A NIGHT STRUGGLE. Woman's Fight With a Demon.

It is remarkable the curious and differnt ways coffee will affect the human ody. A little lady in Herkimer, N. Y., had an experience that may happen to others, but it is not common. She says: "I am impressed with the desire, not only to thank you personally for relief, but to realize that others may have the same distressing symptoms without thinking of the cause

"When I would drop asleep I would seem to receive a perfect electric shock from feet to head through every nerve of my body. It was dreadful, I would finally become so feverish and exhausted with this horror repeated over and over each time I fell askep that I was obliged to force myself to stay awake, actually not daring to think of rest.

"After one such horrible night, which I shall never forget, I arose completely worn out with my night's battle, but with a firm resolve to set aside my morning cup of coffee, as I began to believe that was the cause of my trouble. "I had some Postum Food Coffee made according to directions, I took another

cup at tea time. At night, to my great surprise, I fell quietly asleep and rested well all night. It seems incredible after only one day's use, but it is positively a truthful statement.
"I have persisted in the use of Postum

until now my nervous system is in per-

"Husband showed some signs of coffee poisoning, such as stomach trouble and other symptoms, so he left off the coffee and drinks Posium with me. This has improved his health, and he says he likes Postum better than he did the old-fash-

loned coffee.

"We might have been saved our trouble if we had known the truth about coffee, but we were ignorant as are thousands of Slowly Signing the Petition.

The petition for the improvement of but we were ignorant as are thousands of others, and had to learn by experience. Tracks is slowly being signed.

"Please do not use my name in public," "Please do not use my name in public," "Please do not use my name in public," time, and a delight to the many friends who have been predicting great things who have been predicting great things of her. She was heard again before the without reservation. Those who have the Creek, Mich.

Blackburn D. Dovener.

INAUGURATION OF SEASIDE SERVICE.

Saturday, June 29, the O. R. & N. Co.'s side-wheel steamer T. J. Potter will leave Ash-street dock for Astoria and beach points at 1:15 P. M. Returning, leave Ilwaco Sunday at 8 P. M., arriving Port-land Monday morning at 5:20 A. M. The Potter will continue on this run during July and August, leaving Portland daily except Sundays and Mondays, in accordance with published time card.

Baggage for checking must be received at Ash-street dock at least 30 minutes before departure of boat. City ticket office Third and Washington,

CANADIAN PACIFIC.

Tickets at special rates to Detroit and Cincinnati will be on sale July 1, 2 and 2. These are good on our fast train, the "Imperial Limited." For further particu-lars call on H. H. Abbott, 142 Third street.

MUST COUNTY CONTRACT?

DRISCOLL SUPPLY LAW ARGUED IN CIRCUIT COURT.

Counsel for Commissioners Maintain That the New Act Simply Provides Form of Procedure

The question whether the Driscoll bill, passed by the Legislature of 1901, requires all county supplies to be purchased by contract from the lowest bidder, and whether warrants issued for supplies bought where there was no contract are legal, was argued before Judges George, Sears and Cleland in the State Circuit Court yesterday. The decision will be

rendered July 3.

Alexander Bernstein, of counset for the Board of County Commissioners, contended that there is nothing in the law to prevent the County Court from buying without letting contracts, stationery or any supplies the county requires. The county, he asserted, may construct anycounty, he asserted may construct any-thing, such as a bridge or an addition to the poor farm so long as it does the work itself, hiring the men and paying them, and purchasing the material. The Commissioners may do today in this re-spect what they always have done, but if they let a contract they must advertise they let a contract they must advertise according to law. The new law does not take authority from the County Court, but it provides for a method of procedure when it lets a contract. The county may not let a contract except according to the provisions of this law. ording to the provisions of this law.

Mr. Bernstein argued that the law pro-vides only for contracts for public works and the purchase of materials for public works, and not for the purchase of ma-terials and supplies for ordinary purposes. Counsel urged that, under a strict construction of this law, as some people would have it, a postage stamp could not be purchased except under a contract. This would lead to absurdity, and would the court say the Legislature intended such a thing? The emergency clause, he contended, plainly shows that the law is meant to refer to the letting of contracts. He read this clause as follows:

Inasmuch as there is no prescribed proceed-ing for letting contracts, for which reason un-certainty and confusion exist, resulting in loss in letting of public work, this act shall be in

He argued that this section does not say that no purchase may be made except under a contract, and that the law does not intend anything of the kind.

M. L. Pipes made a somewhat similar

argument, saying, among other things:
"The Legislature never intended to take from the County Court the discretion of doing the public work, if it was believed to be cheaper than to have it done by contract. It is contrary to the object of the act. One of the ways to construe an act is to study the cell to be remaded and then study the old law. There was never any complaint made against the county for buying supplies, as has been objected to in this instance. If there was an evil the remedy is worse than the disease. Take one of the items for \$2.80. The parties, under the law as the state tries to interpret it, would be obliged to give their certified check for 28 cents. supply a contract and furnish a bond, Of course, that is absurd and trifling, for it would cut the county off from buying. The parties would not bid for such a small amount, and the county would be

District Attorney Chamberlain, who has several times expressed an opinion to the County Commissioners and County Au-ditor that the intent of the law is that all supplies must be purchased under contract, adhered to his position. He said to makes no difference if it should lead to inconvenience or expense, or even sometimes to absurdity, though he did not believe it would do so. That, he said, is not for the court to say, but to carry out the will of the Legislature,

FORT CANBY.

Are you aware that the United States has one of its finest army posts at Fort Canby; also lighthouse of the first-class built on the top of a rock bluff 232 feet above the sea? The C. R. & N. city ticket agent, Third and Washington, will tell you more about this picturesque place by the sea and the way to get

DAILY METEOROLOGICAL REPORT.

PORTLAND, June 28.-Maximum tempera ture, 35; minimum temperature, 32; river read-ing at 11 A. M., 14.1 feet; change in 24 hours, 0.2 foot fall, total precipitation since Septem-ber I, 1900, 42.58 inches; normal precipitation

aince September 1, 1900, 45.62 inches; deficiency, 3.04 inches; total sunshine June 27, 3:061 possible sunshine June 27, 15.48. WEATHER CONDITIONS. The pressure is decreasing very rapidly in the Pacific States, and although considerable cloudiness exists in Washington, no rain has

yet fallen west of the Rocky Mountains. yet fallen west of the Rocky Mountains.

The changes in temperature have been small, except in the Interior valleys of California, where it is warmer. At Red Huff the unusually high maximum temperature of 108 degrees was reported, and at Sacramento it was nearly as hot with a maximum temperature.

nearly as not with a maximum temperature of 104 degrees.

The indications are for unsettled weather is this district Saturday, with probably showers in Eastern Oregon, which may extend north into the Palouse country. WEATHER FORECASTS.

Portland and vicinity—Fair and probably warmer. Northwesterly winds. Western Oregon and Western Washington— About 200 acres of land adjoining the university grounds are available and they who have been working to get the fair lo-Fair. Probably warmer, except near coast, cated on the Peninsula will keep up the

Northwesterly winds.

Eastern Oregon—Cloudy and threatening, with thunder showers. Warmer. Northerly Eastern Washington and Northern Idaho-

Increasing condiness, with probably thunder showers south portion. Warmer. Winds mostly northerly.

Southern Idaho—Increasing cloudiness. Slight-ly warmer, with northerly winds.

EDWARD A. BEALS, Forecast Official.

NEW TODAY.

MORTGAGE LOANS On Fortland real estate at lowest rates. Titles insured. Abstracts furnished. Title Guarantee & Trust Co.

FOR LEASE

For term of years, to thoroughly responsible tenant, 50x100 feet on Fifth and Stark streets, city. 241 Stark, Cor. Second.

THE NEW CUARD



For Eyeglasses enables glasses to be held on to noses, which in the past have resorted to spectacles. Rimiess Eyeglasses are the acme of perfection in the optical line, and can be had in

Gold Filled \$3.50 Solid Gold\$5.00 Nickle\$2.50

Dallas Optical Parlors.

218-19 FAILING BUILDING

Take Elevator.

Corner Third and Washington Streets