

We Carry in Stock the Largest and Most Complete Assortment of Rubber and Cotton BELTING, PACKING AND HOSE GOODYEAR RUBBER COMPANY

A Photographic Snap... While they last, we are selling a 4x5, fixed focus, plate camera for \$3.50

BLUMAUER-FRANK DRUG CO. Take Elevator to Photo Department. Wholesale and Importing Druggists

Shaw's Pure Malt America's ORIGINAL Malt WHISKY Without a Rival Today Blumauer & Hoch, 108 and 110 Fourth Street Sole Distributors for Oregon

HEATING FURNACES Warm Air, Steam, Hot Water. All sizes Registers and Ventilators. If you intend heating your house, call on or address W. G. McPHERSON, Heating and Ventilating Engineer 47 FIRST STREET.

HOTEL PERKINS Fifth and Washington Streets PORTLAND, OREGON EUROPEAN PLAN

First-Class Check Restaurant Connected With Hotel.

J. F. DAVIES, Pres. C. T. BELCHER, Sec. and Treas.

St. Charles Hotel CO. (INCORPORATED). FRONT AND MORRISON STREETS PORTLAND, OREGON

THE ROYAL FRUIT JAR BY EVERY TEST, THE BEST Made in fine flint glass, with the celebrated lightning fastening. If your dealer does not carry them, send orders to PRAEL, HEGELE & CO. IMPORTERS AND DEALERS IN China, Glassware, Lamps, Cutlery Housefurnishing Goods, Etc. 100-106 FIFTH STREET CORNER STARK

HILL MILITARY ACADEMY A private school for boarding and day pupils. Prepares boys for admission to any scientific school or college, and for business life. New and completely equipped building. Thorough instruction according to the best methods. Good laboratories. Manual training. The principal has had twenty-three years' experience in Portland. Office hours, 9 to 11 A. M., and 2 to 5 P. M., at 521 Marshall street. For catalogue and pamphlet containing testimonials, letters, etc., address J. W. Hill, M. D., Principal P. O. Drawer 17 Portland, Oregon

THE DRIVING SEASON IS AT HAND...

ARE YOU READY FOR IT? YOU FURNISH THE HORSE WE WILL DO THE REST. CARRIAGES WAGONS, HARNESS ROBES AND WHIPS STUDEBAKER 320-338 EAST MORRISON ST.

FROM NOW UNTIL AUGUST 1 We will sell every unclaimed tailor-made suit or overcoat in stock. No matter what it is worth or what it cost, it will go, from Monday, July 23, to Wednesday, July 31, at \$15.95

FARNSWORTH-HERALD TAILORING CO. 248 WASHINGTON STREET. NEW FASHION BUILDING

"FORBID A FOOL A THING AND THAT HE WILL DO." DON'T USE

SAPOLIO

COULD BE SUED Right to Sell Land Bid in for Taxes Attacked.

WRONG ASSESSMENT ALLEGED Title Guarantee & Trust Company Holds That the Act of 1901 Is in Violation of the United States and Oregon Constitutions.

Suit to test the constitutionality of the act of February 23, 1901, which authorizes counties to sell all land heretofore bid in by them for delinquent taxes, will be filed by the Title Guarantee & Trust Company in the State Circuit Court this morning. Multnomah County is made the defendant. The papers in the case were prepared yesterday afternoon by E. B. Seabrook and William A. Munly, of the law department of the trust company. This is the first suit in Multnomah County against a law which has been the subject of widespread discussion. Under the act the county is empowered on and after the first Monday after July 1, 1901, to sell property taken in for delinquent taxes. The county is making lists of the delinquent property with a view of beginning sales in September.

The suit is founded upon the erroneous assessment of seven parcels of property, which were sold in May, 1900, for taxes due in several previous years. One instance will illustrate the plaintiff's contention. Thus, H. C. Campbell was assessed in 1893, 1894, 1895, 1896, and 1897, on lots 2 and 3, Cloverdale Annex, whereas, according to plaintiff's bill in equity, Campbell was neither owner nor occupant of the land after May 4, 1891. All the property enumerated in the seven parcels was assessed to persons who did not own it at the time the assessment was made, and the taxes became delinquent. At the Sheriff's sale in May, 1900, the county bid in the property for the delinquent taxes. Now the county is authorized under the law of 1901, to sell this property. The Title Guarantee & Trust Company alleges that the act of 1901 is void for the following reasons:

First—It is in contravention of the Fourteenth amendment to the Constitution of the United States, in that it provides for the taking of private property without due process of law, and impairs the obligation of plaintiff's contract with plaintiff's grantors.

Second—It is in contravention of section 21 of the bill of rights of the constitution of Oregon, which reads: "No ex post facto law or law impairing the obligations of contracts shall ever be passed."

Defects of the Act Pointed Out. All of section 5 of the act of 1901 is repugnant, especially the provision carrying defects in the entry of names on the assessment roll. The section follows: Section 5. All sales of land for taxes heretofore or hereafter made to counties or other public corporations are hereby declared legal and valid, and they shall pass good title to the lands assessed, notwithstanding (1) any indefiniteness or imperfection in the description of such lands on the assessment roll; provided that the person assessed shall, at the time of the assessment, have been the owner of record of a parcel of property to which such description shall have been applicable, and of only one such parcel; (2) the omission in the assessment roll of the name of the owner, or the entry of a name other than that of the true owner, or a mistake in the name of the owner; provided, the grantor be correctly ascribed; or (3) the omission by the Sheriff to make search or inquiry for personal property before selling the real property, or omission to make affidavit thereof, or mistake in such affidavit, or omission to make error in making levy, notice of sale, return, or any other act or proceeding, subsequent to the assessment. And deeds given by the Sheriff as sales of real property herein provided for shall be conclusive evidence of the regularity and existence of all proceedings necessary to pass title to the lands therein conveyed, and of title in the grantee, except as against: (1) invalidity of the assessment within the rules above specified; or (2) any defect in the assessment or collection of the tax; or (2) payment of the tax, before sale, or redemption after sale, or that payment was prevented by fraud of the purchaser; or (3) that the property was sold for a tax for which neither the property nor the owner thereof was liable at the time the assessment was levied upon, or that the tax was assessed or levied upon the property sold. And in any action, suit or proceeding brought to set aside any sale of lands or to annul the same, or to annul the same, or to remove the cloud thereof, or to recover the lands sold, before or after the issuance of a deed, the person claiming to be the owner against the purchaser shall tender, and pay into court, with his first pleading, the amount of the taxes and costs for which the lands are sold, together with 10 per cent per annum thereon from the date of the sale till the bringing of the suit, and all taxes or assessments paid by the purchaser since the sale, with interest thereon at 10 per cent per annum. No such action, suit or proceeding shall be brought unless within two years from the date of record of the deed by the Sheriff.

Assessments Were Irregular. The trust company avers that the parcels of Multnomah County to the seven parcels of property acquired by virtue of "pretended assessments" and the tax sales of 1899 is null, void and of no effect. It prays for a decree "that said sales and assessments be removed as clouds upon plaintiff's title, and that plaintiff's title be forever quieted against the claims of defendant and all persons claiming by, through or under defendant subsequent to the commencement of this suit."

The case of the plaintiff rests in part upon the decision of the Supreme Court of Oregon in the suit of Harris vs. Harsh, on appeal from Multnomah County. The decision was rendered September 21, 1896, and is found in 29 Or., 562. On the question of regularity of assessment the court held:

Where land was assessed under Deady and Lane's Code, page 750, section 7, which authorizes its assessment, when owned by one person and occupied by another, in the name of either owner or occupant, the introduction of a tax deed, whereby the assessment was made, is a presumption that the person to whom it was assessed was either the owner or occupant, and, however, which, if it is shown that another person was the owner and in the actual possession when the assessment was made, and the assessment in that case is void. No Notice to the Rightful Owner. Dismissing the points involved in the case against the county, Mr. Seabrook said yesterday:

assessment of the property to a person who did not own it, provided the property was correctly described. "Our contention is that the law of 1901 is void because it is in contravention of the 14th amendment of the Constitution of the United States in two particulars: It impairs the obligation of contracts and is taking property without due process of law. It impairs the obligations of contracts because at the time the property was assessed the law provided that the name of the owner should be placed on the assessment roll, and the decisions of the Supreme Court of Oregon have been that if that not done the assessment is void. Relying upon that law and the decisions of the Supreme Court, our company, after the assessments in question, purchased the property from its former owners, and the Legislature should not now be permitted to change our contract or purchase so as to make an assessment good which was then invalid. "The act of 1901 takes property without due process of law, and therefore violates the Constitution of the United States, in that it undertakes to make valid an assessment which originally was void for want of notice to the rightful owner of the property. The assessment of the Cloverdale Annex property to H. C. Campbell, from 1893 to 1897, was not notice to the owner of the property who succeeded to Mr. Campbell's right, title and interest after May 4, 1891. Under the assessment scheme of taxation the property is not taxed, but a levy is made directly against the owner on account of his land."

FIRST SALES IN SEPTEMBER. Lists of Delinquent Taxes Will Be Completed Next Month.

The large force of assistants in the Sheriff's office is still busily engaged in transferring the delinquent taxes charged against property from 1888 to 1896 into a great book that has been made for this purpose. Every item is charged against the property, which is listed by its location in various additions. No mention is made of the property owners. The work of gathering the various items together has been done on slips. Of these there are now more than 5,000. These slips are complete, and are being sorted together, so as to give all the charges against the same property, whether for delinquent real or mortgage taxes. N. C. Oviatt, head of all tax-paying department, said yesterday that the work of making the entries will be completed by August 15, when the books will be thrown open for the inspection of the public. The sale of the property on which taxes are delinquent will begin September 8.

That the law would cause litigation has been expected by those in the Courthouse who understand its provisions. Large property owners, real estate and trust companies have been among those most careless in keeping the titles of their property clear from the shadow of delinquent taxes. If the sale is held, and these properties are sold to watchful brokers, when the roar comes it is certain to be long and loud. On the part of many people, however, there has been great anxiety to pay back taxes and clear up titles. Under the present system of charging through the bulky tax rolls to find how much is due, this necessitates a great amount of work, and of late the advice has been given to all owners to wait until the delinquent tax back is sorted, as posted, when the figures may be easily obtained.

NEW ARMORED CRUISER. Keel of the Pennsylvania Laid-To Be a Fast Vessel.

PHILADELPHIA, July 26.—The keel of the armored cruiser Pennsylvania, the first of the new Navy to be named after a President, and the first of the modern vessels to be built, has been laid at the yard of the William Cramp Ship & Engine Building Company. The cruiser will have a speed second only to the Vandal, the fastest ship in the world. A sister ship to the Pennsylvania, the armored cruiser Colorado, will be built later by the Cramps. Both vessels are ordered to be built with two nine-inch batteries, two six-inch batteries, and two 12-inch main batteries. The general dimensions are: Length on the M. and L. up to 111-1/2 feet, beam 34 feet 6 inches, draft 12-1/2 feet, displacement 12,000 tons.

SUMMARY OF IMPORTANT NEWS.

Philippines. Five hundred insurgents surrender in the island of Samar. Page 2. American officers think it would take years to work out Corbin's economic plans. Page 2.

Federal Government. The precept in the Schley case has been sent to the court of inquiry. Page 1. Congressmen Herndon refused to recommend more forest reserves until the land law is amended. Page 4.

Foreign. Americans in Berlin regard the revised German tariff bill as bad for the United States. Page 5. Ministers of powers accept China's indemnity offer. Page 5.

Rebels are pillaging and killing in several parts of Manchuria. Page 5. George Kennan, minister to Russia, has been ordered to leave Russia. Page 5.

Domestic. Light rains fell in the corn belt. Page 2. McKeesport employers present ultimatum to skilled workers. Page 2. Robert Fouburgh, indicted for the murder of a sister, was acquitted by the court. Page 3.

Sport. Crecelius trotted a mile in 2:02, breaking the world's record. Page 3. Portland crew won the junior four-oared race at Victoria. Page 3.

Pacific Coast. San Francisco striking teamsters attack non-union men in the streets. Page 4. Salmon run continues very heavy on the lower Columbia. Page 4. All liquor dealers have left Astoria. Page 4. Major-General S. R. M. Young visits the Department of the Columbia. Page 4.

Forest fires are raging around Grant's Pass. Page 4. Portland market quotations. Page 11. New York stock market quotations. Page 11.

Eastern wheat market declined a fraction of a cent. Page 11. Quiet day in New York stock market. Page 11.

Marine. Steamship Indravelli arrives in port. Page 10. Three more ships chartered for Portland loading. Page 10.

Portland and Victoria. Suit to be begun to test the constitutionality of the law authorizing counties to sell property bid in for delinquent taxes. Page 1. The proposed Mabton branch of the Northern Pacific is a step in a cut-off to Portland. Page 1.

R. Onffroy, promoter of the salmon trust, due in Portland today to close the deal. Page 12. Ninety-four members of New York German societies here on their way home from San Francisco. Page 8. Goward, of Victoria, will play Goss for the tennis championship of Oregon. Page 10. Rivers and harbors committee returns to Portland. Page 9.

SENT TO THE COURT Navy Department Finishes Precept in Schley Case.

MANY POINTS ARE COVERED

Schley's Conduct. During the Operations in West Indian Waters, Ordered Investigated—Admiral Cervera May Be a Witness.

WASHINGTON, July 26.—The precept to the Schley board of inquiry, which the Navy Department had been preparing for several days, was given to the public

WILL SOON BECOME GOVERNOR OF PORTO RICO.



WILLIAM H. HUNT.

WASHINGTON, July 26.—William H. Hunt, the present Secretary of Porto Rico, will succeed Charles H. Allen as Governor of that island in September. White President McKinley has announced the selection of Mr. Hunt, the appointment cannot be made until the expiration of the leave of Governor Allen, about two months hence. William Hunt was born in New Orleans, November 5, 1857, and is the fourth son of the late William Henry Hunt, of Louisiana, who was Secretary of the Navy in the Cabinet of Presidents Garfield and Arthur and Minister to Russia. Judge Hunt received his education at Yale College, but on account of ill health did not finish his course. In 1886 Yale conferred upon him the honorary degree of master of arts. When he was 27 years of age he was elected Attorney-General of the Territory of Montana. He subsequently moved to Helena, in 1888, and was elected a member of the Legislature, where he served as chairman of the judiciary committee. He was a member of the constitutional convention in 1884, which framed the constitution of the state when it was admitted to the Union, and also held important judicial positions in Montana. When Governor Allen went to Porto Rico he was requested by President McKinley to become Secretary of the Island and to assist Governor Allen in organizing the new civil government.

this afternoon. It is a document addressed to Admiral Dewey, as president of the court, instructing him concerning the matters to be investigated. While it directs that the "entire matter" of Admiral Schley's conduct, during the operations in West Indian waters, shall be investigated, it also directs that the words employed by Admiral Schley in his letter to Secretary Long, it also selects certain distinctive acts of the Rear-Admiral concerning the facts and propriety of which it calls for particular investigation. The points cover, briefly, Admiral Schley's delay with the flying squadron at Cienfuegos, the slowness of his passage toward Santiago after leaving Cienfuegos, the retrograde movement toward Key West, the effectiveness of the bombardment of the Spanish fleet at the range used in the reconnaissance of May 31, the state of the coal supply on various ships when he telegraphed the department he would return to Key West; the loop of the Brooklyn at Santiago, the slowness of his report, and matters relating to the controversy between him and Commander Hodgson over the alleged colloquy which is said to have taken place aboard the Brooklyn when the loop was made during the naval engagement off Santiago.

With the exception of the last two counts, the others practically cover the entire of Admiral Schley's conduct, made by Secretary Long to the Senate, which the Senate characterized as "Schley's reprehensible conduct."

One of the important points in the precept is the direction to the court to report, in its conclusions, "all the pertinent facts which it may deem to be established, together with its opinion and recommendations in the premises."

Secretary Long made the following statement about the precept: "It is simply an enumeration of the facts that have been, to use the applicant's own words, 'formally, and suggested to the court as matters which have been under discussion, and, as such, should be inquired into by them. They are enumerated in accordance with the general rule that when inquiry is made, the person interested should have notice beforehand, as far as possible, of all the specific things about which inquiry is likely to be made."

Judge-Advocate-General Lemley, who was designated as Judge-Advocate of the court today, will now proceed with the preparation of his case. He will examine all documents and prepare a list of witnesses. The court will probably sit for several months, more than likely until after Congress convenes in December.

Judge Lemley has not yet decided who the witnesses before the court shall be. They may be taken from the Navy, or from civil life, but undoubtedly some of the newspaper correspondents will be called in the case. It is even probable, in view of the recently published interview of Captain Dulaite, of the Spanish Navy, that he and Admiral Cervera himself will be called, if Admiral Schley

desires it. Of course the Court of Inquiry has no authority to compel their attendance, and it is more than doubtful whether they would respond to a summons, but the opportunity will be afforded.

No Word From Kimberley. No word has been received from Admiral Kimberley, who, it was reported, had written to the department, saying his health made it inadvisable for him to attempt to serve on the court. He will not be officially notified of his selection as a member of the court until he receives the precept, which was mailed to him today. A copy of the precept will also go to Admiral Dewey, and to Rear-Admirals Benham and Schley. The precept is as follows:

To Admiral George Dewey, U. S. N., Washington: Upon the request of Rear-Admiral Winfield S. Schley, U. S. N., made in a letter dated July 23, 1901, copy herewith, a Court of Inquiry, of which you are hereby appointed president, Rear-Admirals Lewis A. Kimberley and Andrew E. K. Benham, U. S. N., members, and Captain Samuel C. Lemley, U. S. N., Judge-Advocate-General, Judge-Advocate, is hereby ordered to convene at the Navy Department, Washington, D. C., at 1 o'clock P. M., Thursday, the 13th day of September, 1901, or as soon thereafter as may be practicable, for the purpose of

DIRECT TO PORTLAND Northern Pacific Project to Get Down Columbia.

MABTON BRANCH FIRST STEP

How Observing Railroad Men View the Enterprise—A Feasible and Reasonable Scheme Warranted by Situation of Affairs.

There is a belief among railroad men that the move of the Northern Pacific into the Klickitat country from its main line in the Lower Yakima Valley is a step toward the fulfillment of the promise to get down the Columbia to Portland. Of course no official declaration to this effect has been made, but the logic of the situation points to this as a probability. No secret is made of the fact that a Northern Pacific surveying crew is laying out a line from the main line of the Northern Pacific to the mouth of the Columbia, and the surveys are a 15-mile branch will be built this season. There is little doubt that the Washington & Oregon, which is building between Kalama and Vancouver, is also a Northern Pacific enterprise. President Mellon has said repeatedly that the Northern Pacific would build down the Columbia if it should not get cracked over the head. The circumstances being so favorable for making that promise a reality, it is believed that the operations in Klickitat County mean a direct cut-off to Portland for the Northern Pacific. Mabton is a station on the main line of the Northern Pacific at the extreme northeast corner of the Yakima Indian reservation. From that point southwest for several miles the country is very unpromising from an agricultural standpoint, but it is an easy course for railroad building. Then the Klickitat country, the Horse Heaven country and the valley of the Klickitat follow successively to the southwestward. Goldendale, the county seat of Klickitat and the chief town between North Yakima and The Dalles, is about 40 miles from Mabton. The avowed purpose at present is to build only about 15 miles from Mabton. That, however, would hardly reach the productive country and there could be no purpose in building a feeder to serve a desert, therefore it is presumed that the line will be extended farther, and it must go there and halt. If it should go there and halt, it would not be well for Portland or Klickitat County. The roundabout route by which the Northern Pacific would have to come to Portland would be so expensive that a great deal of the produce of the Klickitat Valley would probably continue to come to Portland. It is therefore believed that the improvement in the facilities leading this way.

The Columbia & Klickitat Railway Company was incorporated some three years ago for the purpose of building a railroad from Lytle, on the north bank of the Columbia at the mouth of the Klickitat River, up the last named stream to Goldendale, a distance of about 45 miles. Right of way for the entire distance was obtained. Half the distance was through timber and workmen were put at work clearing the way. Nearly \$15,000,000 was spent for the line and the cost of the survey was withdrawn only two months ago. But little of the right of way remains to be cleared—two or three miles, it is said. E. E. Lytle, who is president of the Columbia & Klickitat, is also president of the Columbia & Klickitat. He says this company is in shape to resume construction at a moment's notice if conditions shall warrant or make necessary such action. The Columbia & Klickitat Northern Pacific shall really start at a feeder into the Klickitat country there is no doubt that his company will rush into the Klickitat to build the line. This short rail line would bring the traffic of that valley to the Columbia for transfer to steamers for Portland. This would be the short and quick route to the coast and would have manifest advantage over a competitive route around by Mabton and over the Cascade Mountains.

But actual observers do not regard the Columbia & Klickitat as an unprotected orphan in the railroad world. They profess to see in it an aid rather than a hindrance to the accomplishment of the Northern Pacific's purpose to get a direct route on a water grade to Portland. New York is presumed to control the Columbia & Klickitat at least as easily as it does the Columbia River. It is not supposed that purely local capital would be used in building its Goldendale line. Therefore, the what ones say, when the proper time shall come it will be found that the Columbia & Klickitat will be safely out of the way of the Northern Pacific and the latter company will find a right of way to the mouth of the Klickitat. The internal processes by which this is to be brought about nobody on the outside can quite fathom, but there is an abiding faith that this result will come in due course of time. A year ago this would have been a most ridiculous theory, but great changes have taken place in railroad affairs since then, and the scheme to build the Northern Pacific to Portland over this route is now deemed by shrewd observers to be not only feasible and reasonable, but to a high degree probable of consummation.

From the mouth of the Klickitat the way is easy. The Columbia Valley Railroad Company has done some work there and secured some rights, but none that could not be used by the Northern Pacific. If the ruling powers in New York should say so, it would be a water grade to Vancouver, and the line would, it is said, be less difficult to build than was that of the O. R. & N., on the opposite bank of the stream. A Northern Pacific line down the Columbia to Vancouver would then join the road now under construction up from Kalama. There a bridge would be built, and six miles of track south of the bridge would get entrance to the heart of the City of Portland. Thus the Northern Pacific would get a bridge across the Columbia for use of its Portland-Vancouver line, and do away with the cumbersome ferry, and it would also be on even ground with any other competitor for a large volume of traffic to and from Portland which it can now handle at great disadvantage or not at all. It would get to Pacific tidewater without rising half a mile into the sky to cross a mountain range.

This route to Portland from the interior Columbia Valley is regarded as in every way more desirable than the route selected for the Columbia Valley line, clinging to the north bank of the river all the way down from Wallula. The eastern end of Klickitat County is a dry, unproductive plain of very light soil. It would yield no local traffic. On the other hand, there is hardly a mile of the route out-

(Concluded on Second Page.)

(Concluded on Eighth Page.)