

DAVIS' BOND IS NO GOOD

OUTLAWED BY THE STATUTE OF LIMITATIONS.

Circuit Court Has Decided Against the State—Case Will Be Appealed.

SALEM, Or., Nov. 25.—George G. Bingham and E. P. McCormack, of this city, have secured a writ of habeas corpus to which they were entitled for G. W. Davis, former State School Land Clerk. A shortage in Davis' accounts of about \$20,000 was discovered by the State relative investigation. Action was instituted by the state against Davis' bondsmen to recover the amount of the bond, but Circuit Judge Burnett dismissed the action this morning on the grounds that the statute of limitations bars its hearing in the courts of the state. The case will be appealed to the Supreme Court.

Judge Burnett's statement of facts and conclusions of law are as follows: "By consent of the parties and the court this cause was heard October 8, 1901, before the court, without a jury, on the complaint, and a stipulation as to the facts in the case, the State of Oregon, as plaintiff, appearing by D. R. N. Blackburn, Attorney-General, and J. N. Hart, District Attorney, and the defendants appearing by George G. Bingham and E. P. McCormack, attorneys. The court heard the arguments of counsel, reserved its judgment, and now, being fully advised, finds upon the complaint and said stipulation of facts the following conclusions of law:

"First—Whatever liability was ever incurred by the defendants, or either of them, by reason of any of the facts set forth in the complaint, or the said stipulation, accrued to the State of Oregon, as the State of Oregon was the proper party plaintiff to commence and maintain an action for the delinquencies of the defendant Davis mentioned in the complaint and stipulation.

"Second—The action of the Legislative Assembly set forth in the stipulation does not constitute an accounting or settlement of the account of the defendant Davis in respect to his custody or handling of the money mentioned in the complaint and stipulation, and the State of Oregon was not by said action of the Legislative Assembly estopped to allege that said Davis had not properly accounted for and paid over the money coming into his hands, or to maintain an action against the defendants on account of the delinquencies of the defendant Davis mentioned in the complaint and stipulation.

"Third—The cause of action stated in the complaint is one created by statute and accrued to the State of Oregon prior to the first day of January, 1899.

"Fourth—The cause of action being commenced within six years from the time when the cause of action stated in the complaint accrued to the State of Oregon, it is barred by the statute of limitations of this state.

"Fifth—Judgment should be rendered against the State of Oregon and in favor of the defendants, dismissing this action."

In dismissing the case, Judge Burnett rendered the following conclusions of law: "The bond of Davis, sealed instrument though it be, contains no special covenant on the part of the sureties that they themselves will pay to the State of Oregon the money collected by the State of Oregon, or that they will be held under this bond to a greater or more extended liability than their principal irrespective of whether it be a sealed or unsealed instrument. They are entitled to urge any defense that the principal can interpose; and when the statute of limitations runs against the statutory liability of the principal, it also runs in favor of the sureties and furnishes them with an effective defense.

"The doctrine that the liability of a public officer is statutory and not contractual; that the obligation of sureties who are official bond is only collateral to his liability and that the statutory liability of the officer is barred by the statute of limitations, the sureties are also released, irrespective of the form of their undertaking, sealed or unsealed, is supported by a long line of adjudications from Davis vs. Shad, decided in 1838, down to Sonoma County vs. Hall, decided in the present year, and must be regarded as settled.

"It follows that the plaintiff's cause of action in this proceeding, however meritorious it may otherwise be, is barred by the statute of limitations, and that judgment must be entered for the defendants."

There is pending in the equity department of the Marion County Circuit Court another action in relation to the \$20,000 delinquency of Mr. Davis. It is a suit for an accounting, brought by the State of Oregon against Sylvester Pennoyer, George W. McBride and Phil Metcham, former Governor, Secretary of State, and State Treasurer, respectively, who constituted the State Land Board at the time the delinquency occurred. The case will be argued before Judge Boise on Monday, December 3.

CAPITAL CITY ELECTION.
Non-Partisan Candidates Named for Municipal Offices.
SALEM, Or., Nov. 25.—At a meeting of members of the non-partisan movement in the city Police Courtroom tonight, candidates for Aldermen from the four wards were named to be voted for at the annual city election. The candidates named are: First Ward, Thomas Burrows (nominating); Second Ward, Herman Pohl; Third Ward, G. Stolz; Fourth Ward, P. L. Bole, Jr., president at the meeting, and Max G. Buren was secretary. Regular city officers were elected for biennial terms last December, and only four Aldermen are to be elected at this time. R. P. Bole, Jr., president at the meeting, and Max G. Buren was secretary. The meeting adjourned until next Friday evening, when a public meeting will be held for the ratification of the work of the committee. The regular city officers have not yet taken any steps to place a ticket in the field, and it is not probable any opposition ticket will be named.

HOPE FOR LONDON.
Fooled Product Will Soon Be Shipped—Will Be 3500 Cases.
SALEM, Or., Nov. 25.—The Oregon Hop-growers' Association is shipping its pool of hops on consignment to London. The pool has not been entirely formed, but Secretary Wincanley estimates that it will contain about 3500 cases. The association has not yet selected a representative to accompany the hops to London. The agent, M. H. Durr, expects to set direct to the London brokers. The board of directors of the association will select a representative soon.

WOOLGROWERS MEET.
Favor Such Reciprocity as Will Protect Their Interests.
PENDLETON, Or., Nov. 25.—The United States Woolgrowers' Association held a special meeting this evening and elected 12 delegates to the National Woolgrowers' Association, which convenes in Chicago the first week in December. The meeting was well attended and interest centered in the fact that woolmen here desire to go on

record at Chicago against the issue of public range lands by the Federal Government and in favor of an enactment by Congress compelling insurance to be brand all goods containing shoddy. The association also favors Congressional reciprocity such as will protect in every market the interests of woolgrowers. Messrs. M. B. Gwyn, secretary of the Idaho Woolgrowers' Association, was present.

TO GET AN EASTERN MARKET.

Pacific Coast Lumber Manufacturers May Combine.

SEATTLE, Nov. 25.—It is rumored that a combination of Pacific Coast lumber manufacturers is to be formed which will control the entire output of the Coast. It is said that the Pacific Coast Lumber Manufacturers' Association will control the combination. The cause of the movement is said to be the fact that freight rates eastward are so great that Western manufacturers are unable to put their products into Eastern states with profit. The proposed plan of the lumbermen is to make themselves so strong that they can control the product of the Coast, sending it East by a fleet of lumber vessels under the name of the Coast Lumber Manufacturers' Association, states that unless such a plan is formulated Western lumbermen will be unable to do business.

Astoria Marine News.

ASTORIA, Or., Nov. 25.—Captain Reynolds, of the American bark Harry Morse, received instructions from the owners this afternoon to proceed to the Eastern Lumber Company's mill at Portland and load lumber for San Francisco. This indicates that the offer of the Alaska Fishermen's Packing Company to charter the bark for next season has been accepted. It was understood that otherwise she would load lumber for Manila.

As the steam schooner Signal was coming down the river last night she had a slight collision with the German bark Renette. Some of the stays of the mainmast of the schooner were carried away, but the accident did not prevent her from starting for San Francisco.

When the steamship Guernsey arrived this morning two members of her crew were taken to the hospital. One was recovering from an attack of fever and the other was suffering from a complication of diseases. Neither is in a serious condition. A man was also taken to the hospital from the steamship Tiger. He had been in a fight on board and was badly bruised.

The Columbia River Packers' Association let a contract to Richard Leathers today for the construction of a steamer to be used as a tender for the association's Bristol Bay, Alaska, cannery.

Samed for City Offices.

OREGON CITY, Nov. 25.—A convention was held here tonight to nominate officers for the city election. One hundred and twenty-five voters were present. J. Eugene Hedges was nominated for Mayor. Mr. Hedges made a stirring speech, in which he urged the voters to elect a man in a fight on board and was badly bruised.

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TEN VERDICTS AFFIRMED

DECISIONS RENDERED BY THE SUPREME COURT.

Liability Defined of Employer for Safety of Employee—Ashland Saloon Cases Decided.

SALEM, Or., Nov. 25.—In addition to the Lockwood primary law case, the Supreme Court rendered decisions today as follows:

Martha Miller, administratrix of the estate of Frederick J. Miller, deceased, respondent, vs. Isaac, defendant, and several plaintiffs, from Multnomah County, Alfred P. Sears, Judge, affirmed. Opinion by Bean, C. J.

This was an action brought by Mrs. Miller, as administratrix of the estate of Frederick J. Miller, deceased, respondent, vs. Isaac, defendant, and several plaintiffs, from Multnomah County, Alfred P. Sears, Judge, affirmed. Opinion by Bean, C. J.

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NO LAW VIOLATED.

Union of Railroads is Simply a Matter of Business.

SPOKANE, Nov. 25.—There will be absolutely no change in the management and operation of the Great Northern and the Northern Pacific Railroads under the Northern Securities Company, said Henry White Cannon, president of the Great Northern Bank of New York, who as a director of the Great Northern and the O. R. & N. Companies, is close to the counsel of President James J. Hill and E. H. Harriman, of the Harriman syndicate.

The Northern Securities Company is purely a financial proposition, and has no existence outside of New York and New Jersey. It does not seek to control the operation of the roads, the company stock of which it owns, nor to dictate its policy as to rates. Both the Great Northern and Northern Pacific will continue to have a president, a board of directors and other executive officials, and will be operated distinct from each other and distinct from the Northern Securities Company.

There is absolutely no call for remedial legislation, as no law, anti-trust, state or National, has been violated. It resolves itself into the simple proposition that if a man owns a suit of clothes, a watch and a horse and wagon, there is no violation of law, moral or otherwise, if he should become the owner of another suit of clothes, a watch and a horse and wagon.

Mr. Cannon is making his annual trip over the Great Northern Railway, and is accompanied by E. P. Duncanson, "Mr. Duncanson," the former's guest. They left this evening for Seattle, accompanied by J. D. Farrell, president and general manager of the Pacific Coast Coast Company.

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TEACHERS ARE IN SESSION

EASTERN OREGON ASSOCIATION HAS CONVENED.

Two Hundred and Fifty Educators Are Present—Officers to Be Elected Today.

PENDLETON, Or., Nov. 25.—The third annual convention of the Eastern Oregon State Teachers' Association, began this morning for a session of three days. President E. B. Conklin, of Pendleton; Vice-President E. B. Bragg, of Union; Secretary James B. Beattie, of Pendleton; Treasurer Mrs. A. E. Vanhook, of La Grande, and J. F. Nowlin, of Pendleton, of the executive committee, were present. Two hundred and fifty teachers and prominent educators attended.

Organization was deferred until tomorrow. The convention opened with an address by Annie E. Knox, of Portland, on "Pictures and Their Use in the Schoolroom." She was followed by S. Y. Gilliam, of Milwaukie, Wis., editor of the Western Teacher, who spoke on "Pedagogical Methods." This afternoon, Miss Knox treated "Illustrative Drawing," using the blackboard, and Mr. Gilliam took up the subject, "Geography." This evening the Courtroom was crowded. The following was the programme: Address of welcome, F. L. Forbes, president Pendleton Academy; response, E. B. Bragg, principal of public schools, Union County; principal annual address, E. B. Conklin, principal Pendleton public schools. Lecture, S. Y. Gilliam, "Where Are We At?"

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