

TAX TITLE FAILED

Lien of Prior Mortgage Not Cut Off.

LAW PRIOR TO 1901 CONSTRUED

Possession of Real Property by Tenant Puts Inquiring Purchaser Upon Inquiry as to Title of His Landlord.

Under the laws in force in this state prior to 1901 a tax sale of real property did not cut off the lien of a mortgage given before the assessment and levy of taxes.

The possession of a tenant is sufficient to put an inquiring purchaser of real property upon inquiry concerning the tenant's interest and title. If such an inquiring purchaser fails to make inquiry, he is charged with notice of the title of the tenant's landlord.

SALEM, July 20 (Special).—The Supreme Court today handed down decisions in three appealed cases, in each of which the decision of the lower court was affirmed. The decisions, in brief, are as follows:

Middleton vs. Victor Land Company. J. H. Middleton, respondent, vs. F. M. Moore, defendant, and Victor Land Company, appellant, from Multnomah County, Alfred F. Sears, Jr., Judge, affirmed. Opinion by Justice Wolcott.

This was a suit by plaintiff to foreclose a mortgage. The Victor Land Company claimed to be owners of the land by virtue of a tax sale which the company claimed to have made in 1897 and 1898. The mortgage was given by the defendant in 1897. The facts are that in July, 1897, F. M. Moore, being the owner of lot 6 block C, Cherrydale Addition to Portland, owned the property. He was trustee to secure the payment of four promissory notes of \$175 each.

In April, 1897, Wiley assigned the notes and mortgage to Middleton. Moore sold the lot to the Victor Land Company, and this suit was brought to foreclose the mortgage. The Land Company answered that in 1892, being prior to the time they received the deed from Moore, the Sheriff of Multnomah County executed and delivered to the company a tax deed to the lot in question in pursuance of a sale for delinquent taxes, county, school and Port of Portland taxes for the years 1892 and 1893. The lower court sustained a demurrer to the defense and entered a decree of foreclosure.

The issue presented in the Supreme Court was whether under the law in force in 1897 and 1898, a tax deed cut off the lien of a mortgage executed anterior to the assessment and levy of the tax for non-payment of which the property was sold. The opinion of the Supreme Court cites section 373 of Hill's code, as amended in 1892, and sections 270, 274, 289 to 295 and other sections in force in 1897 and 1898.

It is shown that under the statute the sale of real property conveyed to the purchaser "all the estate or interest therein of the owner" that prior to 1897 the statutes of the state made the tax lien upon the property and the Sheriff's tax deed conveyed an "absolute title," but in that year the Legislature undeniably intended to limit the effect of the tax deed to the tax system, by foregoing any lien for the taxes assessed and selling only in the process or interest of the owner, in the event of the enforcement of the tax.

The same policy prevailed until the act of 1901, with which we have nothing to do. The opinion again says: "By eliminating the provision for a lien and declaring that the effect of the tax deed was to convey an absolute title in fee simple, but to convey the estate or interest of the owner, the policy of the Legislature is well indicated that the derivative title to the real estate policy prevailed until the act of enforcement of delinquent taxes. The sale and conveyance in the present instance, therefore, did not operate to cut off or deprive plaintiff of his mortgage lien."

Randall vs. Lingwall. Bessie Randall et al. respondents, vs. C. G. Lingwall, appellant, from Marion County, R. F. Bole, Judge, affirmed. Opinion by Justice Wolcott.

This was a suit to quiet title. The plaintiffs are the widow and daughter, of O. P. Randall, who died in 1888. In 1888 O. P. Randall bought the property in question and soon after conveyed it to his brother, T. J. Randall, who had his deed recorded. In 1891 T. J. Randall reconveyed the property to O. P. Randall, but the deed was not recorded. The plaintiff took possession and in 1892 leased the property to G. G. Gans, who continued in actual possession until the commencement of this case. O. P. Randall died in 1898, his brother discovered that the deed to the property had not been recorded and he immediately claimed title and demanded that Gans pay the rent to him. Gans complied by paying for the months of March and April in order to avoid controversy, but without informing the representatives of O. P. Randall. In April, 1898, T. J. Randall sold the property to Lingwall, who before purchasing had examined the records and saw Gans in possession but made no inquiry of him as to his title or interest in the property. In December, 1898, O. P. Randall died, and upon this state of facts the Supreme Court holds that the possession of Gans was sufficient to put Lingwall upon inquiry as to his record and interest, and inquiry would presumably have disclosed the title of O. P. Randall and his representatives. It is also held that Gans did not become a tenant of Lingwall, but by reason of his having paid rent to him for two months, for the reason that he had not notified the O. P. Randall heirs of his intention to cease to pay rent to them, nor had he taken a lease from T. J. Randall.

C. C. Clime, respondent, vs. L. J. Shell, appellant, from Multnomah County, M. C. George, Judge, affirmed. Opinion by Justice Wolcott.

This was a suit to foreclose a mechanic's lien. On appeal no legal questions were involved but after a thorough examination of the evidence the decree of the lower court is affirmed.

PASS ON FOUR CASES. Washington Supreme Court Gives Interesting Decisions.

OLYMPIA, Wash., July 20 (Special).—The Supreme Court today in a decision lays down the rule that except in cases of felony an acquittal for a minor offense included in a greater bars a prosecution of the greater.

The case came up from Lincoln County. On August 9, 1894, an information was filed against P. Durbin, charging him with assault and battery on Thomas Amery. He was arrested and bound over for trial. Subsequently a new information was filed rectifying the same acts, but charging him with an attempt to commit mayhem. On motion of the Prosecuting Attorney the first action was dismissed on the ground that "another charge had been placed against the defendant." He was tried under the second charge and convicted of assault and battery. Under the rule above given the

FATAL NOME HOTEL FIRE

COOK POURED COAL OIL ON SMOLDERING COALS.

Three People Lost Their Lives, Including a Millionaire Contractor From Pittsburgh.

SEATTLE, Wash., July 20.—A special via steamer Meteor from Nome this morning says: Nearly a block of charred and blackened ruins mark the site of what were the Golden Gate Hotel and adjacent buildings, and the public today has been curiously watching the operation of the sledging of the debris for the gold, silver and coin that were lost in the fire. More painful finds, however, have been the remains of three human victims, Mr. and Mrs. R. M. Hayes and Sherman Grigg, all connected with the Nome Exploration Company. Mr. Hayes was a prominent millionaire pipe contractor from Pitts-

burgh, Pa., who had come here to lay the exploration camp on oil pipe lines, and the entire absence of wounds, dispelled this suspicion. The verdict was that he died from natural causes. He had experienced heart trouble and rheumatism. Just prior to the fire he had been suffering from a cold, and when found was lying where the fire had passed over, though he was not burned. He was 72 years of age, and had been in the city since 1898 in Idaho, Washington, Oregon and Alaska. His latest operations were near Pierce City, Idaho.

SALEM NO PLACE FOR THUGS. Suspicious-appearing Strangers Not Allowed to Remain.

SALEM, Or., July 20 (Special).—If the city had no place for thugs, the result in the criminals being driven out of the city, the seekers for pastures green will find Salem no place for rest. It is the policy of Chief of Police Gibson not to permit suspicious-looking persons to remain in the city. He has issued orders to the police force to keep a watchful eye on the streets, and to report to him any suspicious-looking persons who are seen hanging around town. He has also ordered the police force to keep a watchful eye on the streets, and to report to him any suspicious-looking persons who are seen hanging around town.

SALEM'S POPULAR LOAN. Bonds Will be Issued in Small Amounts and Sold to the People.

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BICYCLE WAR IN SALEM. Wheelmen Will Protest Against the Passage of Stringent Ordinance.

SALEM, Or., July 20 (Special).—A very lively meeting of the Salem City Council is expected to take place at the City Hall tomorrow evening. The new ordinance, which is being considered, will prohibit the use of bicycles on the sidewalks, and a number of bicycle-riders will be present to protest against it. The proposed ordinance provides, among other things, that no bicycle shall be ridden on the sidewalks, and that no bicycle shall be ridden on the sidewalks, and that no bicycle shall be ridden on the sidewalks.

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COOS BAY CLAM INDUSTRY. Product Has a Wide Distribution on the Coast.

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RANCHER'S BODY FOUND

Yamhill Farmer Had Been Dead Several Days.

TEN YEARS THE SENTENCE

PERJURERS SMITH AND LANE SENTENCED AT ASTORIA.

ASTORIA, Or., July 20.—Josiah S. Smith, alias John R. Rodgers, and John Lane, alias Charles R. Lane, alias John L. Beck, alias John E. Myers, alias John Anderson, were this afternoon sentenced by Judge McBride, of the Circuit Court, to serve ten years each in the penitentiary. They are the men who conspired with the late John L. Beck to defraud the City of Astoria. The suit was to recover \$3000 damages for injuries to Beck's right kneecap, which was broken by a horse falling through a hole in the street in this city. A verdict of \$3000.50 was obtained on the second trial, but before the judgment was paid the men were arrested in California, where they live, and charged with perjury. On Saturday night Smith was convicted and an about an hour later Lane pleaded guilty.

Both motions were overruled without argument. Attorney Donovan then made a plea for clemency, reciting the previous good character of the defendant, telling of the trouble he had had in losing all his property, of his extreme poverty, and the serious illness of his wife. Smith, when asked if he had anything to say, replied: "I don't deny I have. I will leave it all to your judgment."

The court then proceeded to pronounce judgment, saying in part: "The remarks I made in the other case will equally apply to this one. This defendant is a man of low character, and his conduct in this case is a disgrace to the community. He is a man who has no regard for the law, and who is willing to do anything to get out of trouble. He is a man who is a danger to the community, and who should be kept in the penitentiary for ten years."

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PIONEER OF LINN COUNTY

ALBANY, Or., July 20 (Special).—Mrs. Mary Jane Thompson, who died at her home in Albany, July 18, was born February 11, 1852, in Newton County, Missouri. The daughter of Mercer Thompson, that year her parents crossed the plains to Oregon, settling near Roberts Bridge in the town of Astoria. She was married November 2, 1874, to R. A. Stafford, who, with two daughters, Mrs. Dr. Tilton, of Ashland, and Mrs. E. L. Case, of this city, survive her. Her husband and sisters were: L. J. Thompson, of Astoria; V. J. Thompson, of Astoria; and George L. Thompson, of Albany. Mrs. Thompson, of Edw. Wash. Mrs. Taylor, of Montecano, Wash. and Mrs. Alice Church, of Portland.

She united with the M. E. Church when 8 years of age, and was always a faithful and consistent member, living an unselfish life, not only in her own home, but among her neighbors, beloved by all fortunate in knowing her. Her life was a useful one, and she will long be remembered for her many acts of love and kindness.

The late Mrs. R. A. Stafford.

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Thirteen Heirs to Gray Estate. EUGENE, Or., July 20 (Special).—Letters of administration were filed in the office of the County Clerk in the estate of the late Isaac Gray to be \$525,000. There are 13 heirs.

SALEM, Or., July 20 (Special).—The Oregon Saturday night, and the entire absence of wounds, dispelled this suspicion. The verdict was that he died from natural causes. He had experienced heart trouble and rheumatism. Just prior to the fire he had been suffering from a cold, and when found was lying where the fire had passed over, though he was not burned. He was 72 years of age, and had been in the city since 1898 in Idaho, Washington, Oregon and Alaska. His latest operations were near Pierce City, Idaho.

SALEM, Or., July 20 (Special).—If the city had no place for thugs, the result in the criminals being driven out of the city, the seekers for pastures green will find Salem no place for rest. It is the policy of Chief of Police Gibson not to permit suspicious-looking persons to remain in the city. He has issued orders to the police force to keep a watchful eye on the streets, and to report to him any suspicious-looking persons who are seen hanging around town.

SALEM, Or., July 20 (Special).—Proposed bonds to the amount of \$30,000 are due, and a new issue will be necessary to pay the same. The bonds are to be sold in small amounts, and they will be sold to small investors, so that the interest will be able to buy them. When the last issue was made the city was offered a premium for the bonds if the hotel estimates. The offer was refused by the Council preferring to have the bonds owned and held by residents and taxpayers of Salem. That plan of making a loan proved to be very popular with the people.

SALEM, Or., July 20 (Special).—A very lively meeting of the Salem City Council is expected to take place at the City Hall tomorrow evening. The new ordinance, which is being considered, will prohibit the use of bicycles on the sidewalks, and a number of bicycle-riders will be present to protest against it. The proposed ordinance provides, among other things, that no bicycle shall be ridden on the sidewalks, and that no bicycle shall be ridden on the sidewalks.

PACIFIC COAST DEAD. Oregon Sanders. SAN JOSE, CAL., July 20 (Special).—San Jose, a leading attorney of Oregon, and one of the prominent Republican politicians of the state, died in this city yesterday. He was familiarly known as the "Spotted Tail" of Oregon. He was a native of the state, and had lived in this city for many years. He was a member of the Oregon bar, and had been practicing law in this city for many years.

COOS BAY CLAM INDUSTRY. Product Has a Wide Distribution on the Coast.

MARSHFIELD, Or., July 20 (Special).—The Coos Bay clam industry, under the management of F. S. Dow, is becoming quite a factor among the industries of the bay. The clams are packed in cans, and are frozen. It is claimed that freezing improves the flavor. Upwards of 600 cases have already been shipped to Wells, Fargo & Co., at San Francisco, who act as distributors for California, Arizona, Nevada and New Mexico. The company also puts up clam juice in cans, which is packed on ice for shipment. The industry is yet in its infancy, but it is expected that it will show great activity.

HEAVY LOSS TO TOUCHET FARMER. PENDELTON, Or., July 20.—The barn, a stack of headings and a number of farm implements belonging to Edward Retchford, a farmer residing a short distance east of Touchet, Wash., were destroyed by fire Saturday evening. The loss means several hundred dollars, without any insurance. It is believed the fire was started by some of the heading crew carelessly dropping some matches.

Attorney-General Will Not Object. SALEM, July 20 (Special).—Attorney-General Crawford, upon whom notice was served in the matter of the application of Henry St. Rysner for reinstatement as an attorney in the courts of this state, says that he will offer no objection to the granting of the application.

Thirteen Heirs to Gray Estate. EUGENE, Or., July 20 (Special).—Letters of administration were filed in the office