

OPINIONS OF STATE COURT

The Supreme State Tribunal Hands Down Six Decisions—One Reversal.

INCLUDES R. D. HUME CASE

Two Appeals Against Railroad Companies—One Against Oregon Navigation Company.

The Supreme Court yesterday handed down six decisions. In one of these Chief Justice Bean reversed the judgment of Judge William Galloway in an appeal taken from the Circuit Court for Marion county.

H. M. Hendershot, respondent, vs. H. L. Sagawold, appellant; appeal from Circuit Court for Marion county, William Galloway, judge; reversed in an opinion by Chief Justice Bean.

The plaintiff brought this suit for an accounting and for permission to redeem from a void tax sale. It appears that in 1895 the plaintiff was the owner of the real property in controversy and that it was regularly assessed for state and county taxes that year. The taxes became delinquent and in December, 1896, the property was sold by the sheriff under a warrant for the collection of delinquent taxes to one J. K. Marley, who subsequently assigned his certificate to P. H. Marley, and on December 12, 1898, the sheriff delivered to him a tax deed. Therefore Marley conveyed the property to the defendant.

In the complaint it is alleged that all the proceedings leading up to the tax sale are null and void because of certain defects and that the defendant is and has been since December, 1901 in possession of the property holding it under such deed and that his use and occupation is reasonably worth \$850 and that the plaintiff is willing to repay all sums paid by him or his predecessors in interest on account of such tax sale.

To the complaint a demurrer was interposed, principally on the ground that it does not state facts sufficient to constitute a cause of suit because it affirmatively alleges that the plaintiff was at the time of the commencement of the suit, in possession of the property in controversy. The demurrer was overruled and a decree entered in favor of the plaintiff from which the defendant appealed.

According to the opinion it is held that "the statute authorizes any person claiming an interest in real property, not in actual possession of another, to maintain a suit against another who claims an estate or interest therein to adverse to him for the purpose of determining such conflicting or adverse interest. A suit can not be brought under this statute when the property is in the possession of another, because in such case there is a plain, adequate and complete remedy at law. "It is incumbent upon the plaintiff in such a suit to allege and prove, if controverted, that the property is not in possession of another, otherwise he will be relegated to his remedy at law. . . . Real property which has been sold for taxes, may be redeemed at any time before execution of a tax deed, by payment to the tax collector for the benefit of the holders of the tax certificate, the amount therefor, with interest, and all taxes,

assessments, etc., accruing after the issuance of the certificate with interest. Such redemption will operate as a cancellation of the sale and a release of all claim on the property by virtue of the tax certificate. But if redemption is not made within three years from date of the sale, the tax collector is required to make out and deliver to the purchaser a deed for the land which shall vest in him all the right, title interest and estate of the former owner. The redemption must therefore be made if at all before the execution of the tax deed. If not so made the title of the former owner is vested in the purchaser if the tax proceedings are valid."

The other decisions were as follows: J. B. Burns, plaintiff and respondent, vs. Frances M. Kennedy, James S. Kennedy and R. D. Hume, defendants; H. D. Hume, appellant; appeal from Circuit Court for Clatsop county, J. W. Hamilton, judge; affirmed in an opinion by Justice Eakin.

In the matter of the estate of J. J. McCoy, deceased, Snow Denning, appellant, vs. William A. McCoy, et al., respondents; on appeal from the circuit court for Douglas county, H. W. Hamilton, judge; affirmed in an opinion by Justice Bean.

Pacific Mill Company, appellant, vs. Inman-Poulsen & Co., respondent; on appeal from the Circuit Court for Multnomah county, John B. Cleland, judge; affirmed in an opinion by Justice Eakin.

Bridget Grant and Peter Grant, respondents, vs. the Oregon Railroad & Navigation Company; on appeal from Clatsop county, Thomas McBride, judge; on motion to re-examine costs. Decree modified in opinion by Justice Eakin.

W. B. Hawley, plaintiff, and respondent, vs. Sumpter Valley Railway Company, defendant and appellant; on appeal from Circuit Court for Baker county, Samuel White, judge; reversed and remanded in opinion by Judge Slater.

State of Oregon against A. T. Kellier and H. H. Turner; motion for rehearing; denied.

A. C. Marsters against Umpqua Valley Oil Company and John Marsh; motion for rehearing denied.

NEW YORK MAN COMES TO COOS BAY

F. B. Waite and Guy G. Major, of New York city, arrived in from Roseburg early yesterday morning. They drove by Mr. Waite's private conveyance, leaving Roseburg at 4:30 on Thursday and arriving at Sumner that evening at seven o'clock. This was good time, and allowed them a night's rest at Sumner, when they came through via Coos City. Mr. Major is tax-mayor of Toledo, and now president of the Linseed Oil Trust, of New York.

Nelson Iron Works

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We repair all kinds of Machinery, Steam and Gas Engines, Guns and Bicycles. Best of work and speed.

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TELEPHONE 924

MARSHFIELD, OREGON

The C. B., R. & E. R. R. and Navigation Co.

TRAIN SCHEDULE NO. 2. In Effect January 1, 1907.

All previous schedules are void. Subject to change without notice. W. S. Chandler, manager; F. A. Laise, freight agent; general offices, Marshfield, Oregon.

No. 1. Daily Trains. Except Sunday. Stations. Leave 9:00 a. m. Marshfield. 9:30 a. m. B. H. Junction. 9:45 a. m. Coquille. Arrive 10:30 a. m. Myrtle Point.

No. 2. Daily Trains. Except Sunday. Stations. Leave 10:45 a. m. Myrtle Point. 10:50 a. m. Coquille. 12:00 m. B. H. Junction. Arrive 12:30 p. m. Marshfield.

Extra trains will run on daily special orders. Trains to and from Beaver Mill daily.

EAST MARSHFIELD

Robert McCann, foreman for the Simpson Lumber Co., at North Bend, made his family a short visit on Wednesday at East Marshfield.

Gilbert Steckle passed through town on Friday with the men that his brother, Cyrus Steckle, will use in logging on South Slough.

Miss Lillian McCann, of East Marshfield, accompanied by Miss Jacobson from Winnipeg, Canada, have gone to Mrs. E. R. Bloodson, on South Coos river to rusticate for two weeks.

Mrs. Fetter and Mrs. Pearl Hays with their little daughter left on Bemote, after spending a pleasant week as the guests of Mrs. Sara Jennings, East Marshfield.

Miss Maggie Erickson, of San Francisco is spending her vacation with Marshfield friends.

Herman Nabb, of North Bend, is taking his wife for treatment at the Portland Sanitarium. She is in a serious condition, being afflicted with rheumatism. They left on the Breakwater.

Athur Vineyard and family have gone camping for a few days on Mark Cuplip's place, South Coos river.

The east side residences will find the new grocery store a great convenience.

It is to be opened as soon as a building is put up. The lumber will be brought next week.

Frank Beebie met with quite a serious accident by cutting his foot with an axe. He will be disabled for some time.

Fred Cavanaugh is preparing to go to the goldfields of Alaska. He will be away about a year.

NORTH BEND NEW MILL STARTS WORK

The North Bend Lumber Company's mill was started on Thursday, and for a new mill, it worked exceedingly well. This mill is owned by local parties, and has a capacity of between fifty and seventy-five thousand.

BONITA and NORTH BEND FASTEST BOATS ON THE BAY

Half Hour Schedule. Run between Marshfield and North Bend Made in 12 Minutes. Private Landings. Fare: One way, 15c.; round trip, 25c. J. A. O'KELLY, Proprietor.

Are You Looking for REAL ESTATE BARGAINS?

We have good properties for sale at reasonable prices and would be pleased to talk with you about them.

F. M. Rummell Jr. & Co.

A Street.

FOR SALE.

A few choice 5 and 10-acre tracts close in. Good transportation. Two daily boats to Marshfield, North Bend. 25 cents round trip. Daily mail. Telephone connections. Farm Line No. 2 passes through the land. Wagon road to East Marshfield. The county railroad through to that part of Marshfield is bound to bring it to the front. This property will be taken off the market August 15, 1907.

See Charles Doane or W. J. Rust. Marshfield Oregon.

Winchester Rifles

The Best of Ammunition

Every needed requirement for good Sport at the

"Gunner Y"

Old Central Hotel Building

The Steamer

M. F. PLANT

Sails for San Francisco Monday July 15

F. S. DOW Agent

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Come Early to Make Selections of

WALL PAPER

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Coos Bay Paint & Wallpaper Co.

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FOR SALE ON EASY TERMS

Neat and modern. Situated in North Bend Heights. Best view on the peninsula also vacant lots in the same tract. Prices reasonable and terms easy.

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ABSOLUTE SAFETY

is the best thing we have to offer. Other inducements are of secondary importance. Upon this basis only do we solicit your patronage.

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JOHN S. COKE, President O. B. HINSDALE, Vice Pres.
W. S. MARLAND, Cashier. R. T. KAUFMAN, Asst. Cas.

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GEO. D. GRAY & CO., General agents, 421 Market St., San Francisco. I. W. SHAW, Agent, Marshfield. Phone 441

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Office fixtures a specialty. Store Fronts, Counters, Shelving. Let us work out your plans. See us before building.

Shop opposite Bear's Livery Stable, North Front Street

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Henry Sengstacken, Manager

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Don't Forget the Kodak on your outing trip; a full line with supplies at the Red Cross