

WATERFRONT IS PEOPLE'S

So Declares San Francisco Harbor Commissioner in Portland Case.

PORTLAND, Ore., Mar. 2.—John T. Flynn, California's harbor engineer, who is to address the Portland public docks commission, believes that the people will regain tide lands now corporate holdings, which might be used for public docks construction. Mr. Flynn's contention is that these tide lands were never given to any corporation. In a letter he expressed this opinion at the last meeting of the dock commission. His statement was disputed by Attorney C. W. Fulton in an interview. Answering Mr. Fulton, Mr. Flynn has again written the dock commission, from San Francisco, saying:

"In reply to the published statement made by Charles W. Fulton that my contention of the public ownership of the foreshore of navigable bodies of water was 'ridiculous,' I will say, if Mr. Fulton has been correctly quoted, that he ought to be reading, instead of practicing, law. That same statement has been made by every corporation lawyer in the country, but the work of public recovery of the waterfront goes on just the same. The private, or railroad, control of the waterfront does not rest upon the court decision so much as it does upon the indecision of public officials. Every attempt to recover, made in good faith, has been successful, notwithstanding Mr. Fulton's claim that 'the dock rights are fairly established and written into the law of the state and nation.'"

The Ghost of Banquo.

"The 'Bowly versus Shively' case, to which Mr. Fulton refers, growing out of an Oregon donation land claim act, of many years ago, as I remember, was not a rejection, but a confirmation of the state's right of the approach, or the public ownership and use, of the foreshore of a navigable body of water. This decision, like the ghost of Banquo, crops up in every waterfront case, and like the letter of a celebrated shifty congressman on the tariff question, has a duplex feature, and can be read both ways. In a case recently tried in Seattle the federal court was asked to restrain the state land commissioners from taking possession of lands on the foreshore of Lake Washington, the title to which was claimed under homesteads and donation land claim acts prior to the state's admission into the union. In that case the plaintiff's quoted the 'Bowly and Shively' case, but the federal court held in dismissing the injunction that the state was the sovereign owner of the foreshore of all lands lying below the ordinary high water mark on fresh water navigable bodies, and the mean high tide line on tidal waters, and that it could not be restrained in the exercise of its powers in the interest of commerce and navigation.

Oakland and Chicago Waterfronts.

"I would also call Mr. Fulton's attention to the decision of the United States court of appeals, opinion written by Judge Gilbert of Oregon, if I am not mistaken, in the case of the Western Pacific railway versus the Southern Pacific railway in the celebrated Oakland waterfront case. The 'Bowly versus Shively' decision was referred to in that case, and if I am not mistaken, by the attorneys on both sides, but with all that, the court unhesitatingly decided that the waterfront was in public control and that both the plaintiff and the defendant railroads were trespassers upon public property. I would also refer Mr. Fulton to the case of the state of Illinois versus the Illinois Central railroad, in the celebrated Chicago waterfront case, which was decided many years after the 'Bowly versus Shively' decision referred to.

"In pursuance of the Illinois decision, rendered several years ago, a legislative committee was recently appointed for the special purpose of looking up waterfront titles in Illinois, and it has just reported back to the legislature that waterfront property to the amount of \$250,000,000 had been stolen from the state, with a recommendation that steps be taken for the immediate recovery of the same. That step has been long delayed, as in the case of Oregon; but I have not yet heard of any 'dozen decisions' calculated to head off the action of the Illinois legislature. California Claimants Get Busy.

"If Mr. Fulton is not willing to ac-

cept the decision of Judge Bordwell in the Los Angeles case to which I referred, I would respectfully call his attention to the fact that the corporations claiming lands between the high tide line and the channel water of California, purchased under various acts of the legislature, are now figuratively breaking their necks to relinquish their titles in consideration of long leases from the public body. The 'dozen decisions' would look mighty good to these people at this time. And they have some pretty good lawyers, too.

Danger of Private Control.

"A private or railroad corporation in control of the waterfront of a port could regulate the commerce of that port as completely as the private lessee of a public street could raise or lower values on that street by the toll imposed. In olden times when a ship's cargo consisted of one or two thousand tons, a tax of 25 or even 50 cents a ton did not make much difference, especially if the same rate prevailed in rival ports, but in this age of 10,000 and 20,000 ton ships, an unnecessary tax of 5 cents a ton is great enough to drive shipping from one port to another. Another thing to be considered is the fact, that the Panama canal ship is to be the direct competitor of the railroad. If the railroads own the docks, that ship will not compete and find a landing place. That means public docks and a public belt line railroad connecting all docks if relief is to be expected.

Duplex System of Reasoning.

"Mr. Fulton, while denouncing my contention of the public ownership of the waterfront as 'ridiculous,' admits my claim in the same breath, by stating that 'the private wharf right is a license from the state and is subject to revocation for a non-use, or any use of the same, that would interfere with commerce and navigation. That is what I would call a duplex opinion. If there is a vested right, or fee simple title to waterfront, as in the case of all other property sold by the state, then the right of revocation does not exist under any condition, even though admitted by Mr. Fulton.

"The waterfront is either public property or it is private property—it cannot be both. The public right of approach to a navigable body of water is a sovereign right that antedates law itself, and I challenge Mr. Fulton to produce one decision to the contrary, not only in this country, but in any country in the world, including Astoria. It is one thing to quote court decisions offhand to the layman on the street, but quite another thing to effectively present them in court."

Portland Waterfront Titles.

In the case of Portland, as in the case of nearly all other ports, I will venture the opinion that an examination of the old homestead and land claim filings will show that the applicant received his full quota of land by surveying shoreward from the meandering or ordinary high water mark, and not from the channel waters. Few men in taking up land, take up less than the legal limit. If that is true, then it is clear that the state is taking nothing from these people of their successors when it takes possession of the territory between the ordinary high water mark and the channel waters. If the legislature subsequently authorized the sale of the strip between the meandering line and the channel waters, it exceeded its constitutional power just as much so as if it had sold the river bed itself. All that the public owns is the strip between the ordinary high water mark and the channel waters. If that strip should be insufficient in width to afford ample dockage, then it is clear that the public body must acquire by condemnation the territory necessary for the construction of a dock system. If there should be valid leases and valuable improvements upon the same, then there is no reason why the owners should not be fully compensated.

Means Public Possession.

"The legislature has the power to lease the approach to a navigable stream of water for wharf purposes, with the right to regulate the tolls thereof, or to cede such property to a municipality for subsequent lease and improvement under such limitations as will preserve the paramount

public right of commerce and navigation, but it has no right to sell the same into private hands. If there was such a thing as the private ownership of the entire waterfront of the country, there could be no such thing as the public control of navigable waters, because there would be no way of reaching the same except by 'air ships.' And the federal government, which expends millions of dollars annually in the care of channel waters upon the theory of a public use of the same, is not engaged in building ships of the air type.

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LOGGER IS KILLED.

David Smith Meets Fate in Craine's Camp.

BANDON, Ore., Mar. 3. — David Smith, a logger, was fatally hurt at Craine's logging camp up the river. He was taken to Coquille, but his injuries were such that it was impossible to do anything for him, and his sufferings were relieved by death. Smith was about 26 or 27 years old, unmarried and so far as known had no relatives in this section of the country. He was a friend of Frank Brainerd of Coquille, and Mr. Brainerd will take charge of the funeral which will be held at Coquille and interment will be made in the Coquille cemetery.

ENFORCING FRUIT LAW.

MEDFORD, Mar. 3.—District Attorney Mulkey has given his opinion to Professor O'Gara that the compulsory spraying law is sound and can be operated successfully.

The county courts have been notified that this measure is to be enforced and they promise to aid the inspectors and the local office. In future all trees will be sprayed at the owner's expense if it is not done by the owner within the time allotted. If the owner is absent at the time of condemning, then the trees will be sprayed and the cost levied as a tax against such property.

As to diseased trees, the right of cutting down or doctoring part of the trees lies wholly within the discretion of the inspector. If in his judgment an entire orchard is badly diseased and a menace, he has the right to order the entire lot cut down and burned.

SPRING MILLINERY.

On Friday and Saturday of this week I will have my complete line of Spring Millinery on display.

MRS. ELROD.

BASEBALL supplies at THE GUNNERY.

BUY INTEREST IN NEW MILL

L. J. Simpson Disposes of His One-Third Holdings in North Bend Lumber Co.

L. J. Simpson has disposed of his one-third interest in the North Bend Lumber company and it is understood that Eureka parties are the purchasers. The news of the sale of Mr. Simpson's interest in the mill is confirmed in a letter from him but he did not state the purchasers.

J. F. Standish and W. E. Best sometime ago bought a third interest each in the property and the buyers of Mr. Simpson's interest are said to be friends or associates of theirs. Some of the wood working plants at Eureka have been desirous of getting fir lumber from here to use in connection with the redwood and this led to the deal.

Mr. Simpson is expected home shortly and probably details of the deal will be given out then. It is understood that the company will reorganize and do business on a much larger scale than at present.

THE WHEAT MARKET.

(By Associated Press to Coos Bay Times.)

CHICAGO, Ill., Mar. 3.—May wheat, 90 1/4c; July, 88 3/4c; September, 88c.

PORTLAND, Ore., Mar. 3.—Track wheat prices: Club, 77@78c; Blue-stem, 81@82c; Red Russian, 76c; Valley, 80c; Fortyfold, 78@89c.

TACOMA, Wash., Mar. 3.—Blue-stem wheat, 81c; Fortyfold, 80c; Club, 79c; Red Russian, 78c.

OBSERVATIONS

It is Americans of refinement who loo upon marriage as something more than a mercenary bargain and sale who have a right to regard such performances as the Gould wedding with displeasure and disgust. They have reason, too, to consider with wonder the fact that the Goulds, with their sad experience in the Castellane case, were willing again to risk the happiness of a young girl of the family in a foreign marriage.

COLUMBIA DRY CELLS at THE GUNNERY.

Everything NEAT and CLEAN at the O. K. CHOP HOUSE.

Fine fishing tackle at THE GUNNERY.

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This is the way we figure it—Most everyone prefers the best of eatables. We handle that kind—that's the reason we think we can please you. Suppose you let us do you up an order one of these days just for a trial. Get some of our coffee. Try our canned goods or Breakfast Foods. Get your garden and flower seeds here.

Cook's Grocery

PHONE 180
Full Line Garden Seeds
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Turkish Baths

210-213 Coos Building
PHONE 214-J



It's a wise head that wears a **Stetson Hat**
New Spring Styles Now on Display
MONEY TALKS
Marshfield Hub Clothing & Shoe Co. Bandon

PIANOS TOMORROW

To the few that have not heard the exquisite tones of our PIANOS we offer an excellent opportunity. Tomorrow, Saturday afternoon, March 4, 1911, we shall further demonstrate our PIANOS to the public.

We invite you all. GOOD MUSIC and lots of it. To each person that comes we will give a beautiful souvenir.

BUSH & LANE PIANO CO.
O'CONNELL BLDG. MARKET AVE. AND 2ND ST.

THE FAST AND COMMODIOUS

Steamer Redondo

(Equipped with Wireless)

Will make regular trips carrying passengers both ways and freight between Coos Bay and San Francisco. All reservations for passengers made at Alliance Dock, Marshfield and Inter-Ocean Transp. Co. Union Street Wharf No. 2, San Francisco. For information, phone 44-J or 285. Will sail from San Francisco for Marshfield, Tuesday, March 7th.

INTEL-OCEAN TRANSPORTATION COMPANY.

"THE FRIEND OF COOS BAY"

S. S. ALLIANCE

CONNECTING WITH THE NORTH BANK ROAD AT PORTLAND WILL SAIL FROM COOS BAY FOR PORTLAND AT 8 P. M., MONDAY, MARCH 6, LEAVING PORTLAND FOR COOS BAY, FRIDAY, MARCH 10TH.

NORTH PACIFIC STEAMSHIP COMPANY.
PHONE 44 C. F. McGEORGE, Agent

OLD RELIABLE

STEAMER BREAKWATER

ALWAYS ON TIME

Sails from Ainsworth Dock, Portland, at 8 P. M., every Tuesday. Sails from Coos Bay every Saturday at service of tide. Reservations will not be held later than Friday noon, unless tickets are purchased.

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Frank Burke presents
HARRY HOLLINGSWORTH & CO.

Specialties Between Acts
PRICES 15c and 25 Cents.

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OUR GUARANTEE IS YOUR SATISFACTION.
MARSHFIELD HAND AND STEAM LAUNDRY.
Mauzey Bros., Prop. Phone 220-J

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See CORTHELL
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Lump coal \$4.50. Nut coal \$3.00. We do all kinds of hauling, and contracting. Horses and vehicles for sale. For quick delivery call on

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REASONABLE RATES
Rigs or rigs with drivers ready for any trip anywhere any time. Horses boarded and rigs cared for.
New hearses and special accommodations provided for funeral parties.

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LIVERY AND FEED STABLES
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