### THE COOS BAY TIMES, MARSHFIELD, OREGON.

MARCH 3, 1911-EVENING EDITION. FRIDAY.

# WATERFRONT PEOPLE'S

## So Declares San Francisco Harbor Commissioner In

Portland Case.

T. Flynn, California's harbor engin- "The Southern Pacific railroad, the cer, who is to address the Portland Oakland Waterfront company, the "A private or railroad corporation one-third interest in the North Bend public docks commission, believes Pacific Steel & Wire Works, and oth- in control of the waterfront of a port Lumber company and it is understood that the people will regain tide lands er corporations now hold thousands could regulate the commerce of that that Eureka parties are the purchanow corporate holdings, which might of acres of tide lands on the bays and port as completely as the private sers. The news of the sale of Mr. be used for public docks construction, uavigable waters of California, worth lessee of a public street could raise M., Flynn's contention is that these in the aggregate \$150,000,000, all or lower values on that street by tide lands were never given to any purchased or gobbled under acts of the toll imposed. In olden times corporation. In a letter he express, the legislature, but I will venture when a ship's cargo consisted of one ed this opinion at the last meeting the opinion that before Governor or two thousand tons, a tax of 25 of the dock commission. His state- Johnson's term of office expires these or even 50 cents a ton did not make ment was disputed by Attorney C. W. corporations will surrender their so- much difference, especially if the Fulton in an interview. Answering called titles and accept leases upon same rate prevailed in rival ports. Mr. Fulton, Mr. Flynn has again the same with a rental to be paid to but in this age of 10,000 and 20.written the dock commission, from the state. San Francisco, saying:

"In reply to the published staterectly quoted, that he ought to be water mark of the city of Portland, compete and find a landing place. reading, instead of practicing, law, but that of Astoria, too, will be in That means public docks and a pub-That same statement has been made public ownership before Governor lic belt line railroad connecting all much larger scale than at present. by every corporation lawyer in the West of Orenon retires. And this docks if relief is to be expected. country, but the work of public re- will be true of every town located covery of the waterfront goes on just upon a navigable body of water in the same. The private, or railroad, Oregon, whenever it sees fit to exercontrol of the waterfront does not clse that right. rest upon the court decision so much, "The right of a private wharf as it does upon the indecision of pub- owner is not one of equity, but of lic officials. Every attempt to re- courtesy. The public owns the apcover, made in good faith, has been proach to a navigable body of wasuccessful, notwithstanding Mr. Ful- ter just as clearly as it owns the use, or any use of the same, that ton's claim that "the dock rights are body of water itself, or the street would interfere with commerce and fairly established and written into in front of private property. Any navigation. That is what I would the law of the state and nation."

The Ghost of Banquo.

"The 'Bowlby versus Shively' case, There could be no such thing as a to which Mr. Fulton refers, growing public body of water, if there was no other property sold by the state, then out of an Oregon donation land claim public approach, and that does not the right of revocation does not exact, of many years ago, as I remem- mean 60 feet, or 'street ends,' but ist under any condition, even though ber, was not a rejection, but a con- the whole shore line. The fact that admitted by Mr. Fulton. firmation of the state's right of the the public body has not heretofore approach, or the public ownership exercised its right of public control property or it is private propertyand use, of the foreshore of a navig- in no way operates against the use it cannot be both. The public right able body of water. This decision, whenever it sees fit to exercise that, of approach to a navigable body of like the ghost of Banquo, crops up right. The statute of limitations in every waterfront case, and like the does not operate against the state, letter of a celebrated shifty congress- either as to the right of recovery or man on the tariff question, has a dui the right to exercise an established plex feature, and can be read both public function. I do not claim and but in any country in the world, inways. In a case recently tried in have never claimed that there are no cluding Astoria. It is one thing to Seattle the federal court was asked private rights to be respected on quote court decisions offhand to the to restrain the state land commis- the waterfront, because the physical layman on the street, but quite ansioners from taking possession of conditions, especially on fresh water other thing to effectively present lands on the foreshore of Lake Wash- streams are such as to make public them in court." ington, the title to which was claim- and private cooperation often necesed under homesteads and donation sary in dock construction. On tidal land claim acts prior to the state's streams the strip between the mean admission into the union. In that high tide line and the channel waters case the plaintiff's quoted the 'Bowl- is generally great enough to permit by and Shively' case, but the feder- of the construction of ample docks al court held in dismissing the in- and approaches without infringing Smith, a logger, was fatally hurt at junction that the state was the sover- upon private property, but in the eign owner of the foreshore of all case of fresh water streams, this area lands lying below the ordinary high is generally reduced so as to make water mark on fresh water navigable, the use of certain private property bodies, and the mean high tide line necessary. on tidal waters, and that it could not be restrained in the exercise of | . In the case of Portland, as in the its powers in the interest of com- case of nearly all other ports, I will merce and navigation.

cept the decision of Judge Bordwell public right of commerce and navigcept the decision of Judge Bordwell public right of commerce and navig-in the Los Angeles case to which I ation, but it has no right to sell the referred, I would respectfully call his same into private hands. If there BUY attention to the fact that the corpor- was such a thing as the private ownations claiming lands between the ership of the entire waterfront of the high tide line and the channel water country, there could be no such of California, purchased under varis thing as the public control of navigus acts of the legislature, are now able waters, because there would be figuratively breaking their necks to no way of reaching the same except rollinguish their titles in considera- by 'air ships.' And the federal govtion of long leases from the public econcent, which expends millions of L. J. Simpson Disposes of His body. The 'dozen decisions' would dollars annually in the care of chanlook mighty good to these people at nel waters upon the theory of a pubthis time. And they have some pret- lic use of the same, is not engaged PORTLAND, Ore., Mar. 2 .- John ty good lawyers, too. in building ships of the air type.

Danger of Private Control.

000 ton ships, an unnecessary tax of

5 cents a ton is great enough to "That is what is called 'progres- drive shipping from one port to anment made by Charles W. Fulton sive' legislation, and I will go furth- other. Another thing to be considthat my contention of the public own- er and say, notwithstanding the doz- ered is the fact, that the Panama ership of the foreshore of navigable en decisions' referred to by Mr. Ful- canal ship is to be the direct compebodies of water was "ridiculous," I ton, that not only every foot of the titor of the railroad. If the railroads will say, if Mr. Fulton has been cor- waterfront below the ordinary high own the docks, that ship will not

#### 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 nonother view of the case would not call a duplex opinion. If there is a only be 'ridiculous,' but absurd, vested right, or fee simple title to waterfront, as in the case of all

"The waterfront is either public 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,

LOGGER IS KILLED.

David Smith Meets Fate In Craine's

Camp.

Caine's logging camp up the river.

possible 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. Brai-

nerd will take charge of the funeral

which will be held at Coquille and

David

BANDON, Ore., Mar. 3.



## One-Third Holdings In North Bend Lumber Co.

L. J. Simpson has disposed of his Simpson's interest in the mill is coxfirmed 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 lead 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 The San Francisco Call prints the

following in a Eureka dispatch:

"The Holmes Eureka Lumber company of this city today announced that it had acquired an interest in the properties of the North Bend Lumber Company, situated at North Bend, Ore. The deal was put through by W. E. Best, general manager of the company. The Holmes company which consists of such well known capitalists as H. W. Hamilton, T. W. Hine and Jerry Millay will immediately proceed to improve the Coos Bay property, purchasing additional timber and increasing the capacity of the plant, which now turns out 50,000 feet of lumber per day."

#### THE WHEAT MARKET.

(By Associated Press to Coos Bay Times.)

CHICAGO, Ill., Har. 3 .- May wheat, 90 %c; July, 88 3-4c; September, SSc.

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

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

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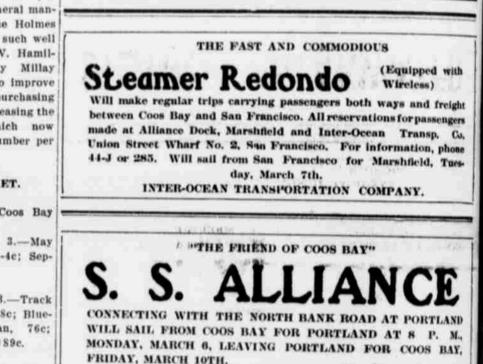




To the few that have not heard the exquisite tones of our PIANOS we offer an excellent opportunity. Tomorrow, Saturday afternoon, March 4, 1911, we shall further demonstrate our PIA-NOS to the public,

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

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C. F. McGEORGE, Agent

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ISFACTION.

LAUNDRY.

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ning two wagons.

Mauzey Bros., Prop.

"I would also call Mr. Fulton's claim filings will show that the apattention to the decision of the Unit- plicant received his full quota of ed States court of appeals, opinion land by surveying shoreward from interment will be made in the Cowritten by Judge Gilbert of Oregon, the meandering or ordinary high if I am not mistaken, in the case of water mark, and not from the chanthe Western Pacific railway versus nel waters. Few men in taking up the Southern Pacific railway in the land, take up less than the legal celebrated Oakland waterfront case. limit. If that is true, then it is clear The 'Bowlby versus Shively' decision that the state is taking nothing from torney Mulkey has given his opinion was referred to in that case, and if these people of their successors to Professor O'Gara that the compul-I am not mistaken, by the attorneys when it takes possession of the teron both sides, but with all that, the ritory between the ordinary high be operated successfully. court unhesitatingly decided that the water mark and the channel waters. waterfront was in public control and If the legislature subsequently auth- tified that this measure is to be enthat both the plaintiff and the de- orized the sale of the strip between forced and they promise to aid the fendant railroads were trespassers the meandering line and the channel inspectors and the local office. upon public property. I would also waters, it exceeded its constitutional refer Mr. Fulton to the case of the power just as much so as if it had at the owner's expense if it is not that's the reason we think we can state of Illinois versus the Illinois sold the river bed itself. All that done by the owner within the time Central railroad, in the celebrated the public owns is the strip between allotted. If the owner is absent at Chicago waterfront case, which was the ordinary high water mark and the time of condemning, then the decided many years after the 'Bowlby the channel waters. If that strip trees will be sprayed and the cost trial. versus Shively' decision referred to, should be insufficient in width to af- levied as a tax against such proper-

sion, rendered several years ago, a that the public body must acquire by to the legislature that waterfront same, then there is no reason why diseased and a menace, he has the property to the amount of \$250,000,- the owners should not be fully com- right to order the entire lot cut down 000 had been stolen from the state, pensated, with a recommendation that steps be taken for the immediate recovery of the same. That step has been long lease the approach to a navigable delayed, as in the case of Oregon, stream of water for wharf purposes, but I have not yet heard of any 'doz- with the right to regulate the tolls en decisions' calculated to head off thereof, or to cede such property to the action of the Illinois legislature, a municipality for subsequent lease

California Claimants Get Busy. and improvement under such limita-"If Mr. Fulton is not willing to ac- tions as will preserve the paramount NERY.

He was taken to Coquille, but his injuries were such that it was im-

Progressive L gislation.

Portland Waterfront Titles.

venture the opinion that an examin-

Oakland and Chicago Waterfronts. ation of the old homestead and land

quille cemetery. ENFORCING FRUIT LAW. MEDFORD, Mar. 3 .- District Atsory spraying law is sound and can The county courts have been no-

"In pursuance of the Illinois deci- ford ample dockage, then it is clear ty, As to diseased trees, the right of legislative committee was recently condemnation the territory necessary cutting down or doctoring part of appointed for the special purpose of for the construction of a dock sys- the trees lies wholly within the dis- here, looking up waterfront titles in Illi- tem. If there should be valid leases cretion of the inspector. If in his nots, and it has just reported back and valuable improvements upon the judgment an entire orchard is badly

"The legislature has the power to

and burned. Means Public Possession.

SPRING MILLINERT.

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

BASEBALL supplies at THE GUN-

OBSERVATIONS It is Americans of refinement who loow 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 fam-

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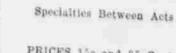
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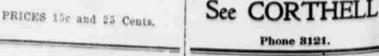
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