

NATIONAL BANKS' REAL PROPERTY IS ALONE TAXABLE

Oregon Tax Commission Prepares Opinion Holding That Fixtures, Assets, Etc., Exempt From Taxation.

(Salem Bureau of the Journal.)
Salem, Oct. 19.—Holding that only the shares of stock in the hands of stockholders and the real property of national banks are assessable under the rulings of the supreme court of the United States, the tax commission has prepared a careful opinion upon the request of County Assessor T. A. Rinehart of Union County. The personal property of the national banks, whether tangible or intangible, covering banking houses, furniture, appliances, general assets, money, notes, stocks, except shares in other banks, bonds and bills receivable are held to be exempt from taxation by the state.

The commission concludes after citing many cases that the Oregon law for the assessment of bank stocks, shares and banking capital for taxation is entirely in harmony with the Federal law permitting the real estate of national banks and the shares of stocks in the hands of the shareholders to be assessed for taxation by authority of the state. Authority has been conferred by congress upon the state legislature to levy taxes upon the shares of stocks in the hands of shareholders and the real property of national banks.

The national banks of Union county had resisted the attempt of the assessor to assess their notes. They gave as a reason that the money for which such notes were given was not their money. The opinion of the tax commission, signed by Tax Commissioners J. B. Eaton and Charles V. Galloway, follows:

Exhaustive Opinion.
"The argument you cite as being made by representatives of banks in Union county, to the effect that the banks should not be taxed on notes held by them, for the reason that the money for which such notes were given does not belong to them, is not tenable."

CAPT. BOGARDUS AGAIN KILLS THE BULL'S EYE.

This world famous rifle shot, who holds the championship record of 100 pigeons in 100 consecutive shots in living at Lincoln, Ill. Recently interviewed, he says:—"I suffered a long time with kidney and bladder trouble and used several well known kidney medicines, all of which gave me no relief until I started taking Foley Kidney Pills. Before I used Foley Kidney Pills I had severe backaches and pains in my kidneys with suppression and a cloudy voiding. On arising in the morning I would get dull headaches. Now I have taken three bottles of Foley Kidney Pills and feel 100 per cent better. I am never bothered with my kidneys or bladder and again feel like my own self." Skidmore Drug Co., Main Store, 181 Third St.; Branch Store, Morrison and West Park Sts., Woodward Clark Drug Co.

not, in fact, belong to the banks, is not well founded. When a bank makes a loan and takes a note therefor the debt is to the bank, not to the depositor; the bank holds the note, the depositor never sees it. Under no construction of the law can the note be assessed for taxation to the depositor. If taxable at all it must be assessed to the owner or holder, to the one in regular and lawful possession.

"National banks are not, on this account entitled to exemption of their general assets, bills receivable, notes, etc., from taxation by the state, such property being legally taxable when owned or held by other creditors. However, such property of national banks and, in fact, all of their personal property, whether tangible or intangible in character, is exempt from taxation by state or local authority. But this is for a reason entirely different from the one just considered.

"A state is wholly without power to levy any tax, either direct or indirect, upon national banks, their property, assets or franchises, except when permitted to do so by the legislation of congress."—Owensboro National Bank vs. Owensboro, 173 U. S. 684.

Case Cited.
"Early in the history of our government, in cases affecting the bank of the United States, (McCulloch vs. Maryland, 4 Wheaton 216; Osborn vs. Bank of United States, 9 Wheaton 733) it was held that an agency such as that bank was adjudged to be, created for the purpose of carrying into effect national powers granted by the constitution, was not in its capital, franchises and operations subject to the taxing powers of a state.

In the celebrated case of McCulloch vs. Maryland, decided in 1819, Chief Justice Marshall concluded as follows: "This opinion does not deprive the states of any resources which they originally possessed. It does not extend to a tax paid by the real property of the bank in common with other real property within the state, nor to a tax imposed on the interest which the citizens of Maryland may hold in this institution in common with other property of the same description throughout the state. But it is a tax on the operations of the bank, and is consequently a tax on the operation of an instrument employed by the government of the Union to carry its powers into execution. Such a tax must be unconstitutional."

"The final result of legislation by congress (Act of February 4, 1868) to permit a certain degree of taxation of national banks by the states is embodied in section 5219, Revised Statutes of the United States:

"Section 5219. Nothing herein shall prevent all the shares of any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the state within which the association is located; but the legislature of each state may determine and direct the manner and place of taxing all shares of national banking associations located within the state, subject only to the two restrictions, that the taxation shall not be at greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state, and that the shares of any national banking association owned by non-residents of any state shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either state, county or municipal taxes, to the same extent, according to its value, as other real property is taxed."

"In Owensboro National bank vs. Owensboro, 173 U. S. 684, the supreme

court, after quoting this section (5219), says:

"This section, then, of the revised statutes in the measure of the power of a state to tax national banks, their property or their franchises. By its unambiguous provisions the power is confined to a taxation of the shares of stock in the names of the shareholders and to an assessment of the real estate of the bank. Any state tax therefore which is in excess of and not in conformity to these requirements is void."

"Since the taxing power of the state in relation to national banks rests upon the permission of congress, and congress having provided the method in which this power may be exercised, that method excluded all others."

Judson's opinion.
"Frederick N. Judson, in his excellent treatise on the 'Taxing Power of State and Federal, in the United States' (p. 301), says:

"No license can be exacted by the state or under state authority for the privilege of carrying on the business of a national bank, nor can an occupation tax be imposed, nor can a tax levied by a state on the president of each of the banks of the state be enforced as to the president of a national bank. The state can tax the real estate of the bank, but no other real estate is taxed, because authority to do so is expressly given by act of congress. But this is the only tax which can be levied upon the property of the bank, for the only other tax authorized is upon the shareholders. It follows therefore that no tax can be levied by the state upon the personal assets of the bank, such as safes, office furniture, etc., and this is equally true whether the bank is in a liquidation. Thus the assets of the bank, when in the hands of a receiver, are not taxable. * * * A tax on the personal property of a national bank is invalid even though the legislature has made no provision for taxing the shares thereof, and the tax actually levied does not exceed the amount of what might have been assessed on the shares under local authority thereof."

"The term 'personal property' as here used has its regular meaning. It covers banking house furniture and appliances, general assets, money, notes, stocks (except shares in other banks), bonds, bills receivable, etc. There are many court decisions to substantiate this conclusion."

Difference in Tax.
"The tax on the shares of the individual shareholders is not the same as a tax on the capital of the bank. The interest of the shareholder entitles him to participate in the net profits earned by the bank in the employment of its capital. This is a distinct and independent interest or property, held by the shareholder like any other property that may belong to him. It is this interest which the act of congress has left subject to taxation by the states, under the limitations prescribed."

"The Oregon law for assessment of bank stocks, shares and banking capital for taxation (chapter 265, laws of 1907), is entirely in harmony with the federal law permitting the real estate of national banks and the shares of stock in the hands of the shareholders to be assessed for taxation by authority of the state. By following, carefully, the rules and requirements laid down in said chapter 265, an assessor will make no mistake in his assessments on the taxable property of and on the taxable interests in a national bank. He is not authorized to assess any other property of a national bank under the general laws providing for the assessment of property for taxation."

"In case any direct assessment has been made by you against the personal property of a national bank such assessment is invalid and should be cancelled. This can be done by the board of equalization, which is now in session."

"You will probably note that this letter is one of considerable length; but the subject discussed is important and we have endeavored to treat it carefully."

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BUY 85 ACRE TRACT ON CAZADERO LINE

Mrs. Laura M. Gammans has sold to Grindstaff & Schalk and Dr. Sandford Whiting 85 acres of land located 10 miles southeast of Portland on the Cazadero line of the O. W. P. The consideration involved in the deal was \$15,000, which is equivalent to \$176 an acre. It is the purpose of the new owners to plat the tract into acre lots, and put it on the market this fall.

The Smith & Everett Realty firm has purchased from Edward Wiles two handsome new dwelling houses in Irvington Park, paying \$7000 for each. The buildings are modern two story frame structures of attractive design. They were purchased for investment purposes.

URNS DOWN CHANCE TO CLEAR \$25,000

The home property of the late Judge George H. Williams, comprising the block bounded by Eighteenth, Nineteenth, Couch and Davis streets, the sale of which was announced last week, was purchased by Mrs. Mary J. Graton, the purchase price, as announced at the time, being \$140,000. The transfer was negotiated by Ferdinand E. Reed, who secured a four-days' option on the block September 11 from Smith & Everett, representatives of Miss Nellie Williams, owner of the block. Mrs. Graton has interested local capital and is planning to erect on the west half of the block a modern, six-story family apartment building of the New York type. Construction of the improvement will not begin for 12 months.

Causes Sickness

Good Health Impossible With a Disordered Stomach.

There is nothing that will create sickness or cause more trouble than a disordered stomach, and many people daily contract serious maladies simply through disregard or abuse of the stomach.

We urge every one suffering from any stomach derangement, indigestion or dyspepsia, whether acute or chronic, to try Rexall Dyspepsia Tablets, with the distinct understanding that we will refund their money without question or formality, if after reasonable use of this medicine they are not satisfied with the results. We recommend them to our customers every day, and have yet to hear of any one who has not been benefited by them. Three sizes, 25c, 50c and \$1.00 a box. Sold only at The Owl Drug Co., Inc., Cor. Seventh and Washington streets.

The east half of the block will be held by Mrs. Graton as an investment. Since the sale of this holding was concluded last week, Mrs. Graton has received a number of offers to take the deal off her hands at an advance, one investor, a California capitalist, offering \$35,000 cash for the contract. Acting upon the advice of her agent, Mr. Reed, Mrs. Graton refused all offers to buy, be-

lieving that quarter blocks in that vicinity will be worth \$50,000 within the next year.

A Greek priest who seemed to be well-known by all the Greek railroad laborers he saw was an arrival on the afternoon train today, tells the Eugene Guard. Wherever he passed a man of his nationality the man would take

off his hat and, bowing his head, it was an interesting sight as he went along the gas ditch on West Fifth street, where there is a Greek crew at work, and went along speaking to the men.

Resembling similar appliances on street cars is an automobile fender patented by a German to pick up a person who may be struck.



The Best Way to Settle the Clothes Question

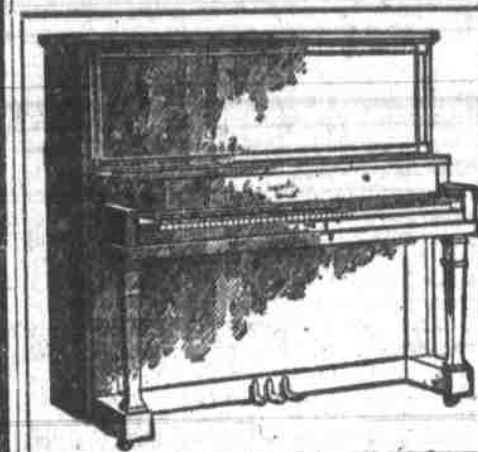
To settle it satisfactorily—economically and with the least inconvenience to yourself is to come direct to this store of **GOOD VALUES**. ANYTHING YOU BUY HERE MUST BE **SATISFACTORY**.

Our success depends upon gaining and holding your good will. This we do by giving you the best possible values and making anything right that YOU think is not satisfactory.

OUR LADIES' and MISSES' DEPARTMENT contains many novelties in MAN-TAILORED GARMENTS.

BEN SELLING

LEADING CLOTHIER



"They are All right!"

That's What Mr. and Mrs. Piano Buyer Say About

Sherman Clay & Co.

COR. SIXTH AND MORRISON, PORTLAND, OREGON

That's what you will say, too, because—no matter what test you apply, you will find their policies made up of all the little vital units that compose

"A SQUARE DEAL"

No question (beginning at the time of a customer's first look, and thence all through the negotiations and purchase, and finally through the ages of the instrument's service to the end of one's lifetime of supremely enjoying it)—no question, we repeat, ever came up between firm and patron that Sherman, Clay & Co. didn't settle in favor of its patron—strictly in accordance with the popular idea of "a square deal." Thus, when buying here, you are assured of all that could be desired in the price, quality, style and character of any instrument you choose, and in the treatment accorded you.



East Side Trade-Building Week

Proves a popular and mutually profitable event. Every business house on the East Side has entered the cooperative movement with a determination to prove to the buying public that the East Side is the logical, economical, convenient trade center. They are well pleased with the success of the first two days, and thousands of customers are delighted with the special bargains secured.

Last Night's Grand Opening Was a Big Success

Thousands and thousands of people crowded Grand avenue, East Morrison and East Burnside. Orchestras at a dozen stores entertained the people, while souvenirs were given out at other places. The East Side Business Men's Club had a band parading the streets on an auto truck. And wasn't it the most perfect night the weather man could have given us? All Nature smiled on the East Side in warm approval.

Special Values by all Merchants Will Continue Each Day This Week

And it is an opportunity to secure specials in all lines not heretofore experienced. It is not only a money-saving event, but it is well worth anyone's time to come down and examine East Side stores, note the many new places, the enlarged and better stocks, the rapid growth of the business center.

EAST SIDE BUSINESS MEN'S CLUB