

The ice is said to be so thick, in some of the rivers in the east, that when it is removed there'll be no water.

A Geneva (Switzerland) letter says that American anthracite coal is rapidly coming into use in that city, both in private houses and factories.

The latest organization for mutual protection is that of the farmers of Georgia and North and South Carolina, who have combined to resist the exactions of dealers in fertilizers.

Woman's Words says that President Eliot of Harvard university, the cook in the Parker House restaurant, Boston, and Mary L. Booth, editor of Harper's Bazar, each receive \$4,000 a year.

The spirits who communicate with the living through the Banner of Light decline to tell where Stewart's body is. "We do not," says one, "propose to organize ourselves into a detective force."

Among the speakers at a recent Murphy meeting, in Pennsylvania, were Thomas J. Maskell and Jeremiah Townsend. "Tom and Jerry" in the temperance ranks sounds a little odd.

Of legitimate children born in Paris, the proportion of males rather exceeds that of females, whereas, in the enumeration of illegitimate children, who comprise one-third of the whole, the females constitute the majority.

Sporting men in Connecticut are alarmed at the discovery that there is upon the statute books a provision that every horse used in races upon which any wager is to be laid or any purse or stake offered shall be forfeited to the state.

A Council Bluffs girl, on suicidal intent, asked for morphine in a drugstore. The clerk suspected her purpose, and sold her a powerful emetic. She returned an hour afterwards, expressed her opinion of a man who would deceive a distracted girl in that way, and demanded her money back.

The painter Karl von Piloty, is far advanced with his great work, the decoration of the Guildhall of Munich, and it is expected that Easter will see the labor completed. The frescoes represent the entire history of Munich, and contain portraits of all the eminent men and women who have contributed toward the city's greatness and fame.

Lord Chelmsford in command in South Africa, has issued an interesting pamphlet in relation to the Zulus, whose fighting strength he estimates at 40,000. This is exclusive of a reserve corps of seven regiments of men over 60. All Zulu youths have to serve in the army, and no soldier may marry until he is 40. Out of the 33 regiments, ten are of married and fifteen of single men.

Nature announces the invention of a telegraph writing machine. When the writer at one end of the line moves his pen, a pen at the other end transcribes the words in precisely similar curves and motions, as though guided by a phantom hand. Experiments have been entirely satisfactory, and at last accounts the apparatus was soon to be made public before the British society of telegraphic engineers. E. A. Cowper is the inventor.

Opinion by Judge Shattuck.

Submitted to the Columbia River Fishermen Upon the License Law.

[Published by Request.]

PORTLAND, OREGON, March 15, 1879.

W. J. Weber and A. A. Cleveland, Committee, etc., Astoria:

GENTLEMEN:—You ask for my opinion in writing concerning the validity of the law as passed by the last legislature, licensing the taking of salmon in the Columbia river, etc. I have examined the subject and submit the following:

The act referred to is entitled "An act to create the office of Fish Commissioner for the Columbia river, to license the taking of salmon in the Columbia river and its tributaries, and to encourage the establishment of hatcheries upon the waters of the Columbia river for the propagation of salmon." It was approved October 16, 1878, and is found printed in the laws of 1878, at pages 10-20. There are nine sections of the act.

Section 1 provides for the appointment of a Fish Commissioner, defines his powers and duties, qualifications, liabilities.

Section 2 declares it to be unlawful to take or fish for salmon for trade, barter or sale with any of the appliances mentioned in the act and regulated and prescribed by the act entitled "An act regulating salmon fisheries in the waters of the Columbia river and its tributaries," without first having obtained a license therefor. The rates of the license are fixed at: Ten dollars for a boat with a gill net; ten dollars for each seine; fifty dollars for each weir or trap; two dollars for every dip net. These fees are chargeable to the owner or owners, and are for the season.

Each and every net tender or fisherman, using a gill net must pay five dollars for a license for the season. Licenses are not transferable and are good for the whole season.

Section 3 provides for the registry of licenses, requires owners of boats receiving licenses to paint the number of their license on their boat; punishes a failure to do so by a penalty of ten dollars; regulates license fees.

Section 4 provides for a fine of fifty dollars for every violation of the section requiring license to be taken out.

Section 5 prescribes a punishment for employing a fisherman who has not lawfully obtained a license, and for knowingly purchasing salmon from one not licensed.

Section 7 provides for a division of the fines between informers and the state. The other act referred to in the above, forbids the taking of fish, by any means whatever during March, August or September, or during certain days in the months of April, May, June, and July, and punishes a violation with a fine of not less than \$500, nor more than \$1,000, or imprisonment for one month, or both, at the discretion of the court. The section 2 of said act regulates the size of mesh in gill nets and seines, and the openings in weirs and traps, and punishes a violation of the provision with fines of \$50 to \$1,000 for the first offense and for each subsequent offense \$1,000 with imprisonment.

The section 3 gives a moiety of the fines to the informer.

Your association complains of the injustice and unfairness of these acts in their operation upon the fishermen of the Columbia river. And the statements contained in the resolutions of your meeting of March 5th, as appears by the published proceedings, seem plausible and altogether reasonable.

No doubt the prohibition of fishing during the months of March, August and September by any means, if submitted to will have the effect to deprive many poor people of what have always hitherto been a partial means of support during these seasons.

No doubt the size of mesh required by the new law will result in much valuable web or net already made and partially worn being rendered useless and a loss to the owner, who may be scarcely able to bear any loss whatever.

No doubt the prohibition to fish in March will prevent the usual destruction of sturgeon, seal and other enemies of salmon. No doubt the prohibition to transfer a license will prove a hardship to the poor man who may become sick or be partially disabled.

It is unquestionable that there is a defect in the law in that a net is not defined, and as it stands a twenty fathom net, or what is called a five fathom net, is subject to the same license whether they be five tons or fifty tons. So, also, it is practically unjust to require the same license for one month, which it requires for three months.

It is also unwise in that it deprives many people to provide in any law for a reward to informers, especially where the penalties to be divided are so large as to make two or three convictions more profitable to the informer than a whole season's fishing. The severity of the punishment are also by many deemed objectionable. And so one could go on and point out many provisions, which might have been better adapted to some particular condition of things, if something had been added, or something left out, or some qualification appended.

But the law is written as we find it,—our representatives in the legislature made it, as they thought it ought to be, and the practical question for us, is it valid? Must we submit to its hardships and the injustice which it works out for us?

The only relief, against an unwise law, a law permitted by the higher law, (that is the constitution,) but which is simply inexpedient, and unwise, or harsh or unjust, is to be had by an appeal to the legislature itself to undo its work. If a law contravenes any provisions of the constitution or fundamental laws of the state, it may be declared void by the courts. Now, the laws under consideration, are to be tested by reference to these rules—and first, it may be asked: has the legislature power to control, regulate, or prohibit fishing for salmon in the Columbia river? The proprietorship of the state of Oregon, extends to the middle of the widest channel of the river, (constitution of Oregon, Art. XVI.) but its civil and criminal jurisdiction is concurrent with Washington territory, over the whole river. (Same.) Now, the state of Oregon, by virtue of its sovereignty as a state in the union, owns the bed of this and all other navigable rivers within its limits. 14 Curtis Decisions, 343, 15; do. 402; 20 do. 388. As sovereign and owner, then, the state by its legislature may regulate, and even prohibit for such periods as it deems best, the catching of certain, or any kind of fish in its waters. 37, Maine R., 472; 6, Pickering, 87. The courts of New York say: "The people in their sovereign capacity own the beds of all navigable waters, within the state. They are held for the common benefit, and to promote the convenience and enjoyment of all the citizens. \* \* \* One of the purposes for which the people own the beds of such waters is to protect and regulate the rights of fishing in them. The legislature may make such laws for this purpose as it deems most beneficial to the common enjoyment of the right." Smith vs. Levinus, 8, N. Y., 473. The power of the legislature over the subject being conceded, the mode of exercising the power is within their discretion, unless there be some provision of the constitution which limits their authority, or directs a mode of action. The legislature then, may pass a wise law, or an unwise one—a law that will cause no harm, or one that will interfere, or break up some peoples business; whatever is passed is deemed the voice and wish of the majority and must stand as law, unless some constitutional provision be shown, that has been infringed by the law. The authorities even hold and the rule is, that although so a plain constitutional provision may seem to be violated by a statute, yet if there is no doubt about it, and the legislature has decided in favor of the validity of the statute.

state constitution must be finally decided by the courts. If it does so infringe the provisions of the constitution, the court ought to, and will declare it so far void and of no effect. But if it be not contrary to the constitution, or even if it be doubtful, the courts will not set it aside, although there may be some injustice in its operation, and great lack of wisdom in its provisions.

Mr. Cooley, a high authority upon constitutional law says (page 164). "Nor can a court declare a statute unconstitutional and void solely on the ground of unjust and oppressive provisions, or because it is supposed to violate the moral, social, or political rights of the citizens unless it can be shown that such injustice is prohibited or such rights guaranteed or protected by the constitution." And again he says (page 188). "If the remedy for unwise or oppressive legislation within constitutional bounds is by an appeal to the justice and patriotism of the representatives of the people. If this fail, the people in their sovereign capacity can correct the evil; but courts cannot assume their rights. The judiciary can only correct the execution of a statute when it conflicts with the constitution. It cannot run a race of opinions upon points of right, reason and expediency with the legislature. Any legislative act, that does not encroach upon the powers, allotted to other departments of the government, being prima facie valid must be enforced unless restrictions upon the legislative power can be pointed out in the constitution and the case shown to exist within them."

Now apply this doctrine to these statutes of which your association complains, and doubtless with good reason complains, and some infringement upon a constitutional provision must be pointed out or the statutes can be enforced within them.

I have considered each of these objectionable features and compared them with the restrictions in the constitution, and I am unable to see that any provision of the statutes however unwise or severe it may be is forbidden by the constitution. The right of the legislature to regulate the fisheries must be conceded. They must choose their mode to their wisdom, the mode is referred. The provisions complained of do not directly take away any power, except by way of a license tax, but the compensation provided is supposed to be the propagation of salmon, thus perpetuating the fish and the business, which might otherwise languish or be destroyed. So of the other provisions complained of. They all fall within the limit of the power of control given to the legislature.

Taking this view of the subject I cannot fairly advise that the laws in question will be pronounced invalid. On the contrary I am of the opinion that the courts will enforce them in all respects valid, and will enforce them. And being of this opinion I am not justified in advising litigation that would prove expensive, and most probably fruitless to you.

If however you determine to proceed and test the validity of the laws, I can suggest no better mode for you to do it than the one you suggest, pay your license under protest and let one make a case. I could find arguments and reasons enough against these laws for a legislature to consider. But I must say frankly that I cannot find arguments against these laws which the courts will hear or act upon, and I therefore think I ought to decline to be retained in any litigation designed merely to test the validity of the law.

Very respectfully yours etc. E. D. SHATTUCK, Attorney at Law.

NEW ADVERTISEMENTS.

SITUATION WANTED.—A young lady wishes a situation in a private family to do general household work. Apply immediately at THIS OFFICE.

NOTICE.—The annual meeting of the stockholders of the "Oregon and Washington Fish Propagating Co." for the purpose of electing a Board of Directors for the ensuing year, will be held in Portland on Tuesday evening at 8 o'clock, April 1, 1879. JOHN ADAIR, JR., President O. & W. F. P. Co.

For Tillamook.

THE ALPHASCHOONER ALPHA, E. STARR, MASTER. Is now ready to receive cargo for the above port, and sail on TUESDAY, April 1, 1879. Rates for Freight. From Portland \$8 00 From Astoria 6 00 For further particulars refer to Treachard & Uphur, Agents, or to the Captain on board.

NOTICE.—Sealed proposals will be received at the office of the Auditor and Clerk of the city of Astoria, until Tuesday, March 25, 1879, at 2 o'clock P. M. For the furnishing of coal oil, chimneys, and wicks for the lamps of the city, and for lighting, extinguishing, and keeping the same in good repair, and for acting as janitor of the city hall for one year from April 1, 1879. Bids must be the price per lamp per month for each street lamp, and the price per lamp per month for each lamp in the City Hall. Also, the amount per month for acting as janitor of the City Hall. Each bid must also be accompanied with a guaranty, signed by two responsible tax payers to the effect that if the contract be awarded to such bidder, that he will within 48 hours after notice of such award enter into contract therefor, with good and sufficient sureties in the sum of \$500, for the faithful performance of the contract. The right to reject any and all bids is hereby reserved.

By order of the Common Council. R. H. CARDWELL, Auditor and Clerk. Astoria, March 20, 1879.

BOARDING PRISONERS.—Sealed proposals will be received at the office of the Auditor and Clerk of the city of Astoria, until Tuesday, March 25, 1879, at 2 o'clock P. M. For the boarding of the city prisoners for one year from April 1, 1879. Bids must state the price per meal. Each bid must also be accompanied with a guaranty, signed by two responsible tax payers to the effect that if the contract be awarded to such bidder, that he will within 48 hours after notice of such award enter into contract therefor with good and sufficient sureties, for his faithful performance. The right to reject any and all bids is hereby reserved.

By order of the Common Council. R. H. CARDWELL, Auditor and Clerk. Astoria, March 20, 1879.

Special Notice.

Star of the Columbia, A HIGH TEST KEROSENE.

Turpentine and Varnish, Sail Cloth.

Made expressly for light sail boats. For sale at G. W. HUME'S, ASTORIA, OREGON.

Ladies Attention! 1874. SPRING SEASON! 1879. HAMBURGER'S The best selected stock ever before carried in this city. DRY GOODS, CLOTHING, BOOTS AND SHOES, HATS, CAPS. CROCKERY, GLASS WARE, CARPETS, MATTINGS, A FULL LINE IN EACH DEPARTMENT. WE CALL SPECIAL ATTENTION TO OUR EXTRA LARGE INVOICE OF EMBROIDERIES, PRICES WAY DOWN. WE SELL ONLY FOR CASH, NO CREDIT. NO HOUSE SHALL UNDERSSELL ME. B. HAMBURGER, MAIN STREET. ASTORIA, OREGON. Sole Agent for the New American Sewing Machine.

BUSINESS CARDS.

A. MEACHEN. BELL & MEACHEN. Attorneys at Law and Notaries Public. Commissioner of Deeds for California and Washington Territory. Astoria, Oregon. OFFICE—Corner of Squemoche and Cass streets, up stairs, over E. S. Larsen's store.

F. J. TAYLOR DENNISON & TAYLOR, ATTORNEYS AT LAW. ASTORIA, OREGON. OFFICE—Up stairs in Parker's building, corner Chenamus and Benton streets.

F. D. WINTON, ATTORNEY AT LAW. Office in City Hall Building. ASTORIA, OREGON.

MISS L. L. ALLEN, (Late of California). Offers her services to the people of Astoria and vicinity as a teacher of Instrumental and Vocal Music. Miss Allen may be found at Mrs. M. Rogers boarding house, Cass street.

C. W. FULTON, ATTORNEY AT LAW. OFFICE—Pages new building, Squemoche street, Astoria, Oregon.

DR. F. CRANG, PHYSICIAN AND SURGEON, ASTORIA, OREGON. Office—Room no. 7 over C. L. Parker's store, Opposite Dement's drug store.

DR. J. W. OLIVER, HOMEOPATHIST. OFFICE—In Shuster's Daguerrean building. Entrance—Second door above that of the DAILY ASTORIAN, Cass street. Residence on Jefferson street, corner of Main.

DOCTOR HATCH. Successfully treats all Chronic Diseases, AND DISEASES OF WOMEN AND CHILDREN. Cancer cured by a new and painless method. Office—Chenamus street, corner of Main street, Astoria.

DR. J. O'BRIEN. CURES BILLIOUS AND INTERMITTENT FEVERS. With from one to three doses of his harmless medicine. Also, Private diseases successfully treated. OFFICE—O'Brien's hotel, Astoria, Oregon.

J. STEWART. Stone and Marble Cutter, ASTORIA, OREGON. All kinds of building work, and monumental work attended to promptly and to order. Satisfaction guaranteed.

OTTO DEFNER, WATCHMAKER AND JEWELER. HAS REMOVED TO Main street, Parker's building, ASTORIA, OREGON.

GEO. LOVETT, TAILOR. CLEANING AND REPAIRING PROMPTLY ATTENDED TO. Benton street, opposite Post-office, Astoria.

WM. BECK, Manufacturer of Boots and Shoes. All kinds of repairing neatly and promptly attended to. MAIN ST., ASTORIA, OREGON.

MAGNUS C. CROSBY, DEALER IN Stoves, Tinware, and House Furnishing Goods. Hardware, Brass Goods, Lead and Iron Pipe, Pipe Fittings, Engineers Supplies, Sheet Lead, Iron, Copper, Brass, and Zinc.

Who is Elected? MAX WAGNER —OF THE— Great Eastern Saloon, CONCOMLY ST., ASTORIA.

THIS FAVORITE RESORT HAS JUST been refitted and stocked with ALL THE BEST BRANDS —OF— Imported and Domestic Wines and Liqueurs, Cigars and Tobacco. San Francisco Beer five cents a glass.

AUCTION SALES.

E. C. HOLDEN, Notary Public for the State of Oregon. Real Estate Agent and Conveyancer. Agent for the FIREMEN'S FUND INSURANCE COMPANY of San Francisco. COMMISSION AGENT AND AUCTIONEER. Rents and Accounts Collected, and returns promptly made. Regular sales daily. SATURDAYS AT 2 P. M. N. B. Parties having real estate, furniture or any other goods to dispose of either at auction or private sale should notify me soon as convenient before the day of sale. No storage charged on goods sold at Auction. E. C. HOLDEN, Auctioneer.

MISCELLANEOUS.

I. W. CASE, IMPORTER AND WHOLESALE AND RETAIL DEALER IN GENERAL MERCHANDISE. Corner Chenamus and Cass streets, ASTORIA, OREGON.

ASTORIA CANDY FACTORY —AND— OYSTER SALOON. HAVING ENLARGED MY STORE have now on hand the largest and best assortment of plain and French candies in town, also, all kinds of CAKES, CRACKERS AND BISCUITS. All of which I offer for sale at the lowest cash price, wholesale and retail at SCHMEER'S CONFECTIONERY. Opposite the bell tower. Retail candy from 25 to 75 cents per pound.

Fresh Eastern and Shoalwater bay oysters served in style.

MARTIN & HAYNES, CRYSTAL SALOON, On the Roadway, ASTORIA, OREGON. The very best quality of wines, liquors and cigars at wholesale or retail.

Astoria Liquor Store, AUG. DANIELSON, Proprietor. Water st. Roadway, ASTORIA, OREGON. Importer and dealer in WINES, LIQUORS, FOREIGN AND DOMESTIC CIGARS.

Sole agent for the celebrated STONEWALL WHISKEY.

GERMANIA BEER HALL —AND— BOTTLE BEER DEPOT. CHENAMUS STREET, ASTORIA. The public are invited to call and leave their orders. Splendid Lager 5 cents a glass. Free Lunch every night. WM. BOCK & Co., Proprietors.

GEORGE ROSS' Billiard Room. The only Billiard Room in the city where no liquors are sold.

NEW TABLE JUST PUT UP. GEORGE ROSS has a cosy place and keeps on hand the best brand of Cigars, Also, soda, candy, nuts, etc. Opposite A. Ross Chop House 95-1f. GEO. ROSS, Proprietor.

C. J. SMITH, (IN THE ASTORIAN BUILDING) HAS JUST RECEIVED A LOT OF NEW goods, consisting of MEN'S AND BOYS' CALF AND KIP BOOTS! Buckle and Congress Gaiters, Women, Misses and Children's BUTTON BOOTS. Which will be sold at the very lowest prices.

IT IS A POSITIVE TRUTH That housekeepers can do better by dealing with J. K. WIRT, on Main street, as he keeps the best of FRUITS, CANDIES, NUTS, LIQUORS AND CIGARS, SMOKED SALMON, BOLOGNE SAUSAGE, JERKED ELK MEAT. And also from Clatsop every other day FRESH BUTTER, EGGS, CHEESE, CLAMS, DUCKS, CHICKENS. And everything that is needed in the cooking line at the lowest living prices. Call and examine before purchasing elsewhere. J. K. WIRT.