

# The Daily Astorian.

Vol. XVII.

Astoria, Oregon, Thursday Morning, July 27, 1882.

No. 100.

## STATE OF OREGON VS. A. J. STURGES.

### Principal Points in the Opinion of The Supreme Court.

The question presented at the outset is, whether the act upon which the indictment was found was intended to apply to the Columbia river. If it was not, a consideration of other points is useless.

This act makes no mention of any former act on the subject, and contains no words of repeal. In terms it prohibits catching salmon in any stream of water, bay or inlet of the sea or river of this state, with net, seine, or trap, at any season of the year, between sunset on Saturday and sunset on the Sunday following, of each and every week.

The penalty provided for any violation of the act, was a fine of not less than fifty nor more than one hundred and fifty dollars, and imprisonment in the county jail not less than five nor more than ten days, and concurrent jurisdiction was conferred upon justices of the peace.

Substantially this is the whole enactment. But at the time this act was passed there was an act in force containing provisions on the same subject, and applying expressly and exclusively to the Columbia river and its tributaries.

This latter act was entitled: "An act regulating salmon fisheries on the waters of the Columbia river and its tributaries;" and was approved October 16th, 1878.

Another act passed at the same session, and approved the same day, entitled: "An act to create the office of fish commissioner for the Columbia and its tributaries," contained a similar preamble. Like the former, its provisions applied only to the Columbia river, and its tributaries.

By the first mentioned act of October, 1878, catching salmon in the Columbia river or its tributaries by any means whatever, during the months of March, August and September, or during the weekly close times in the months of April, May, June and July, that is, between the hours of six o'clock p. m. Saturday, and six o'clock p. m. of the Sunday following, during said months, was prohibited, under a penalty of from five hundred to one thousand dollars for the first offense, and one thousand dollars for each subsequent offense, with imprisonment in the county jail not exceeding one year added, in the discretion of the court. The act also contains many other particular provisions, devised evidently for the protection of salmon, for any violation of which the same penalty is denominated.

The statute is comprehensive in scope and explicit in details, and seems to make simple provision on the subject of protection of salmon in the Columbia and its tributaries. Its provisions are, we believe in substance, if not in form, the same as those contained in the act of the legislative assembly of Washington Territory, referred to in its preamble.

Upon these facts the respondent contends that the act of October 25, 1880, should not be held to apply to that river or its tributaries.

While we have experienced no little difficulty in reaching a perfectly satisfactory conclusion upon the matter, it is our conviction that the position taken by the respondent is the correct one, and should be sustained. The previous act of October 16, 1878, was local in its operation, and, as we have seen from its preamble and the correspondence of its provisions with those enacted by the legislature of Washington Territory, by virtue of her concurrent jurisdiction, upon the same subject, was unquestionably framed in view of peculiar circumstances and considerations, not affecting the other rivers or waters of the state. It was a local act, and established such regulations for the protection of salmon in the particular locality embraced by it, as the legislature deemed necessary and expedient, in view of the peculiar condition of the Columbia river, as being not only a common boundary between the state of Oregon and Washington Territory, but the common territory of both, and equally subject to the jurisdiction

and laws of both. (The Annie M. Small, 2, Sawyer, 226.)

From the partial examination already given of the provisions of the two acts, it is quite apparent that if the one last enacted should be held to extend over the Columbia and its tributaries, a conflict would be developed, repels by implication in these respects would follow, symmetry would be lost, inconsistencies and incompatibilities introduced, and that uniformity and correspondence in legislation, which the legislature, both of this state and Washington Territory, were so careful to secure in the only instances where they have professed to exercise their concurrent authority, would be destroyed to such a degree that the citizens of neither could find in the laws of their own sovereignty, safe directions for their conduct upon the common domain. The case before us is but a fair sample of the evil consequences of such an application.

But it is claimed that the act under examination applies in express terms to "every river of this state," and that the Columbia and its tributaries are such, and therefore there is left no room for construction. Without attempting to pass upon the correctness of the premises here assumed, we think it may be conceded, and still the conclusion not follow.

These several acts should be construed together as one enactment, in determining their respective applications, and effect given to all the provisions of each, if possible upon any rational construction. (Polters' Dwarms on statutes and constitutions, 189.)

A general statute will not repeal a particular statute previously enacted, simply because it contains inconsistent provisions. (Polters' Dwarms on statutes, 272; Brown vs. Compierses, 21 Pa., st. 43; Fossiek vs. Village of Perrysburg, 14, Ohio st., 472; Pearce vs. Atwood, 13 Mass., 34; St. Martin vs. New Orleans, L. J., 119; Nichols vs. Bertram, 3 Pick., 342; Felt vs. Felt, 19 Wis., 208; State vs. Goetze, 41 Mo., 353; State vs. Bishop, 41 Mo., 16.)

It seems well settled by these authorities that the particular subject covered by the previous statute, although embraced by the general description in the subsequent statute, will be excepted from its operation, when necessary to prevent a repeal of the provisions of the former by implication. This principle is decisive of the question under consideration, in our judgment, and virtually disposes of the whole case before us. The act passed against the respondent was not a crime under any provision of the particular statute of October 16, 1878, or any other statute in force on the Columbia river.

The judgment of the court below is affirmed.

There is less law, really, among a body of lawyers than among any set of men on earth. Look at it, if you please. What is the old adage, the old rule? I will not repeat the Latin aphorism, because I am not a Latin scholar. But I will give you the English of it, and it is this: "Where the law is uncertain, there is no law." Take your 193 lawyers in the house, and they will debate in high and low debate, and get furious, and after all, after a debate of two and a half days, you cannot find any two of them who agree about any single proposition of law, to save your lives. See how they are changing here. Why, gentlemen, in all candor and fairness, I would not give the intuitions of an honest rustic's heart in pursuing and attempting to attain the truth, for all the fine-spun arguments of all the lawyers in the universe—*Jones, of Texas, in Congressional debate.*

A lawyer asked a woman in a witness-box her age, and she promptly replied, "I sold milk for you to drink when a baby, and I haven't got my pay yet."

For that headache! Try the Oregon BLOOD PURIFIER, the vegetable remedy, it's the cure.

### Brought to Time.

A young man on a street in Steubenville, with a fez cap, a fragile cane, and smoking a vile cigarette which awakened a suspicion in the minds of the neighbors that a dead mule was in the vicinity, stepped off the sidewalk to allow a woman to pass.

"Thank you," she said. "Not at all madame; I assure I always give way to the weaker sex."

The lady slowed up when she heard this, and came back to the young man.

"What did you observe, sir?" "I said (smile forced) that I always gave way to the weaker sex."

"Ah, did you," pursued the woman, grabbing him with a firm hand by the throat-latch. "Do you know who you are (shake) calling the (shake, shake) weaker sex?"

"I—ugh—that is, I—mean to say—you hurt my neck—politeness is constitutional in our—such—family."

"Tis, hey! Well (shake, shake, shake) if you think I'm one of the weaker sex you are off your reckoning."

Here she gave the young man a dextrous flip which sent him spinning three times round, after which he fell under the fence, while his cane and fez cap flew over into a bed of last year's hollyhocks.

"Now, after this, remember young man, you can't play no weak sex game on me. I propose to vote before that dyspeptic-looking moustache of yours has more than seven hairs on one side and nine on the other.—*Steubenville Republican.*

From Mr. Barnes, who has been at work for one of the mills on the Oregon Pacific R. R., says the Dalles Itemizer, we learn that the management is in a state of "masterful inactivity." Four of six mills supplying lumber for the road have shut down. There are only 67 men at work, 40 of whom are at work on the tunnels. No railroad iron is on hand except some narrow-gauge rails. The people along the line are losing confidence in the road. As less than two miles of the road is graded, leaving out the ten miles west of Corvallis, that was graded a year ago, it seems certain that the promise to take off this year's crop will not be fulfilled.

A reporter of the New York World interviewed several of the 1,000 immigrants who recently arrived in that city from Europe, en route for Utah. One of them gave the following reason why he took the Mormon view of the lawfulness of polygamy: "The scriptures is in favor of this thing of havin' more wives as one. Revelations tells of how in the last day seven women shall take hold of one man. Abraham had a lot of wives and so did David. Now, David might 'a went wrong, but the scriptures says as how a man's faults is forgive. That's the reason we think we've got the law of God on our side."

An attempt will soon be made to divide Wasco county. The distance of many of its most populous localities from the county seat is given as the chief reason. A sample of the inconvenience attendant on this, is cited in the fact that it costs \$40 for a Prineville school teacher to get a certificate, and further, that the ends of justice are often neglected on this account.

My stomach is dreadfully weak and my digestive organs still weaker. Strengthen them by using W. G. PEPPER'S Oregon Blood Purifier. Your druggist keeps it for you.

## SYMPTOMS OF A DISEASED LIVER.

Pain in the right side, under the edge of ribs, increasing on pressure; sometimes the pain is on the left side; the patient is rarely able to lie on the left side; sometimes the pain is felt under the shoulder, and is taken for rheumatism in the arm. The stomach is affected with loss of appetite and sickness; the bowels in general are active, sometimes alternating with laxity; the head is troubled with vertigo, migraines, and a dull, heavy sensation in the head part. There is generally a considerable loss of memory, accompanied with a recollection of having left undone something which ought to have been done. A slight, dry cough is sometimes attendant. The patient complains of nervousness and debility; he is easily startled; his feet are cold or burning; and he complains of a prickly sensation of the skin; his appetite is low, and he is unable to digest his food, although he is satisfied that exercises would be beneficial to him, yet he can scarcely summon up fortitude enough to try it.

If you have any of the above symptoms, you can certainly be cured by the use of the genuine **DR. C. McLANE'S CELEBRATED LIVER PILLS**, made by Fleming Bros., Pittsburgh, Pa.

If you can not get the genuine **DR. C. McLANE'S LIVER PILLS**, send for the pills by mail, and we will send them to you. **FLEMING BROS., Pittsburgh, Pa.**

### A Clear Complexion

Can be had by every lady who will use Parker's Ginger Tonic. Regulating the internal organs and purifying the blood it quickly removes pimples and gives a healthy bloom to the cheek. Read about it in another column.

### Mothers! Mothers!! Mothers!!!

Are you disturbed at night and broken of your rest by a sick child suffering with teething, or by a complaint of cutting teeth? If so, go at once and get a bottle of **Mrs. Winslow's Soothing Syrup**, it will relieve the poor little sufferer immediately. It is a certain remedy; there is no mistake about it. There is not a mother on earth who has ever used it, who will not tell you at once that it will regulate the bowels, and give rest to the mother, and relief and health to the child, operating like magic. It is perfectly safe to use in all cases, and pleasant to the taste, and is the prescription of one of the oldest and best female physicians and nurses in the United States. Sold everywhere, 25 cents a bottle.

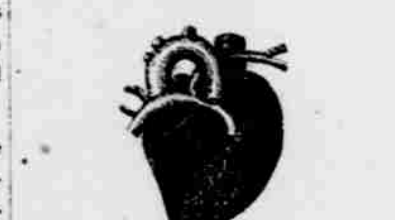
### In the Whole History of Medicine

No preparation has ever performed such marvellous cures, or maintained so wide a reputation, as **AYER'S CHERRY PECTORAL**, which is recognized as the world's remedy for all diseases of the throat and lungs. Its long and successful series of wonderful cures in all climates has made it universally known as a safe and reliable agent to employ.

For sale by all dealers.

### Peruvian Bitters

The Count Cincelton was the Spanish Viceroy in Peru in 1690. The Countess, his wife, was prostrated by an intermittent fever, from which she was freed by the use of the native remedy, the Peruvian bark, or, as it was called in the language of the country, "Quinina." Grateful for her recovery, on her return to Europe, in 1692, she introduced the remedy in Spain, where it was known under various names, until Linnaeus called it Cinchona, in honor of the lady who first brought them to notice, which was more precious than the gold of the Indies. To this day, after a lapse of two hundred and fifty years, science has given us nothing to take its place. It cures a morbid appetite for stimulants, by restoring the natural tone of the stomach. It attacks excessive love of liquor as it does a fever, and destroys the malarial fever, which is the most fatal of all fevers. The powerful tonic virtue of the Cinchona is preserved in the Peruvian Bitters, which are as effective against malarial fever today as they were in the days of the old Spanish Viceroy. We guarantee the ingredients of these bitters to be absolutely pure, and of the best known quality. A trial will satisfy you that this is the best bitter in the world. "The proof of the pudding is in the eating," and we willingly abide this test. For sale by all druggists, grocers and liquor dealers. Order it. Loeb & Co., agents for Astoria.



### King of the Blood

Is not a "cure all," it is a blood-purifier and a blood-builder. It cures all the diseases of the blood, such as *Impurity of Blood, Leucorrhoea, Catarrh, Scalding, Skin Disorders, Pimples, Ulcers, Swellings, etc.* It is the best and most reliable preparation for the purpose. Sold by Druggists, \$1 per bottle. See testimonials, directions, and full particulars on each bottle of the **BLOOD PURIFIER**, prepared by **DR. RANSOM, SON & CO., Props** *St. Louis, Mo., U. S.*

## ROSCOE'S FIRST CLASS Oyster Saloon.

CHEMAMUS STREET, ASTORIA. THE UNDERSIGNED IS PLEASED TO announce to the public that he has opened a **FIRST CLASS Eating House**, and furnishes in first-class style OYSTERS, HOT COFFEE TEA, ETC. AT THE **Ladies' and Gent's Oyster Saloon**, CHEMAMUS STREET. Please give me a call. **ROSCOE DIXON, Proprietor.**

## B. B. FRANKLIN, UNDERTAKER,

Corner Cass and Squemoque streets, ASTORIA, OREGON. DEALER IN **WALL PAPER** AND **WINDOW SHADES** AND UNDERTAKERS GOODS.

## WILSON & FISHER, SHIP CHANDLERS.

DEALERS IN Iron, Steel, Coal, Anchors, Chains, TAR, PITCH, OAKUM, WROUGHT AND CUT GALVANIZED SPIKES, Nails, Copper Nails and Burs, Shelf Hardware, Paints and Oils. Rubber and Hemp Packing of all kinds. PROVISIONS. FLOUR AND MILL FEED. Agents for Salmon Flouring Mills. Corner Chemamus and Hamilton Streets ASTORIA, OREGON.

## G. A. STINSON & CO., BLACKSMITHING,

At Capt. Rogers old stand, corner of Cass and Court Streets. Ship and Cannery work, Horseshoeing, Wagon axle and repaired. Good work guaranteed.

## CITY BOOK STORE.

We are constantly receiving new additions to our stock and have the finest and largest assortment of variety goods in the city.

## Combs, Brushes, Stationery, Frames

Celluloid Goods. All our goods are marked in plain figures and examined quality and note prices.

## Dressmaking, SEWING OF ALL KINDS!

Suits made to the best style from \$2 to \$20. Satisfaction Guaranteed. **MRS. GEO. HILLER.** Next door to Weston House. 1011

## L. H. G. SMITH, Importer and Wholesale Dealer in

Cigars and Tobacco, Smoker's Articles, Playing Cards, Cutlery, Etc., Etc. The largest and finest stock of Meerschaum and Amber goods in the city. Particular attention paid to orders from the country and vessels. Chemamus street, Astoria, Oregon. **THEO. BRACKER, Manager**

## Removal. TO THE LADIE OF ASTORIA.

I TAKE PLEASURE IN INFORMING you that I have removed my Dressmaking rooms **From Chemamus St. to Cass St.** Next door to THE ASTORIAN office. I thank the ladies for their liberal patronage. **MRS. A. RAPPLHYEA.**

## PACIFIC MUTUAL LIFE INSURANCE COMPANY, Of California.

**A. McKINNIE, Manager.** For Oregon, Washington and Idaho Territories. OFFICE—102 FIRST STREET, PORTLAND, OR.

References: CHAS. HOOPER, of Hodge, Davis & Co. JAMES STEEL, Cashier First National Bank. J. A. STROBRIDGE, Wholesale Leather and Bindings. C. A. DOLPH, of Dolph, Bronough, Dolph & Sims. Col. J. McCHAKEN, of J. McChaken & Co. L. C. HENRICHSEN, of Henrichsen & Greenberg. Dr. G. E. NOTTAGE, M. D. Examiner and Physician.

## MISCELLANEOUS.

### S. ARNDT & FERCHEN, ASTORIA, OREGON.

The Pioneer Machine Shop BLACKSMITH and BOILER SHOP. All kinds of ENGINE, CANNERY, STEAMBOAT WORK. Promptly attended to. A specialty made of repairing **CANNERY DIES**, FOOT OF LAFAYETTE STREET.

### ASTORIA IRON WORKS.

BENTON STREET, NEAR PARKER HOUSE, ASTORIA, OREGON.

### GENERAL MACHINISTS AND BOILER MAKERS.

**LAND & MARINE ENGINES** Boiler Work, teamboat Work and Cannery Work a specialty. **CASTINGS.** Oral Descriptions made to Order at Short Notice.

### WILLIAM EDGAR,

Corner Main and Chemamus Streets, ASTORIA, OREGON. DEALER IN **CIGARS AND TOBACCO.** The Celebrated **JOSEPH RODGERS & SON GENUINE ENGLISH CUTLERY** AND THE **GENUINE WOSTENHOLM** and other English Cutlery. **STATIONERY!** FAIRCHILD'S GOLD PENS. Genuine Meerschaum Pipes, etc.

### Watches and Jewelry, Muzzle and Breech Loading Shot Guns and Rifles, Revolvers, Pistols, and Ammunition!

ALSO A FINE Assortment of fine SPECTACLES and EYE GLASSES.

### Notice.

THE DELINQUENT TAX ROLL FOR the year 1881, together with a warrant from the County Court for the collection of the same, is in my hands. Delinquent taxpayers will please settle at once and save the process which hereafter may be issued by **A. M. TWOMBLY, Sheriff.**

### Notice.

THE PARTNERSHIP HERETOFORE existing between J. T. Borchers and F. H. Colwell in the fish packing business, under the name of "The Astoria Variety Packing Co.," is this day dissolved by mutual consent. The business will hereafter be conducted by **J. T. Borchers.**

### Headquarters Foster's Emporium.

Most Complete Stock in Astoria **Fireworks! Flags!** Fruits Both Foreign and Domestic **Wines and Liquors** of Superior Brand. **FOSTER'S CORNER, O. R. & N. DOCK**

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