

CITY LOST IN CASE AGAINST COUNTY.

City and County Have been Acting Illegally in City Road Tax.

The Supreme Court has reversed the case of Tillamook City vs. Tillamook County, in which the city brought two suits against the county to recover all the road tax collected within the corporate limits. The case decided last week by the Supreme Court was for the taxes collected on the 1908 roll and was tried before Circuit Judge W. Galloway at the last April term of the Circuit Court, who decided it in favor of the city. This is now reversed in a decision written by Judge J. McBride, which we give below in full:

The plaintiff in this case was incorporated by a special act passed at the session of 1893, the act of incorporation being found at pages 545 to 561 of the Session Laws of Oregon for 1893. It is provided in the charter of plaintiff, among other things, (pp. 551-2, Laws of 1893) that the common council shall have power within the limits of plaintiff "to collect road tax from all property in said corporation equal to that now levied by law for road purposes, to be expended upon the highways, streets, and alleys within said corporation, under the supervision of the common council, and the citizens and property within said corporation shall be exempt from the same taxes for county purposes."

For the year 1908, plaintiff made no levy for road tax. The county court of Tillamook county, however, made a levy for such purpose of eight mills on the taxable property within the corporate limits of plaintiff.

The plaintiff on April 9th, 1909, demanded of said county all of said road tax assessed against the property within its limits, and the county refused to pay said demand but ordered one-half of said road tax, or four mills thereof, to be turned over to plaintiff.

The plaintiff thereupon sued out a writ of review from the circuit court of Tillamook County, to review the action of the county court in that matter, and upon the hearing of said writ of review, the court found in favor of plaintiff and ordered all of said road tax to be paid over to plaintiff by the defendant, Tillamook County. From this judgment, the defendant appeals.

The law, at the time the charter of the plaintiff was enacted, provided for the levying of road taxes by counties of less than 10,000 inhabitants to the amount of not to exceed \$1.50 on the thousand dollars valuation, or in other words, a tax of one and one-half mills. Sec. 4085 Hill's Code.

The decision of this case turns primarily upon the construction to be given to sub. 2 of Sec. 2, Art. IV, of the charter of Tillamook City. Session Laws of 1893, pp. 551-2. Among other powers granted the plaintiff by this section, is found the following: "To collect road tax from all property in said corporation equal to that now levied by law for road purposes, to be expended upon highways, streets, and alleys within said corporation under the supervision of the common council, and the citizens and property within said corporation shall be exempt from the same taxes for county road purposes."

The charter went into effect immediately by virtue of an emergency clause there attached, having been filed with the Secretary of State February 13, 1893. At the time of its passage, the amount levied by general laws for County road purposes, was one and one-half mills on the dollar. Subsequently to the passage of the act incorporating plaintiff, but at the same session of the legislature, an act was passed permitting counties to levy a tax of five mills on the dollar for County road purposes, but this act did not take effect until 90 days after the adjournment of the legislature. Later, an act was passed permitting a levy of ten mills on the dollar, which act is still in force.

Plaintiff contends first, that the words "now levied by law" should be construed so as to mean "now or hereafter levied by law," in other words, that the intention of the legislature was to give the City the benefit of any increase that might be made, in the amount of the levy by subsequent legislation. We are unable to find any authority for such an interpretation. The word "now" has a fixed and definite meaning. It signifies "at the present time," at a time contemporaneous with something done. Pike v. Kennedy, 15 Or. 420, 15 Pac. 687; Chapman v. Holmes' Executors, 10 N. J. Law, 30-32; King v. Miller, 52 Or. 53, 97 Pac. 342.

When used in a statute, it will be construed as having reference to the statute then in force. Beard

v. Smith, 22 Ky. 430. And a subsequent repeal or amendment of the statute referred to will not affect the statute in which the reference is made. Sutherland Stat. Cons. 257.

It is also suggested that the county court had no right to levy any tax for road purposes within the City limits, and in this view we concur. It has been the usual custom to exempt incorporated cities from the payment of general county road taxes, and at the session at which the charter in question was passed, several municipal corporations were thus exempted and it does not seem probable that the legislature intended to make an exception of Tillamook City. We think the words "shall be exempt from the same taxes" refer to the character of the taxes, and not to their amount. The section is awkwardly drawn and does not possess that definiteness that characterizes other charters passed at the same session, but the intent is evident.

But we can not agree with the ingenious argument of counsel that the County, having collected a tax of eight mills on the dollar from the inhabitants of Tillamook City, is bound to pay it over to the municipality. It was the right of the City to levy a tax of one and one-half mills and the duty of the County to collect this and pay it over.

The City made no levy, but the County collected not only the amount that the City was entitled to have collected, but six and one-half mills more, on its own account. It had no lawful right to do this, but if it was paid voluntarily, a citizen cannot recover it, while if it was collected by process of seizure and sale, an action might perhaps lie in favor of the person injured. Johnson v. Crook County, 53 Or. 329, 100 Pac. 294. Its collection was an unlawful act and the City could not ratify such act and claim for itself what neither it nor the County was entitled to take in the first instance.

Under the ruling of this court in Eugene v. Lane County, 50 Or. 466, 93 Pac. 255, the plaintiff is entitled to that portion of the tax collected by the County represented by one and one-half mills on the dollar of its taxable property and it appears that this, and more, was tendered to it and was refused.

The decree of the Circuit Court is reversed and the writ dismissed.

Red Clover Creamery Company Report.

Tillamook, Oregon, Jan. 25, 1910.

Red Clover Creamery Co.

GENTLEMEN, - Following is my report as Secretary of Red Clover Creamery Co. for the year 1909:

Amount of milk received for each month: Jan. 36,400 lbs; Feb. 37,438 lbs; March 157,046 lbs; April, 361,119 lbs; May 302,280 lbs; June 308,292 lbs; July 308,232 lbs; Aug. 320,941 lbs; Sept. 246,434 lbs; Oct. 172,169 lbs; Nov. 83,327 lbs; Dec. 38,155 lbs.

Total, 2,611,845 lbs. Amount of butterfat contained in milk: 105,327.7 lbs; average test .04032.

Amount of cheese manufactured, 280,847.25 lbs. Returns, \$42,825.83.

Average price 15.249 per lb. f.o.b. Tillamook City; average yield, 10.75 lbs. cheese per 100 lbs. milk; average price paid patrons, 35.994.

Amount paid patrons, \$37,911.90; Average price per 100 lbs. milk, \$1.45-4; total number of trips shipped, 3,920 cases; Y. A.'s 135 cases.

Amount received by Red Clover Creamery Co. for manufacturing cheese \$4914.84; amount charged for manufacturing being 14c. per lb.

Patrons were paid for butterfat as follows: - Jan. 30.5c; Feb. 33.8c; March 36.3c; April 36.3c; May 35.37c; June 34.17c; July 34.8c; Aug. 37.07c; Sept. 38.04c; Oct. 38.11c; Nov. 37.38c; Dec. 37.45c.

Liabilities of the Company: Due patrons for Dec. milk, \$600.88; due cheesemaker, \$83.33; Assets: supplies on hand, \$656.38; amount in hands of treas. \$831.30.

Revenues for the year: Balance Dec. 31st, 1908, \$628.70; received for making cheese, \$4,914.85; received from sales, \$27.97; received from separator and mould, \$110.01; by note \$1,000.00; total, \$6,981.52.

Disbursements: Notes cancelled, \$1000.00; building and machinery, \$1437.76; dividends \$82.50; expenses, \$4007.28; interest \$19.61; total \$6747.15.

Balance to credit of Red Clover Creamery Co., \$434.37

Respectfully,
IDA M. QUICK, Sec'y.

Saved a Soldier's Life.

Facing death from shot and shell in the civil war was more agreeable to J. A. Stone, of Kemp, Tex., than facing it from what doctors said was consumption. "I contracted a stubborn cold" he writes, "that developed a cough, that stuck to me in spite of all remedies for years. My weight ran down to 130 pounds. Then I began to use Dr. King's New Discovery, which completely cured me. I now weigh 178 pounds." For Coughs, Colds, Hoarseness, Asthma, Hemorrhage, Hoarseness, Whooping Cough and Lung trouble, its supreme. Soc. \$1.00. Trial bottle free. Guaranteed by Chas. L. Clough.

Study of Farming by City Men.

A series of lectures on the practical attractions and opportunities of agriculture as a business is creating unusually active interest. The impression has become strong that more money can be made on the soil than in any other vocation and that, in any case, a more comfortable living can be secured in that way than is open to average wage earners. The more this subject is examined the more it will gain in interest among those who know that prudent foresight and intelligent knowledge are necessary in a change of occupation. That farming must pay is palpably true. At present prices everything a farmer can raise is a source of sure profit, and with a fair start the business, in competent hands, will keep on growing. But a man raised in a city feels that he has so much to learn in changing to the farmyard and the plow, and may so easily make a serious mistake in his choice of location and in his special purposes, that he is anxious for more information and to be assured that he will not go wrong at the outset.

In pioneer days a farmer went off to the rich lands on the edge of the wilderness, made a clearing, built a cabin, bought a few domestic animals, planted corn and vegetables, bartered with neighbors if he chanced to raise a surplus. If a city youth wanted to go into business he got a place as a farm hand and in due time took up land for himself. But the agriculture of the present time is not conducted on such simple lines. The field of selection has been greatly widened. Specialization in agriculture has been extensively developed. Both land and improved and unimproved. Where to settle down, what to grow, how to tide over the first year or two, and how to avoid any waste of means or labor, are questions that the cautious city man wants to solve with reasonable certainty. Nearly every state has agriculture colleges and experiment stations and the National Bureau of Agriculture is helpful in many ways. But regular schools, as a rule, are for the youthful. Many city people who are interested in the subject of agriculture are no longer young. If lecturers can talk to the point on the subject, and no doubt they can, the resulting good will be important in many ways.

While automobiles are expensive vehicles, in a sense, they are daily becoming less so. Improvements in methods, materials and knowledge have made a cheaper car possible and the fact that the purchasers of fancy cars are already supplied has caused manufacturers to devote their energies to turning out a car that is medium priced and of high quality. A new field for and of the product of the factories was necessary and this field was found among the farmers. High priced, fancy cars would not go with them, but quality would, and those manufacturers who were shrewd enough to make a car of high quality at a reasonable price have found ready customers among the farmers. It is estimated that there are now in use about 100,000 automobiles among the farmers of this country and something like 5000 of these are in Kansas. They are great favorites among the dairy farmers as time savers in the delivery of milk, but they are no less on among other farmers, who find in them a means of rapid transit without disturbing the farm teams. The new farm automobile is here to stay. - Kansas Farmer.

How Good News Spreads.

"I am 70 years old and travel most of the time," writes R. F. Tolson, of Elizabethtown, Ky. "Everywhere I go I recommend Electric Bitters, because I owe my excellent health and vitality to them. They effect a cure every time." They never fail to tone the stomach, regulate the kidneys and bowels, stimulate the liver, invigorate the nerves and purify the blood. They work wonders for the weak, run-down men and women, restoring strength, vigor and health that's a daily joy. Try them. Only 50c. Satisfaction is positively guaranteed by Chas. L. Clough.

An Awful Eruption

of a volcano excites brief interest, and your interest in skin eruptions will be as short, if you use Buckle's Arnica Salve, the quickest cure. Even the worst boils, ulcers, or fever sores are soon healed by it. Best for Burns, cuts, Bruises, Sore Lips, chapped Hands, Chillsblains and Piles. It gives instant relief. 25c. at Chas. L. Clough.

Stiff Neck.

Stiff neck is caused by rheumatism of the muscles of the neck. It is usually confined to one side or to the back of the neck and one side. While it is often painful quick relief may be had by applying Chamberlain's Liniment. Not one case of rheumatism in ten requires internal treatment. When there is no fever and no swelling as in muscular and chronic rheumatism, Chamberlain's Liniment will accomplish more than any internal treatment. - For sale by Lamar's Drug Store.

Synopsis of the annual statement of the GLENS FALLS INSURANCE COMPANY, of Glens Falls, in the State of New York, on the 31st day of December, 1909, made to the Insurance Commissioner of the State of Oregon, pursuant to law:

CAPITAL.	
Amount of capital paid up	\$200,000.00
Premiums paid during the year in cash	\$1,971,850.28
Interest, dividends and rents received during the year	235,615.59
Income from other sources received during the year	54,001.70
Total income	\$2,261,467.57

DISBURSEMENTS.	
Losses paid during the year	\$861,341.89
Dividends paid during the year on capital stock	230,000.00
Commissions and salaries paid during the year	611,462.50
Taxes, licenses and fees paid during the year	45,378.48
Amount of all other expenditures	165,580.70
Total expenditures	\$1,913,763.57

ASSETS.	
Value of real estate owned	\$36,482.01
Value of stocks and bonds owned	2,509,670.00
Loans on mortgages and collateral, etc.	1,574,523.00
Cash in banks and on hand	719,607.15
Premiums in course of collection and in transmission	229,679.00
Interest and rents due and accrued	27,452.59
Total assets	\$5,097,415.75

LIABILITIES.	
Gross claims for losses unpaid	\$120,211.31
Amount of unearned premiums on all outstanding risks	2,014,778.05
Due for commission and brokerage	20,000.00
All other liabilities	207,500.00
Total liabilities	\$2,462,489.36

Total insurance in force December 31, 1909, \$372,539,203.00

BUSINESS IN OREGON FOR THE YEAR.	
Total risks written during the year	\$643,367.00
Gross premiums received during the year	24,033.82
Premiums returned during the year	6,843.05
Losses paid during the year	6,716.99
Losses incurred during the year	6,716.99
Total amount of risks outstanding in Oregon, December 31, 1909	1,591,431.00

GLENS FALLS INSURANCE CO. By J. L. CUNNINGHAM, Pre. Statutory resident general agent and attorney for service: EDWARD W. MUELLER, No. 316 Abington Building, Portland, Ore.

CAPITAL.	
Amount of capital paid up	\$500,000.00
Increase of paid-up capital during the year	200,000.00
INCOME.	
Premiums received during the year	\$1,152,373.97
Interest, dividends and rents received during the year	40,213.25
Income from other sources received during the year	192,110.33
Total income	\$1,384,697.55

DISBURSEMENTS.	
Losses paid during the year including adjustment expenses, etc.	\$455,948.35
Dividends paid during the year on capital stock	—
Commissions and salaries paid during the year	406,878.25
Taxes, licenses and fees paid during the year	21,264.45
Amount of all other expenditures	934,853.64
Total expenditures	\$934,853.64

ASSETS.	
Value of real estate owned	\$ —
Value of stocks and bonds owned	728,370.01
Loans on mortgages and collateral, etc.	300,450.00
Cash in banks and on hand	63,851.97
Premiums in course of collection and in transmission	223,746.73
Interest and rents due and accrued	20,762.19
Total assets	\$1,427,180.90

LIABILITIES.	
Gross claims for losses unpaid	\$222,104.35
Amount of unearned premiums on all outstanding risks	444,408.80
Due for commission and brokerage	64,540.74
All other liabilities	16,578.97
Capital and surplus as regards policy holders	678,544.04
Total liabilities	\$1,427,180.90

BUSINESS IN OREGON FOR THE YEAR.	
Total risks written during the year	\$ —
Gross premiums received during the year	2,921.87
Losses paid during the year	—
Losses incurred during the year	33.28

the year 247.28
Total amount of risk outstanding in Oregon, December 31, 1909
The Philadelphia Casualty Company.
By ROBT. G. HAZELDINE, Sec. Statutory resident general agent and attorney for service: FRANK E. SMITH.

Synopsis of the Annual Statement of the WILLIAMSBURG CITY FIRE INSURANCE CO., of New York, in the State of New York, on the 31st day of December, 1909, made to the Insurance Commissioner of the State of Oregon, pursuant to law:

CAPITAL.	
Amount of capital paid up	\$250,000.00
INCOME.	
Premiums received the year in cash	1,748,246.02
Interest, dividends and rents received during the year	82,306.00
Income from other sources received during the year	46,747.14
Total income	\$1,877,299.25

DISBURSEMENTS.	
Losses paid during the year	\$934,788.85
Dividends paid during the year on capital stock	50,000.00
Commissions and salaries paid during the year	578,411.29
Taxes, licenses and fees paid during the year	37,426.20
Amount of all other expenditures	165,397.31
Total expenditures	\$1,766,023.65

ASSETS.	
Value of real estate owned	\$90,000.00
Value of stocks and bonds owned	1,607,775.00
Loans on mortgages and collateral, etc.	402,100.00
Cash on banks and on hand	361,702.71
Premiums in course of collection and in transmission	305,437.91
Interest and rents due and accrued	20,050.56
Total assets	\$2,787,066.18

LIABILITIES.	
Gross claims for losses unpaid	\$177,029.70
Amount of unearned premiums on all outstanding risks	1,538,564.11
Due for commission and brokerage	—
All other liabilities	30,950.32
Total liabilities	\$1,746,544.13

Total insurance in force December 31, 1909, \$278,885,164.00

BUSINESS IN OREGON FOR THE YEAR.	
Total risks written during the year	\$173,777.00
Gross premiums received during the year	4,630.32
Premiums returned during the year	1,431.19
Losses paid during the year	175.00
Losses incurred during the year	175.00
Total amount of risk outstanding in Oregon, December 31, 1909	\$173,777.00

WILLIAMSBURG CITY FIRE INSURANCE COMPANY. F. H. WAY, Sec. Statutory resident general agent and attorney for service: EDWARD W. MUELLER, No. 316 Abington Building, Portland, Ore.

CAPITAL.	
Amount of capital paid up	\$500,000.00
INCOME.	
Premiums received during the year	\$1,499,888.47
Interest, dividends and rents received during the year	92,591.87
Income from other sources received during the year	48,293.87
Total income	\$1,640,774.21

DISBURSEMENTS.	
Losses paid during the year	\$687,287.59
Dividends paid during the year on capital stock	60,000.00
Commissions and salaries paid during the year	428,525.65
Taxes, licenses and fees paid during the year	53,361.59
Amounts of all other expenditures	207,991.91
Total expenditures	\$1,437,116.54

ASSETS.	
Other Ledger Assets	1,823.16
Value of real estate owned	166,700.00
Value of stocks and bonds owned	1,880,007.00
Loans on mortgages and collateral, etc.	179,100.00
Cash in banks and on hand	81,574.16
Premiums in course of collection and in transmission	247,887.26
Interest and rents due and accrued	13,381.52
Total assets	\$2,570,473.10

LIABILITIES.	
Gross claims for losses unpaid	126,611.75
Amount of unearned premiums on all outstanding risks	1,363,540.00
Due for commission and brokerage	—
All other liabilities	32,619.05
Total liabilities	\$1,552,770.97

BUSINESS IN OREGON FOR THE YEAR.	
Total risks written during the year	\$277,750,879.00
Gross premiums received during the year	—
Losses paid during the year	—
Losses incurred during the year	245,755.00

Gross premiums received during the year		6,672.00
Premiums returned during the year		1,884.00
Losses paid during the year		1,618.00
Losses incurred during the year		1,618.00
Total amount of risks outstanding in Oregon, December 31, 1909		255,750.00

Security Insurance Co. By VICTOR ROTH, Sec. Statutory resident general agent and attorney for service: JOHN P. SHAKKY, No. 122 1/2 Sixth street, Portland, Ore.

Gross premiums received during the year in cash		\$603,308.00
Interest, dividends and rents received during the year		48,780.00
Income from other sources received during the year		4,332.00
Total income		\$656,420.00

DISBURSEMENTS.	
Losses paid during the year	\$253,630.00
Dividends paid during the year on capital stock	24,000.00
Commissions and salaries paid during the year	103,830.00
Taxes, licenses and fees paid during the year	25,367.00
Amounts of all other expenditures	58,113.00
Total expenditures	\$554,960.00

ASSETS.	
Value of real estate owned	\$77,053.00
Value of stocks and bonds owned	555,612.00
Loans on mortgages and collateral, etc.	486,190.00
Cash in banks and on hand	67,721.00
Premiums in course of collection and in transmission	103,063.00
Interest and rents due and accrued	11,442.00
Total assets	\$301,960.00

LIABILITIES.	
Gross claims for losses unpaid	46,500.00
Amount of unearned premiums on all outstanding risks	501,723.00
Due for commission and brokerage	830.00
All other liabilities return premiums and taxes	9,23