

**BAY CITY CHARTER KNOCKED OUT.**  
Involves a Large Amount of City Taxes and Bond Issue in Question

The Supreme Court handed down a decision in the case of W. L. Provoost vs. Mary J. Cone which rocks out the new charter and places Bay City in a peculiar position, for the decision involves taxes to the amount of over \$6,000 and brings into question the validity of the bond issue in that city. The city was operating under the general law, and it is the new, or amended charter that goes by the boards. For several years W. S. Cone refused to pay the city taxes, contending that the charter was defective which proves that he was right in his argument and for two years the Bay City Land Co. has failed to pay the city taxes. Attorney Webster Holmes represented Mrs. Mary J. Cone and Attorney H. T. Bots the city.

We give below the opinion in full, which affirms Judge Bagley's decision in the circuit court.

This is an appeal by the plaintiff from a decree dismissing a suit instituted to foreclose an alleged delinquent tax certificate. The question involved is whether the proceedings undertaken to amend a municipal charter were conducted in the manner prescribed. The Town of Bay City was incorporated under the provisions of a general act of the legislative assembly, filed in the office of the secretary of state February 21, 1893. L. O. L. sections 3206, et seq. Section 3224 thereof contains a clause which reads: "Every ordinance shall be signed by the mayor, or passed over his veto, and attested by the recorder, and a copy thereof published at least once in a newspaper published in such city or town, or in lieu of such publication, three copies thereof shall be posted in at least three public places therein before it becomes a law."

The common council of that town, desiring to invoke an exercise of the initiative power reserved to the electors of municipalities by the organic law of the state, enacting ordinance No. 3, October 17, 1910, proposing to amend and substitute another charter, setting forth a copy thereof, whereby the name of the municipality was undertaken to be changed to that of "Bay City." Subdivision 2 of section 1 of article 8 of the proposed amendment reads:

"To levy taxes, not to exceed 5 mills on the dollar per annum on the taxable property within the corporate limits." The ordinance provided it should go into effect upon its passage and approval by the mayor, and it was so enacted and ratified on the day stated. This ordinance was not published in a newspaper, nor was a copy thereof posted as required by section 3224, L. O. L. At a meeting of the council held the next day it was voted that an election should be held in the corporate limits December 20, 1910, to determine whether or not the proposed substitutes for the charter should become the organic law of the municipality, whereupon the recorder was directed to post notices of the election, and judges and clerks thereof were appointed. Pursuant to notice thereof an election was held at the time specified, and it having appeared from a canvass of the votes so cast that a majority thereof favored the adoption of the new charter, it was declared duly enacted. Based upon the provisions of the substituted charter and of ordinances enacted in conformity therewith, there was entered on the tax roll of Tillamook County for the year 1911, with other executions, a municipal tax of \$11.55 against the defendant's real property in Bay City. She paid all the general taxes so levied, but upon refusing to discharge the municipal demand the plaintiff paid the same with penalty and interest to January 12, 1914, amounting to \$15.74, and received a certificate of delinquency as evidence thereof.

Ordinance No. 3 was first published December 20, 1911, but this was more than a year after the adoption of the substituted charter. Several other amendments thereto were attempted to be made whereby the annual tax rate could be increased and the pro rata share thereof entered on the roll. In consequence of the defendant's refusal to liquidate the part of the municipal execution, the plaintiff paid the same and now seeks by this suit to foreclose the alleged lien given by law to secure \$42.52 as the entire amount of the delinquent taxes, penalties, and interest, and to have such real property sold to satisfy that sum with accruing costs, disbursements, and expenses.

The cause being at issue was tried, and from the evidence received the court made findings of fact substantially as here stated, and based thereon reduced the conclusion of law that since ordinance No. 3 was never published in a newspaper or posted as required, the substitute charter was not legally enacted, and as it never had life, vitality could not be infused into it by subsequent amendments, neither of which was affective, and thereupon gave a decree as hereinbefore stated.

No escape from the conclusion so reached seems possible, however much it may be desired to uphold the proceedings of the common council and to sustain the vote of the electors. Section 3224 L. O. L., which was incorporated in and thus became a part of the original charter, prescribed the manner and afforded the measure of the power that could be exercised in the enactment of ordinances. Until the section was legally abrogated in the manner specified by an exercise of the initiative power, it was impossible to inaugurate an amendment of the charter except by a strict compliance with the mode pointed out. In *Theilk vs. Albee*, 76 Or. 449, 150 Pac. 854, it was ruled that under section 1a, article IV, of the constitution, reserving to the voters of every municipality the initiative and referendum powers as to all municipal legislation, and section 1 of article XI thereof, granting to the voters of every city power to enact a municipal charter subject to the

constitution and criminal laws, a common council of a city could not initiate an ordinance and submit it to a vote of the people as an initiative measure without first enacting it. The decision in that case is controlling herein. As ordinance No. 3 was never legally passed before it was declared to be in effect by reason of the failure to give the required notice, no valid amendment thereto was made, and the taxes attempted to be levied pursuant thereto are void.

It follows that the decree must be affirmed, and it is so ordered.

**Nazarene Church.**

Beginning Friday evening, February 16, evangelists Lewis and Mathews will hold a series of revival meetings. Services each evening at 7:30, and at 11 and 7:30 on Sundays. An invitation is extended to everyone to attend any or all of these meetings.

A. H. Smith, Pastor.

**"The Convict's Daughter."**

This beautiful four act comedy drama will be presented by the Dramatic Club, two nights, Friday and Saturday, February 23rd and 24th.

This will be the best play the Dramatic Club has offered to their friends. Specialties will be introduced between the acts, new faces, new scenery, good music and a dandy good show, so do not fail to see this one you'll like it.

**Bay City Community Church.**

The services next Sunday afternoon at 2 o'clock will be one of interest to all who will attend. It will be distinctly patriotic in character with a sermon appropriate to the times. Reference will be made to the outstanding national heroes and their place in the fixing of our individual responsibility in the matter of upholding the honor of our heritage as citizens and as Christians. The general public is most cordially invited to attend this service and urged to require the good habit of regular church attendance. Every person who fails at this point not only robs himself of the cultivation of the better qualities of life, but also stands seriously in the way of others who are being influenced by such adverse example.

J. E. Youel, Minister.

**Presbyterian Church Notes.**

Members of all military and patriotic organizations who are not responsible for supporting the services of other churches next Sunday evening are cordially invited to attend the special patriotic services in this church which will open at 7:30 promptly. This includes the 10th Co., C. A. C., G. A. R., W. R. C. and S. of V., and families. The sermon of the evening will be on the subject "Heroism of a Worthy Life." The choir will contribute special numbers, and the congregation will have the opportunity of joining their voices in singing the national anthem and hymns of inspiration. The morning service at 11 will be attractive and worshipful with a sermon having as its theme "The Gift of Power." The general public is most welcome to attend all of these services. Strangers and others without their own church home in town may be certain of a hearty reception in this church.

J. E. Youel, Minister.

**Notice of Sheriff's Sale Under Foreclosure.**

Notice is hereby given that by virtue of a judgment and decree made and entered on the 5th day of February, 1917, in a certain cause pending in the Circuit Court of the State of Oregon for Tillamook County, wherein Robert R. Peters was plaintiff and Albert Darby and Bertha Darby were defendants, and by virtue of an execution issued under and by virtue of the said judgment and decree on the 13th day of February, 1917, the undersigned sheriff of Tillamook County, Oregon, at the front door of the Court House in Tillamook County, Oregon, on Monday the 26th day of March, 1917, at the hour of 10 o'clock a.m. of said day in order to satisfy the said judgment and decree, will sell at public auction for cash to the highest bidder, all the right, title and interest which the above named defendants had in and to the said premises on the 6th day of March, 1914, or any time subsequent thereto.

Said premises being more particularly described as follows, to-wit: The South West quarter of the South East quarter and ten acres off the south side of the South East quarter of the South East quarter of Section six in Township two South, Range nine West of the Willamette Meridian in Oregon, containing fifty acres, more or less.

Dated the 13th day of February, 1917.

W. L. Campbell,  
Sheriff of Tillamook County, Ore.  
By, Elmer L. Webb, Deputy.

First publication Feb. 15, 1917.  
Last publication March 15, 1917.

**Notice of Final Account**

Notice is hereby given: that the undersigned has filed in the County Court of the State of Oregon, for the County of Tillamook, his final account as executor of the last will and testament of John Aellig, deceased, and the said Court has fixed Saturday the 17th day of March, 1917, at 10:00 o'clock in the forenoon of said day, at the Court House in Tillamook City, Oregon as the time and place for hearing objections to said account.

All persons are notified to file their objections, if any, at said time and place.

Dated this 10th day of February, 1917.  
Andrew Zuercher,  
Executor of the last will and testament of John Aellig, deceased.

Subscribers Please Call for  
**MARCH DELINEATORS.**  
The Delineator Per Copy..... 15c.  
New Butterick Quarterly..... 25c.  
(Including Coupon Value 15c.)  
Butterick Patterns..... 10c., 15c., 20c., 25c.  
By Mail 2c. Extra.



**New Shipment of CROCHET THREADS.**

Klustersilk Crochet per Ball	10c.
White 5 10 15 20 30 40 50 60 70 80 100	
Ecu 5 10 15 20 30 40 50 60 70	
Linen 3 5 10 20 30 50 70	
Colors 3 5 30 50 70	

**Feb. Clean-Up Sales**  
Are Bringing Hundreds of Economies Within the Reach of Every Family in Tillamook County.

**Final Clean-Up of Trimmed Millinery at Each \$1.85**

Your choice of any trimmed Hat in the store for this sensationally reduced price. Included in the lot are about 25 beautiful styles in trimmed Hats in small, medium and large shapes in Black, Blue, Red, etc., with trimmings of the very highest order.

There are values up to \$7.50 and every hat is good-looking, desirable and worth every cent of the regular price, but the end of the season is near at hand and out these hats must go at this sacrifice.

On Sale Friday and until Cleared. Better secure yours today.

**Very Special Sale Ladies' Stockings, 29c. Pair.**

Ladies' Black Hose fast dye and seamless. Bought many months ago away below present market value hence the remarkably low price for such splendid stockings. All Sizes, 8 1/2, 9, 9 1/2 and 10 now in Stock. 6 Pair in a Box. Buy them by the Box.

**February Clean-Up of Ladies' Suits Coats, Etc.**

Don't fail to benefit by these sensational price reductions on Ladies' Wearing Apparel of almost every kind.

Look through this list carefully and you will surely find something, upon the purchase of which, you could save many many dollars by buying here and now.

To \$25.00 Fur Fabric Coats now \$12.85  
To \$16.50 Smart Coats now \$8.85  
To \$25.00 Handsome Suits now \$12.85  
To \$27.50 Tailored Suits now \$16.70  
To \$7.50 Stylish Dress Skirts \$5.98

**Continuing the February Sale of Footwear**

To every man and woman who realizes the condition of the leather market today these sales of footwear will surely appeal. Buy now for future needs.

To \$3.00 Ladies Dress Shoes now \$1.98  
To \$6.50 Red Cross Shoes now \$4.65

<b>Child's and Misses' Shoes.</b>	<b>Boys' Kreider Kick-Proof Shoes.</b>
Sizes 5 to 8. Reg \$1.98 now \$1.69	Sizes 8 to 11 1/2. Reg \$2.75 now \$2.45
Sizes 8 1/2 to 11. Reg \$2.25 now \$1.93	Sizes 12 to 2. Reg \$3.25 now \$2.65
Sizes 11 1/2 to 2. Reg \$2.75 now \$2.29	Sizes 2 1/2 to 5 1/2. Reg \$3.50 now \$2.98

Reg. \$4.00 Men's B. C. Bluchers \$3.45  
Reg. \$5.50 Sin. top Wark Shoes \$4.35  
Reg. \$9 2in. top Dayton Shoes \$5.85  
Reg. \$9.00 12in. and 16in. Nap-Tan Shoes \$5.85

**February Clean-Up of Men's Overcoats and Hats.**

You will appreciate the exceptional bargains offered you in this Sale of Overcoats and Furnishings for Men and Boys, for the Merchandise on Sale is thoroughly up-to-date and reliable.

Reg. to \$15.00 Men's Overcoats \$10.45  
Reg. to \$15.00 Men's Balmacaans now \$10.45  
Reg. to \$15.00 Goodrich Raincoats now \$10.45  
Reg. to \$3.00 Men's Felt Hats \$1.45  
Reg. 75c. Boys' Wool Waists 59c.  
Reg. to \$2.00 Boys' Felt Hats 69c.

**Very Special Values Striped Galateas, 25c. Per Yard.**

Exceptionally smart looking and splendid wearing Galateas in the new alternate stripes 3-16 to 1/2 inch in widths. They are shown in White with Red, Blue, Helio, Navy, Reseda, or Tan as well as in self colors of White, Tan, Green, Red and Navy.

Ideal fabrics for the new Spring Outing Skirts, Mid-dies or Sport Suits.

**Lovely New Spring Draperies Now on View.**

The Very Latest Weaves and Designs in Hangings of Every Description at Exceptionally Modest Prices.

This is the event you have been looking for. The bright sunny days call for Draperies of lighter hues and weaves—Spring is adorning herself—and so it should be with the home in the matter of Hangings.

Come to the store and see what a wonderful assemblage of Window Draperies, Cretonnes, Silkalines and Hangings of all kinds we have prepared for your own particular choosing.

A few descriptions follow:—

<b>36 in. Scrims, 15c.</b> Plain White and Cream fancy and Hemstitched Border Scrims. Very Special Values. 36 inches wide. Price Per Yard..... 15c.	<b>Etamines, 18c.</b> 36 in. wide Hemstitched Etamines in White, Cream and Ecu with floral borders in many pretty colors. Price Per Yard..... 18c.
<b>Etamines, 20c.</b> Novelty Bordered self color White, Cream and Ecu, hemstitched Etamines. 36 inches wide. Price Per Yard..... 20c.	<b>Marquissettes, 25c.</b> Very fine firm weave hemstitched Marquissettes in plain White, Cream and Ecu. Very Special. Price Per Yard..... 25c.
<b>Marquissettes, 29c.</b> Dainty 36 inch Voile Marquissettes in White Cream and Ecu, hemstitched Borders. Price Per Yard..... 29c.	<b>44 in. Nets, 35c.</b> Heavy Curtain Nets in White, Cream and Ecu, very firm weaves, pretty designs. Price Per Yard..... 35c.

**Very Special Values Serpentine Crepes, 29c. Per Yard.**

Pretty fabrics for making up Ladies' Kimonos and Dressing Sacques. They come 30 inches wide and are shown in white grounds with lovely large Rose designs in Tan, Pink and Blue as well as in grounds of Pale Blue and Navy Blue, with dainty floral designs in various colors.

**5c. Bargain Table.**

A collection of odds and ends in Merchandise from all over the store that was priced originally up to 75c.

Buttons—Braids—Stocking Yarners—Curling Tongs Bone Hairpins—Correspondence Envelopes—Belts—Embroidered Initials, etc.

**Bargain Square— Under Balcony.**

**25c. Bargain Table.**

A Clean-Up Bargain Table of Odd Lots and closing-out lines of Merchandise in values up to \$2.50.

Ladies Waists—Knitted Caps—Cushion Tops—Dishes—Girls' Petticoats—Children's Bonnets—Children's Leggings—Corsets in small sizes only, etc.

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