

## As The Weekly Goes to Press, We are Informed That Peace Has Been Signed at Portsmouth, N. H.

### Labor Day Proclamation.

"Whereas, the first Monday in September of each year has been designated by law as a legal holiday to be known as Labor Day.

"Now, therefore, I, Geo. E. Chamberlain, as governor of the state of Oregon, do make public proclamation if the fact that Monday, the 4th day of September, 1905, is set apart as a legal holiday for rest from ordinary labors. The present friendly relations between labor and capital in our splendid commonwealth should be maintained in order to ensure a continuance of the prosperity which our people enjoy. To assist in prolonging that much desired condition, I earnestly pray that there may be a general suspension of all business on that day thus set apart, and that employer and employe will meet in social and friendly intercourse, thereby coming into closer touch and relationship each with the other and becoming better acquainted with the industrial life and condition of the whole people.

"In testimony whereof, I have hereunto set my hand and caused the great seal of the state to be affixed thereto.

"Done at the Capital, in the city of Salem, this twenty-eighth day of August, A. D. 1905.

By the Governor:  
Geo. E. Chamberlain,  
"Governor.

F. I. Dunbar,  
"Secretary of State."

### THE SECRETARY IS RESPONSIBLE

OPINION RENDERED IN SEARS VS. JAMES CASE.

SUPERINTENDENT IS UPHOLD.

In the Matter of the Expenditure of the Penitentiary Betterment Fund.

Is Liable for Malfeasance in Office, However, if Found Guilty of Receiving Labor of Prisoners for Individual Profit—Four Marion County Cases.

In one of five opinions handed down by the supreme court yesterday, Justice Bean, the author, affirms the decree of Judge Galloway of the circuit court for this county in the case of J. K. Sears, a taxpayer, appellant, vs. Superintendent C. W. James of the penitentiary, respondent. This suit was brought for the purpose of restraining Superintendent James from expending the money belonging to the penitentiary betterment fund in the purchase of household furniture, supplies, etc., for his individual use and benefit; charging the wrongful expenditure of \$1,000 of the fund to that end, and charging the prison officials with having employed convict labor for individual profit, contrary to the state statute.

The court, after a lengthy review of the history of the case and the citation of numerous authorities, holds that the secretary of state is the auditing officer, charged with the duty of protecting the state from false and fraudulent claims, and, as he is not a party to the suit, the court assumes he will discharge the duty, and, if the defendant approves or presents an illegal claim it will be disallowed.

Justice Bean, however, holds that that statute provides that the superintendent of the penitentiary shall not receive the labor of any prisoner for his individual profit or be interested in any contract upon which such labor shall be employed, and, if the defendant has or is violating this section, he may be liable for malfeasance in office, but it is the court's opinion that no ground for equitable interference at the suit of an individual taxpayer.

She May Recover Damages.

Chief Justice Wolverson, in an opinion rendered in the case of Susan M. Davis, respondent, vs. the City of Silverton, et al., appellants, an appeal from this county, reverses the decree entered for the plaintiff by Judge Galloway and dismisses the action.

This was an action to enjoin the city from collecting an assessment against the plaintiff's property for the improvement of First street and for \$200 damages in the destruction of a stone wall which marked the street line of the plaintiff's premises in the process of widening the street. The supreme court holds that the action of the city authorities was proper and regular in the improvement of the street and that the assessment against the property is collectable, but, if the city trespassed upon the rights of the plaintiff in the removal of the wall, it may be responsible for damages, but, being recoverable by law, the action has no place in the equity court. Plaintiff's equitable remedy is held extinct and her only remedy now is to repossess herself of the property and sue for damages in the law court.

Vacating Waiver Is Held Valid.

Chief Justice Wolverson is also author of another opinion, in a Marion county case, in which he upholds the decree entered by Judge Burnett. This is in the case of George A. Wolfer, respondent, vs. H. A. Hinkle and W. S. Hurst, appellants, brought for the purpose of recovering possession of a 10-acre hop yard near Aurora, the property of the plaintiff, and for the ejectment of the defendant renters.

Defendants' lease of the premises expired on October 1, 1904, and, under the terms of the lease the tenants waived the right of thirty days' notice to vacate, as provided by statute, and the plaintiff brought suit for forcible entry and detainer. Defendants' principal contention that they waived the lease under which they claimed right of notice was invalid and claimed the right to lease the property for an indefinite term of years under an alleged verbal agreement entered into between the parties principal to the lease. The court, however, holds the waiver of vacation notice valid and the tenants subject to ejectment at the expiration of the lease. This is a very important opinion in that the crop of hops now growing upon the property is valued at approximately \$1,500 and the question of the right of possession was involved.

Judge Fraser Is Reversed.

The decree entered by Judge Fraser of the circuit court for Multnomah county, in the case of Multnomah county, appellant, vs. First National bank of Portland, and W. F. White, respondents, is reversed in an opinion rendered by Justice Moore and the suit is dismissed.

This action involves the validity of sixty-nine tax certificates, aggregating with costs of sale, etc., \$7,215.25, purchased by White from the bank and

later declared void in a former suit brought by the county in the circuit court and relinquished by White. The tax certificates having been returned to and cancelled by the county clerk, the county court treated the assignments as not having been made and decreed the transfer void. The supreme court holds the valid part of these warrants was a legal right against the county and the money paid by the bank for all of them, issued and endorsed in the manner indicated, afforded a claim that merited consideration, thereby authorizing the county and bank to effect a compromise, and having done so, by exchanging warrants for tax certificates such agreement should be upheld.

Insolvency Not Proven.

In an opinion rendered by Justice Bean the judgment rendered by Judge Galloway of the Marion county circuit court in the case of Walter Whelan, respondent, vs. L. H. McMahon and A. M. Clough, appellants, is reversed and the complaint dismissed.

It is held in this case that a suit in equity to set off one judgment against another cannot be maintained unless insolvency or some such ground for equitable intervention is alleged and proven. In this case the allega-

### PEACE SEEMS MOST CERTAIN

REPORTED JAPAN WILL SUBMIT NEW COMPROMISE TODAY.

TO EXACT NO INDEMNITY

And Will Cede Back to Russia the Northern Half of Sakhalin Island.

Two Items Regarded as Only Stumbling Blocks to Peace Agreement and Prospects Look Brighter—Due to Influence of President Over Mikado.

ST. PETERSBURG, Aug. 29 (3:15 a. m.)—An Associated Press dispatch from Portsmouth declaring President Roosevelt was authorized several days

ago, on behalf of Japan, to waive all claim for indemnity or reimbursement for the cost of the war and to cede back to Russia the northern half of the island of Sakhalin, leaving the "redemption" price of it to arbitration, was received too late here last night to reach the general public, but its significance was instantly recognized in quarters where it became known.

There is every reason to believe, judging from the official expressions given out by the foreign office since the beginning of the negotiations at Portsmouth, that this proposition by Japan to waive the question of indemnity goes far toward removing the last and, according to official explanations, the only stumbling block in the way of peace.

Japs Turn Tables on Bears.

Portsmouth, Aug. 28.—Tomorrow morning Baron Komura, acting upon instructions from Tokio, as a result of today's meeting of the cabinet and other statements, under the direct presidency of the emperor of Japan, will submit to Mr. Witte a new basis of compromise, and that compromise, it is firmly believed tonight, will insure peace.

The revelation was contained in the Associated Press announcement today that Japan has already informed Emperor Nicholas, through Ambassador Meyer, that Japan was ready to waive the question of indemnity and submit the price to be paid for the northern half of Sakhalin to the judgment of a mixed commission, prepared the way for Japan's backdown upon the main

### SLEEP IN ARMS OF OLD NEPTUNE

ALMOST ENTIRE CREW OF PECO-NIC LOST AT SEA.

FOUNDERED IN A HEAVY GALE

Immense Wave Strikes Vessel Broad-side and she Sinks Almost Immediately.

Only Two of Crew of Officers and Men of Ship, an Italian and a Spaniard, Escape with Lives—Twenty Men Go to the Bottom.

FERNANDINA, Fla., Aug. 28.—Twenty men constituting all but two of the officers and crew of the American steamship Peco-nic, bound from Philadelphia to New Orleans with coal, were drowned by the sinking of that vessel off the coast of Florida today. The disaster was the result of a fierce gale which raged along the coast during the night and morning.

An immense wave struck the vessel with terrific force. The impact, coming just as the vessel was making a turn, caused a shift of the cargo and the vessel leaned over and sank immediately. The accident occurred so quickly that only two of those aboard, an Italian and a Spaniard, were able to save themselves. They succeeded in getting into a life boat, reached Amelia Beach and told the story of the disaster. At the time of the disaster the ship was about 200 miles northeast of here. She was a ship of 1554 tons register.

### DON'T WANT U. S. BEER.

VICTORIA, B. C., Aug. 28.—The western Canadian brewers have decided to present a vigorous protest to the Dominion government against the continued importation of American beer, which, it is claimed, has almost supplanted the Canadian product in the western market, and the sale and consumption of which is rapidly increasing in this country. The objection of the Canadian brewers is that the government compels them to make their beer from pure malt and hops, while there is no restriction upon the American brewers. This, the home brewers urge, is manifestly unfair, and they think that the government should either permit them to use the cheaper materials and ingredients, or else place greater restrictions upon the imported product.

### IS VERY STRANGE COINCIDENCE.

Although Thousand Miles Apart Deaths of Husband and Wife Occur Simultaneously.

NEW YORK, Aug. 28.—Separated by 1000 miles distance, Mrs. June Johnson of the Rock, Ark., emphysema, and her husband, Allan Johnson, a little Rock, Arkansas, bunker, met death almost simultaneously today. At the precise hour when Mrs. Johnson's body was taken from the bathing waters at Coney Island, a telegram reached here to inform her of the death of her husband.

IF YOU WANT QUALITY COME TO THE WOOLEN MILL STORE

If you want to wear the best hat in the market, ask for the

**ROBERTS \$3.00 HAT**

Best in style, quality and comfort. Come and see the largest line of fall hats in the city.

**SALEM WOOLEN MILL STORE**

## Hop Pickers' Supplies

We offer you the best values in the city in

**Gloves, Hats, Shirts, Overalls, Jumpers, Shoes and Clothing.**

Big line of Odds and Ends in

**Men's Fur Hats at \$1.**

Worth from \$1.35 to \$1.95.

**Ladies' Tan Shoes**

Our \$2.95 line now for

**\$2.00**

The best value ever offered in Salem in reliable footwear. See them on front table in shoe department.

## Barnes' Cash Store

E. T. Barnes, Prop.



**Antiquated Methods**

Of dentistry are used by the majority of dentists even in this day, and how often you hear people say: "Oh, I have a tooth to be filled or crowned and I dread to go near the dentist, it will hurt so." Now, to this class of people I wish to say: I use all the latest down-to-date appliances, also the most successful methods to allay pain and can without hesitation whatever, say that I can perform any dental operation without the slightest pain. Others have satisfied themselves; your's next.

Fees Reasonable  
Examination Free

**Dr. B. E. Wright The Painless Dentist**

tion that McMahon was insolvent was not proven.

The former opinion, in the case of F. F. Harrington, respondent, vs. A. L. Demaris, appellant, from Umatilla county, Judge W. R. Ellis, on rehearing, is modified by Justice Moore.

Behaving Petitions Denied.

Petitions for rehearing in other cases were denied as follows:

Octavia Ausplund vs. J. W. Higgins and the Aetna Indemnity Company.

J. H. McHugh vs. W. E. McPherson.

Oregon Transfer Company vs. City of Portland.

Geo. Abbot vs. O. R. & N. Co.

J. A. McKinnon vs. J. W. Higgins.

F. S. West vs. J. W. Higgins.

P. F. Fouts vs. City of Hood River.

I. G. Darr vs. Guarantee Savings & Loan Association.

Margaret Barringer vs. John W. Loder.

O. R. & N. Co. vs. Umatilla county.

Frank C. Sharkey vs. C. F. Caddiani; petition for rehearing allowed.

S. O. Carrell vs. Augusta Bailey; motion to affirm judgment of circuit court allowed.

Leonard Kobat vs. Maurice Moore; motion to strike out bill of exceptions denied.

J. G. Seed vs. O. O. Jennings; motion to dismiss appeal denied; diminution of record allowed.

**NO BEARING ON PEACE QUESTION**

J. Pierpont Morgan Discusses China Railroad Matters With President Roosevelt.

OYSTER BAY, Aug. 28.—J. Pierpont Morgan had an extended conference with President Roosevelt. The conference related to matters pertaining to the Canton-Hankow railroad in China and its probable disposition by the present owners, the American-China Development Company. J. P. Morgan & Co. practically controls the road and its concessions. The conference had no relation to the pending peace negotiations.

**OFFICERS FEAR SUICIDE.**

No Trace Found of Parents Who Abandoned Children in New York Hotel.

ALBANY, N. Y., Aug. 28.—Evidence as to the identity of Mr. and Mrs. John W. Rogers, who went out of the Hotel Heneyck here Friday night, leaving two little boys, one a baby of six months, the other six years old, in the care of a chambermaid, is steadily accumulating, but their whereabouts are as much a mystery as ever.

There is nothing to show why they should wish to abandon the children. Thus far nothing has developed to indicate that the Rogers are fleeing from justice. One theory upon which the police are working is that perhaps, finding themselves without means, they have committed suicide.

**SUTTON SPRINGS SURPRISE.**

Defeats Le Roy in One Set and Almost Wins Second.

CINCINNATI, Aug. 28.—The surprise of the tennis tournament came this afternoon when Miss May Sutton, champion woman tennis player of England and America, defeated Robert LeRoy in one set and almost defeated him in the second. LeRoy is international legiate champion, New York champion and world's champion at indoor tennis.



**THE GREATEST CLOTHING STORE IN SALEM**

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