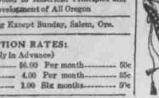
THE CAPITAL JOURNAL

E. HOFER, Editor and Proprietor.

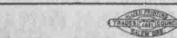
R. M. HOFER, Manager

Independent Newspaper Devoted to American Principles and the Progress and Development of All Gregon Published Every Evening Except Sunday, Salem, Ore.

SUBSCRIPTION RATES:



FULL LEASED WIRE TELEGRAPH REPORT



SUPREME COURT DECIDES A NICE POINT ON SERVICE

Title Conveyed by Tax Sale Is Void Because Proper Service of Complaint and Summons Was Not Made on Minors, and Being Minors They Were Not Bound by Adverse Possession Being Legally Incapable of Assenting Thereto.

mah County.

S. B. Cobb respondent, v. Sophia K. Klosterman, John Klosterman, Mary C. Mayer and F. J. Alex Mayer, court of Multnomah county. John B. Cleland, judge. Argued and Burnett, J. ton, for respondent. Affirmed.

On December 31, 1906, the defendants conveyed certain real property to the plaintiff by a deed containing a covenant that the grantors were seized in fee simple of the real property and that they and their successors would warrant and forever defend the same against the lawful claims and demands of all persons whomsoever except certain municipal liens of the city of Portland. In this action upon that covenant the plaintiff alleges in substance as a breach thereof that the defendants were not the owners of the real property but that Elmer Peck, Lloyd Peck and M. in the real property and to prevent which sum he demands judgment.

1890, to Philippina Wolf, for she continued until the final settlement of the estate August 6 1896;

L. Peck as administratrix of the es- 21 years. certified to by me as sheriff to M. L. tiff and the defendants appeal. administratrix in person.

"PENUMBRA KELLY.

pulsion inducing the plaintiff to buy defendans futrther plead that they the concluded fact is he was a minor in their interest. They affirmatively and their predecessors have paid under the ages of 14 years. Within allege that "Elmer Peck and Lloyd sundry taxes on the premises, setting the meaning of Harris v. Sargeant Peck are the children and heirs at out the amounts, and some street supra, the circuit court had no jurislaw of C. W. Peck, deceased and M. improvement liens and stated that at diction to render a decree of fore-L. Peck is the widow of said C. W. the time of filing the suit to quiet closure against the minors.

more than \$5000. that on March 30, 1894, Bowman, the the mortgages and the commence- chaser as against the minors. Hence second mortgagee, commenced a suit ment of the suit to foreclose, but de- when claiming under the deed to himfor the foreclosure of his mortgage, nies that the summons was served self by the defendants the plaintiff Y., was the fever sore that had this notice. making M. L. Peck, in her individual upon any of the Pecks. As to the found himself where in any event he plagued his life for years in spite of This notice is published for ten capacity and as administratrix. Elmer matter in the answer tending to would have to surrender possession many remedies he tried. At last he (10) days pursuant to the order of Peck, Lloyd Peck, Philippina Wolf show title by adverse possession up of the property when the minors ten- used Bucklen's Arnica Salve and the common council, and the date of et al, defendants. As to the Pecks to the suit to quiet title, it denies dered him the principal and interest wrote: "It has healed with scarcely the first publication thereof is the the return of the sheriff upon the that the adverse possession was on the mortages given by their fath- a scar left." Heals burns, boils, ec- 14th day of March, 1911. summons in that suit is as follows: known to or acquiesced in by any of er, toegther with the taxes paid upon | zema, cuts, bruises, swellings, corns "State of Oregon, Multnomah county, the Pecks and alleges that Eimer the land. In the suit against him by and piles like magic. Only 25c at against said improvement within ten "I, Penumbra Kelly, Sheriff of said ors incapable of consenting to or be- possibly have urged the facts stated state and county do hereby certify ing bound by such adverse posses- in this answer with the result that Notice that I served the within summons sion. It is stipulated that at the the Pecks might have been comwithin said state and county on the commencement of the suit to quiet pelled to redeem, but that would not 16th day of April A. D., 1894, on the title as plaintiffs August 28, 1908, make legal title for him. In effect, within named defendants, M. L. Peck Lloyd was 12 years and 6 months of the defendants here have undertaken and Lloyd Peck, Elmer Peck and M. age and Elmer was under the age of to set up as a defense in this action

tate of C. W. Peck, deceased, by de- This action resulted in a judgment

and Elmer Peck, J. R. Stoddard, who delivering a copy thereof, together ering the age of the minors at the part of this notice. filed an answer for the minors deny- with a copy of the complaint, certiing any information sufficient to fied as is therein required, "to such quiet title, adverse possession would days pursuant to the order of the form a belief as to the allegations of minor personally, and also to his not run against them. Sec. 17, L. O. common council, and the date of the information the foreclosure complaint. The an-father, mother, or guardian, or if swer in the case at bar further re- there be none within this state, then cites that Philippina Wolf appeared to any person having the care or conin the fereclosure suit and set up her trol of such minor, or with whom he rendered foreclosing both mort- vides that "when there is more than ure of damages for the breach of the vided by the city charter. gages; that an execution was issued; one defendant in the suit, service of that the property was sold to one M. the summons may be made by serv-A. Stratton for \$400; that the sale ing only one copy of the complaint,

him. If he says, "Ayer's Cherry Pectoral," then take it. If

he says something else, take that. Do as he says. J. C. Aper Co.

CASTORIA For Infants and Children. Do not know what to take? Old Colds Then why not find out? Your The Kind You Have Always Bought doctor knows. Leave it all to

Get It at Dr. Stone's Drug Store

Purify Your Blood

The cause of nimples, balls and other eruptions, as well as of that tired feeling and poor appetite, which are so Impoverished blook

by experience, is to take

Hood's Sarsaparilla

Accept no substitute, but insist on having Hood's. Get it today in usual liquid form bocolated tablets known as Sarasta

certify that I received the within not done so. their guardian, Mrs. Frances Kemp, of their property. Cobb vs. Klesterman, et al, Multno- was confirmed; that Stratton as- for each of them a true and correct signed his certificate to the First copy of said summons, prepared and National Bank of East Portland; that certified to by me as sheriff; also by on March 13, 1896, the sheriff of delivering to the defendant, S. S. Multnomah county executed and de- Harris and his guardian, Mrs. appellants. Appeal from the circuit livered to the bank his official deed Frances Kemp, each a copy of the to the property; that thereupon the complaint, prepared and certified to bank took possession of the property, by C. G. Coal, county clerk of Polk submitted March 1, 1911. Veazie and claiming title thereto under the sale county, Oregon." Certain real prop-Veazie for appellants. S. B. Hus- and retained its possession until its erty was sold by virtue of a decree conveyance afterwards mentioned, rendered in pursuance of that re-The history of the conveyance from turn. In an action of ejectment that on until it was finally conveyed brought against the purchaser whose to the defendants, Sophia H. Kloster- deed depended upon the decree thus man and Mary C. Mayer, March 11 rendered, this court held that the re-1899, is then recited and it is alturn was not sufficient to give the leged "that the said possession of court jurisdiction over the property said property by each and all of the and persons of the minors. The reaabove named corporations and per- son assigned was that the return did sons was open, notorious, exclusive not show a delivery of a copy of the and under claim and color of title and summons to the minors personally White trail in six-dog sledges carryhostile to all other persons, and was and generally, that the return must well known during all of said times conform to all the requirements of to the said M. L. Peck, Elmer Peck the statute, as it will be construed and Lloyd Peck, and was at no time strictly and that this must appear disputed or questioned by them or any from the sheriff's return; otherwise of them, but on the contrary the the court does not acquire jurisdic- gun and projectile to repulse aerosaid M. L. Peck Elmer Peck and tion. Applying the reasoning of that plane attacks has been manufactured L. Peck were such owners and had Lloyd Peck acquiesced in and con- case to the return in question here, by ordnance officers of the United sued the plaintiff to quiet their title sented to said sheriff's sale and said we see that no attempt is made to States government. It is reported taking and holding possession there- show any delivery whatever to the today that the gun will be mounted his ouster as a result of their suit under, and all the claims and acts of minor Lloyd Peck and giving there- at Sandy Hook where experiments he had paid for their outstanding the persons claiming title under said turn the most favorable construction will be made with it. claim the sum of \$1000, which de- sale which are mentioned in this an- possible, it would be valid as asginst fendants had not repaid, and for swer, until the bringing of the suit Elmer Peck only if he were at the EASTERN MERCHANTS to quiet title mentioned in the com- time above the age of majority, for The defendants answered denying plaint herein" which, it was stipulat- the return shows that he was served the title of the Pecks and the com- ed, occurred August 28 1908. The as if he were such an adult, whereas

The answer further alleges title there were valid subsisting But the defendants here contend in substance that during the life of street liens on the property aggregat- that they are successors in interest C. W. Peck and while he was the ing more than \$3000 which are yet to the purchaser at the sale, who was owner of the real property in ques- unpaid. They further state in sub- subrogated to the rights of the morttion he, with his wife, M. L. Peck, stance that the rents and profits of gagees and hence that they are in the The city of Wilamina is calling for the city of Salem, Oregon, with conexecuted two mortgages upon the the property are not sufficient to situation of a mortaggee in posses- bids on \$15,000 10 and 20-year op- crete pavement from the north line property, the first of date September keep up the necessary repairs; that sion, Conceding, without deciding, tional 6 per cent bonds, bearing dates of Ferry street to the south line of and occupation of the property that they are in such a situation and of March 1, 1910, interest payable Marion street at the expense of the \$1400, and the second of date August is of no value; and that at the time that the purchase by a stranger to semi-annually. Bids to be opened adjacent and abutting property with-9, 1892, to B. H. Bowman for \$6000; of the conveyance to plaintiff the the decree at the execution sale in April 16, 1911. For further infor- in said limits and according to the that afterwards C. W. Peck died and property was not worth more than such a suit would bring about such a mation write F. E. Sherwin, city re- plans and specifications adopted for M. L. Peck, his widow, was appointed \$4000 and subject to the street im- result, yet the foreclosure suit and corder. as administratrix, in which capacity provement liens is not now worth the sale in pursuance thereof would not accomplish more than this; it The reply admits the execution of would not give title to such a pur-Peck and Lloyd Peck were both min- the Pecks to quiet the title, he could J. C. Perry's. at law what might have been an equitable defense to the suit to quiet livering a copy thereof, prepared and in the circuit court in favor of plain-Peck Elmer Peck and M. L. Peck as Burnett, J.: In the light of the ted in this state that an equitable Mission street at the expense of the tion at law, for the rule is well setstipulation about the ages of Elmer defense cannot be interposed to an adjacent and abutting property Peck and Lloyd Peck the eldest of action at law. The foreclosure suit within said limits, and according to Sheriff of Multnomah County, them was about 71/2 years of age on did not pass the legal title so the the plans and specifications adopted "By ELMER S. M. MYER, Deputy." April 16, 1894, the date mentioned in defendants could convey the same to for said improvement and on file at The answer goes on further to state the return of the sheriff upon the the plaintiff and hence there was a the office of the city recorder, which in substance that on June 19, 1894, summons in the foreclosure suit. breach of their covenant of seisin and specifications are and specifications are Bowman the circuit court appointed summons shall be served upon a this by any showing that is made and detailed description of said imas guardian ad litem for Lloyd Peck minor under the age of 14 years by about adverse possession for consid-

It appears that in settlement of day of March, 1911. the suit to quiet title and the acquicovenant if nothing else is shown

As against this the defendants here claim that M. L. Peck, the widow and administratrix, was properly served with the summons in the foreclosure common in the spring, is impure and suit and hence she is bound by that decree and that in any event the The best way to purify and earich plaintff here could not recover for the blood, as thousands of people know any amount which he paid to her. However, if the amount paid was apportionable at all among the Pecks there is nothing in the pleadings here thing had gone dead and plu by which the court could make such an apportionment. The defendants here do not in their answer dispute the amount of the payment; they the same to be served on the defend- only contest the liability or compulant designated by the plaintiff or sion of the plaintiff to pay at all. If his attorney, by a direction indorsed they intended to attack the part of In Harris v. the payment going to Mrs. Peck, the to investigate. His mac Sargeant, 37 Or. 41, the return upon widow, they should have framed their lowed by anoth the summons reads thus: "I hereby pleadings accordingly, but they have

summons on the ninth day of April Of course by settling the suit with A. D. 1889, and served the same on the Pecks without notifying the dethe twenty-fifth day of April, A. D. fendants here and calling upon them 1889, in Benton County, Oreogn, on to defend in that suit the plaintiff asthe defendants, S. S. Harris, L. E. sumed the burden in this case of Harris and L. M. Harris, by deliver- proving paramount title in the Pecks, ing to each of said defendants a true to which he yielded, but the superior and correct copy of said summons estate of at least Lloyd and Elmer prepared and certified to by me as Peck is established beyond question, sheriff, the above named defendants because the court never acquired being minors; also by delivering to jurisdiction over them to divest them

The judgment is affirmed.

THE RUSH TO THE IDITAROD HAS STARTED

Seward, Alaska, March 20,-The pring rush to Iditarod started in ing outfits over the trail to the big camp. It is estimated that there will be 6,000 persons in the Iditarod district by May 30.

ing supplies for five weeks.

A Gun to Shoot Airships [UNITED PRESS LEASED WIRE.]

Washington, March 20 .- A special

[UNITED PRESS LEASED WIRE.] San Francisco, March 20.—Following the lead of Pacific coast com- City, upon receipt of pric

mercial men, a body of merchants Inom Chicago and Omaha are here today on their way to Japan and Notice of Intention to Improve China to establish closer trade relations and to further peace pros. pects with those Oriental countries. They sail on the Mongolia Tuesday

Wants Bids for oBnds,

F. E. SHERWIN.

A Dreadful Sight.

To H. J. Barnum, of Freeville, N.

Twelfth Street.

Notice is hereby given that the common council of the City of Salem. Oregon, deems it expedient and proposes to improve Twelfth street, in the City of Salem, Oregon, with concrete pavement from the south line of Bellevue street to the south line of the Capitol Building, Salem, until 12 of warranty. They cannot escape hereby referred to for a more specific and specifications now on file with

This notice is published ten (10) L.; Northrop v. Marquam, 16 Or. 173. first publication thereof is the 14th

Remonstrances may be filed against sition of the title of the Pecks to the said improvement within ten (10) mortgage asking for a decree of fore- resides or in whose service he is property in question the plaintiff days from the last publication of

> CHAS. F. ELGIN, City Recorder.

STYLE ENGWIS TO FAIL, Sale ! Burn!

which h added, still s he Irish Could Have Made Turn. flown out with an untrustworthy engine and before he could turn his planes While the "flight" was way, the gov had be a mour that he had be a and get started for the grounds, the be able to make that turn"—; guide the cr bend of the down in the wheat stubble d the southens was easily the unch. Also hene enjoyed the space of thout ten mire coolest man around the race track thoug was with this idea that Cold R. Green brought his autom requisition, and with several of ficials of the meet aboard, b The South's Best-Old Belt Tobacco OLD MILL CIGARETTES Wheat straw paper uniform height until with You can't roll such good of the grandstand Then I what he took in the gather to be a suitable spot for with his engines working smokers yourself-no speed clutch, glided earth

one can. Machine Goes A-wreck. Too late he saw that he Better roo late he saw that it culated his distance fro fence, and that he would obstacle if something to Toward averting the three, therefore, he turned the again, leaped the fiturned his planes for a turned his planes for a than the before the before the aff old wheat e northeast om the scene fight, white me of the sucup the running PACKED' TIN FOIL within about

less on his

Working the teams in the rain

neans sore necks, and is profitable

A Reliable CATARRH

Taste and Smell. Full size 50 ets., at Drug-

gists or by mail. In liquid form, 75 cents. Ely Brothers, 55 Warren Street, New York.

neither for horse nor driver

Remedy

Ely's Cream Balm

Is quickly absorbed.

Gives Relief at Once.

It cleanses, soothes,

the discused mem

Catarria and drive

Head quickly.

away a Cold in the

heals and

NO MORE GRAY HAIR

It is easier to preserve the color of the hair than to restore it, although it is possible to do both. Our grandmothers understood the secret. They made and used a "sage tea," and their dark, glossy hair long after middle life was due to this fact. Our mothers have gray hairs be fore they are fifty, but they are begin-ning to appreciate the wisdom of our grandmothers in using "sage tea" for their hair, and are fast following suit. The present generation has the advantage of the past in that it can get a ready to use preparation called Wyeth's Sage and Sulphur. As a scalp tonic and color restorer, this preparation is vastly superior to the ordinary "sage tea" made by our grandmothers, and it can be bought for 50 cents and \$1 a bottle at almost any first-class drug store, or will be sent direct by the Wyeth Chemical Company, 74 Cortlandt St., New York J. C. PERRY.

Thirteenth Street.

Notice is hereby given that the common council of the City of Salem, Oregon, deem it expedient and proposes to improve Thirteenth street in said improvement and on file at the Recorder for City Willamina. office of the city recorder, which said 3-7-1mo plans and specifications are hereby referred to for a more specific and detailed description of said improvement, and are hereby made a part of

Remonstrances may be filed (10) days from the last publication of Intention to Improve vided by the city charter. of this notice and in the manner pro-CHAS. F. ELGIN.

3-14-11t City Recorder

Notice to Contractors.

Sealed bids will be received at the office of the Board of Trustees of the Eastern Oregon State Hospital, at for the Eastern Oregon State Hospital: Laying pipe line approximately 4500 feet, for water supply to said Eastern Oregon State Hospital. All and with Chas, A. Murphy, Superintendent of Construction of the East- I information can be obtained. All bids must be drawn in accordance with the specifications, and the Board reserves the right to reject any or all bids.

mortgage asking for a decree of fore-resides or in whose service he is properly in question the planting this notice and in the manner pro- of the Board of Trustees closeurs; that a decree was finally employed." Section 398, L. O. L., pro- paid them \$1000 and that is the mean- vided by the city charter. By order of the Board of Trustees

> OSWALD WEST. Governor. THOS. B. KAY, State Treasurer.

> > Mar 8-13-14-15-18

R. A. WATSON, Clerk of the Board.

That local issue which we call the issue-it is a real family affair.

STRONGEST AND MOST DURABLE SEWER PIPE MANUFACTURED IS OUR CEMENT MADE It will pay you to invesvestigate before placing your order for Sewer Connections. Salem Sewer Pipe Co. 265 LIBERTY STREET FAIR GROUND FEED AND started at Garros, the encircled the

Extra choice Sugar government Inspected Hams Hams. 5 lbs. pure Lard Best Valley Flour, sk ... \$1.15 Best Eastern Oregon Blue Choice heavy Bacon, lb 17e 5 1-lb. pkg, Corn Starch.... 25e 5 cans nice Table Peaches. 50e

GROCERY

GLAZED

SEWER PIPE

Garden Seeds 2 large full size 5c pkg.... 5c 2 large full size 10c pkg...15c 10-lb. sk. best Eastern Corn-3 cans Buttercup Milk 25c 60 lbs. full weight Bran ... 75c Telephone Orders promptly delivered.

Give me a trial for I can save you money.

Children Cry FOR FLETCHER'S CASTORIA

Portland's Popular Fire-Proof Hotel

THE OREGON

The House of Comfort Combined With Elegance

Our Rathskeller Grill finest dining service in city, with Hawaiian orchestra from 6 to 12 p. m.

Most perfectly furnished, moderate priced, modern hostelry in the metropolis of the Northwest

WRIGHT & DICKINSON HOTEL CO.

Owners and Managers Also Operating Seattle Hotel, Seattle.

THE HELP **COLUMNS**

"Help Wanted" and "Situations Wanted" are columns of great usefulness to the masses of the people. On account of the wide circulation of the "Journal" its want ads attract greater attention and bring more results than its contemporaries.

It will pay you to remember to place your help ads in the "Journal".
