

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 Oregon
 Published Every Evening Except Sunday, Salem, Ore.
 SUBSCRIPTION RATES:
 (Invariably in Advance)
 Daily, by Carrier, per year... \$6.00 Per month... 50c
 Daily, by Mail, per year... 4.00 Per month... 35c
 Weekly, by Mail, per year... 1.00 Six months... 75c
 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.

Cobb vs. Klosterman, et al, Multnomah County.

S. B. Cobb respondent, v. Sophia K. Klosterman, John Klosterman, Mary C. Mayer and F. J. Alex Mayer, appellants. Appeal from the circuit court of Multnomah county. Hon. John B. Cleland, judge. Argued and submitted March 1, 1911. Venzie and Venzie for appellants. S. B. Huston, for respondent. Burnett, J. Affirmed.

On December 31, 1906, the defendants conveyed certain real property to the plaintiff by a deed containing a covenant that the grantors were 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. L. Peck were such owners and had used the plaintiff to quiet their title in the real property and to prevent his ouster as a result of their suit he had paid for their outstanding claim the sum of \$1000, which defendants had not repaid, and for which sum he demands judgment.

The defendants answered denying the title of the Pecks and the compulsion inducing the plaintiff to buy in their interest. They affirmatively allege that "Elmer Peck and Lloyd Peck are the children and heirs at law of C. W. Peck, deceased and M. L. Peck is the widow of said C. W. Peck." The answer further alleges in substance that during the life of C. W. Peck and while he was the owner of the real property in question he, with his wife, M. L. Peck, executed two mortgages upon the property, the first of date September 5, 1890, to Philippina Wolf, for \$1400, and the second of date August 9, 1892, to B. H. Bowman for \$600; that afterwards C. W. Peck died and M. L. Peck, his widow, was appointed as administratrix, in which capacity she continued until the final settlement of the estate August 6, 1896; that on March 30, 1894, Bowman, the second mortgagee, commenced a suit for the foreclosure of his mortgage, making M. L. Peck, in her individual capacity and as administratrix, Elmer Peck, Lloyd Peck, Philippina Wolf et al, defendants. As to the Pecks the return of the sheriff upon the summons in that suit is as follows: "State of Oregon, Multnomah county, ss: "I, Penumbra Kelly, Sheriff of said state and county do hereby certify that I served the within summons within said state and county on the 16th day of April A. D., 1894, on the within named defendants, M. L. Peck and Lloyd Peck, Elmer Peck and M. L. Peck as administratrix of the estate of C. W. Peck, deceased, by delivering a copy thereof, prepared and certified to by me as sheriff to M. L. Peck Elmer Peck and M. L. Peck as administratrix in person.

"PENUMBRA KELLY, Sheriff of Multnomah County. "By ELMER S. M. MYER, Deputy." The answer goes on further to state in substance that on June 19, 1894, upon the application of the plaintiff Bowman the circuit court appointed as guardian ad litem for Lloyd Peck and Elmer Peck, J. R. Stoddard, who filed an answer for the minors denying any information sufficient to form a belief as to the allegations of the foreclosure complaint. The answer in the case at bar further recites that Philippina Wolf appeared in the foreclosure suit and set up her mortgage asking for a decree of foreclosure; that a decree was finally rendered foreclosing both mortgages; that an execution was issued; that the property was sold to one M. A. Stratton for \$400; that the sale

was confirmed; that Stratton assigned his certificate to the First National Bank of East Portland; that on March 13, 1896, the sheriff of Multnomah county executed and delivered to the bank his official deed to the property; that thereupon the bank took possession of the property, claiming title thereto under the sale and retained its possession until its conveyance afterwards mentioned. The history of the conveyance from that on until it was finally conveyed to the defendants, Sophia H. Klosterman and Mary C. Mayer, March 11, 1899, is then recited and it is alleged "that the said possession of said property by each and all of the above named corporations and persons was open, notorious, exclusive and under claim and color of title and hostile to all other persons, and was well known during all of said times to the said M. L. Peck, Elmer Peck and Lloyd Peck, and was at no time disputed or questioned by them or any of them, but on the contrary the said M. L. Peck Elmer Peck and Lloyd Peck acquiesced in and consented to said sheriff's sale and said taking and holding possession thereof, and all the claims and acts of the persons claiming title under said sale which are mentioned in this answer, until the bringing of the suit to quiet title mentioned in the complaint herein" which, it was stipulated, occurred August 28, 1908. The defendants further plead that they and their predecessors have paid sundry taxes on the premises, setting out the amounts, and some street improvement liens and stated that at the time of filing the suit to quiet title there were valid subsisting street liens on the property aggregating more than \$3000 which are yet unpaid. They further state in substance that the rents and profits of the property are not sufficient to keep up the necessary repairs; that the use and occupation of the property is of no value; and that at the time of the conveyance to plaintiff the property was not worth more than \$4000 and subject to the street improvement liens is not now worth more than \$5000.

The reply admits the execution of the mortgages and the commencement of the suit to foreclose, but denies that the summons was served upon any of the Pecks. As to the matter in the answer tending to show title by adverse possession up to the suit to quiet title, it denies that the adverse possession was known to or acquiesced in by any of the Pecks and alleges that Elmer Peck and Lloyd Peck were both minors incapable of consenting to or being bound by such adverse possession. It is stipulated that at the commencement of the suit to quiet title as plaintiffs August 28, 1908, Lloyd was 12 years and 6 months of age and Elmer was under the age of 21 years.

This action resulted in a judgment in the circuit court in favor of plaintiff and the defendants appeal.

Burnett, J.: In the light of the stipulation about the ages of Elmer Peck and Lloyd Peck the eldest of them was about 7 1/2 years of age on April 16, 1894, the date mentioned in the return of the sheriff upon the summons in the foreclosure suit. Section 55, L. O. L. provides that a summons shall be served upon a minor under the age of 14 years by delivering a copy thereof, together with a copy of the complaint, certified as is therein required, "to such minor personally, and also to his father, mother, or guardian, or if there be none within this state, then to any person having the care or control of such minor, or with whom he resides or in whose service he is employed." Section 398, L. O. L., provides that "when there is more than one defendant in the suit, service of the summons may be made by serving only one copy of the complaint,

Purify Your Blood

The cause of pimples, boils and other eruptions, as well as of that tired feeling and poor appetite, which are so common in the spring, is impure and impoverished blood.

Hood's Sarsaparilla

Accept no substitute, but insist on having Hood's.

Get it today in usual liquid form or chocolate tablets known as Sarasaba.

As against this the defendants here claim that M. L. Peck, the widow and administratrix, was properly served with the summons in the foreclosure suit and hence she is bound by that decree and that in any event the plaintiff here could not recover for 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 by which the court could make such an apportionment. The defendants here do not in their answer dispute the amount of the payment; they only contest the liability or compulsion of the plaintiff to pay at all. If they intended to attack the part of the payment going to Mrs. Peck, the widow, they should have framed their pleadings accordingly, but they have not done so.

Of course by setting the suit with the Pecks without notifying the defendants here and calling upon them to defend in that suit the plaintiff assumed the burden in this case of proving paramount title in the Pecks, to which he yielded, but the superior estate of at least Lloyd and Elmer Peck is established beyond question, because the court never acquired jurisdiction over them to divest them of their property.

THE RUSH TO THE IDITAROD HAS STARTED

[UNITED PRESS LEASED WIRE.] Seward, Alaska, March 20.—The spring rush to Iditarod started in full vigor today and scores are packing 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.

The adventurers are going over the White trail in six-dog sledges carrying supplies for five weeks.

A Gun to Shoot Airships.
 [UNITED PRESS LEASED WIRE.] Washington, March 20.—A special gun and projectile to repulse aeroplane attacks has been manufactured by ordinance officers of the United States government. It is reported today that the gun will be mounted at Sandy Hook where experiments will be made with it.

EASTERN MERCHANTS GOING TO JAPAN
 [UNITED PRESS LEASED WIRE.] San Francisco, March 20.—Following the lead of Pacific coast commercial men, a body of merchants from Chicago and Omaha are here today on their way to Japan and China to establish closer trade relations and to further peace prospects with those Oriental countries. They sail on the Mongolia Tuesday.

Wants Bids for Bonds.
 The city of Willamette is calling for bids on \$15,000 10 and 20-year optional 6 per cent bonds, bearing dates of March 1, 1910, interest payable semi-annually. Bids to be opened April 16, 1911. For further information write F. E. Sherwin, city recorder. F. E. SHERWIN, Recorder for City Willamette. 3-7-1mo

A Dreadful Sight.
 To H. J. Barnum, of Freeville, N. Y., was the fever sore that had plagued his life for years in spite of many remedies he tried. At last he used Bucklen's Arnica Salve and wrote: "It has healed with scarcely a scar left." Heals burns, boils, eczema, cuts, bruises, swellings, corns and piles like magic. Only 25c at J. C. Perry's.

Notice of Intention to Improve 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 Mission street at the expense of the adjacent and abutting property within said limits, and according to the plans and specifications adopted for said improvement and on file at the office of the city recorder, which said plans and specifications are hereby referred to for a more specific and detailed description of said improvement, and are hereby made a part of this notice.

This notice is published ten (10) days pursuant to the order of the common council, and the date of the first publication thereof is the 14th day of March, 1911.

Remonstrances may be filed against said improvement within ten (10) days from the last publication of this notice and in the manner provided by the city charter.

CHAS. F. ELGIN, 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 the Capitol Building, Salem, until 12 o'clock noon, Monday, March 20, for the following labor and materials for the Eastern Oregon State Hospital: Laying pipe line approximately 4500 feet, for water supply to said Eastern Oregon State Hospital. All to be done in accordance with plans and specifications now on file with the Clerk of the Board at the Executive office Capitol Building, Salem, and with Chas. A. Murphy, Superintendent of Construction of the Eastern Oregon State Hospital, at Pendleton, Oregon, and from whom further 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.

By order of the Board of Trustees of the Eastern Oregon State Hospital.

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

Attest: R. A. WATSON, Clerk of the Board. Mar 5-13-14-15-18

That local issue which we call the tariff is becoming more than a local issue—it is a real family affair.

OLD MILL CIGARETTES
 The South's Best—Old Belt Tobacco
 Wheat straw paper
 You can't roll such good smokers yourself—no one can.
 Better than the making
 PACKED IN TIN FOIL

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 before they are fifty, but they are beginning 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 City, upon receipt of price.

Working the teams in the rain means sore necks, and is profitable neither for horse nor driver.

A Reliable CATARRH Remedy

Ely's Cream Balm
 Gives Relief at Once.
 It cleanses, soothes, heals and protects the diseased membrane resulting from Catarrh and drives away a Cold in the Head quickly. Restores the Senses of Taste and Smell. Full size 50 cts., at Druggists or by mail. In liquid form, 75 cents. Ely Brothers, 50 Warren Street, New York.

HAY FEVER

Children Cry FOR FLETCHER'S CASTORIA

THE BEST
 STRONGEST AND MOST DURABLE SEWER PIPE MANUFACTURED IS OUR MACHINE CEMENT MADE
 GLAZED SEWER PIPE
 It will pay you to investigate before placing your order for Sewer Connections.
 Salem Sewer Pipe Co.
 265 LIBERTY STREET

FAIR GROUND FEED AND GROCERY

5 gal. Kerosene (bring can)	65c
Extra choice Sugar Cured government inspected Hams, per lb.	18c
Extra large meaty Pick-Nick Hams.	14 1/2c
5 lbs. pure Lard	65c
Best Valley Flour, sk.	81 1/2c
Best Eastern Oregon Blue Stem Flour	81 1/2c
Choice heavy Bacon, lb.	17c
11 lbs. White Beans	50c
5 1-lb. pkg. Corn Starch	25c
5 cans nice Table Peaches	50c

Garden Seeds

2 large full size 5c pkg.	5c
2 large full size 10c pkg.	15c
10-lb. sk. best Eastern Cornmeal	25c
2 lbs. best Cream Cheese	35c
3 cans Buttercup Milk	25c
60 lbs. White Butter Bran	75c
Shorts per sack	81 1/2c

Telephone Orders promptly delivered.
 Give me a trial for I can save you money.

R. N. MORRIS
 Phone 1497.

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".

Old Colds
 Do not know what to take? Then why not find out? Your doctor knows. Leave it all to him. If he says, "Ayer's Cherry Pectoral," then take it. If he says something else, take that. Do as he says.
 J. C. Ayer & Co., Lowell, Mass.

CASTORIA
 For Infants and Children.
 The Kind You Have Always Bought
 Bears the Signature of *Wm. A. Ritchie*
 Get it at Dr. Stone's Drug Store

MADAME DEAR'S FRENCH FEMALE PILLS
 A Safe, Certain Remedy for Menstrual Disorders. NEVER KNOWN TO FAIL. Sold in 30c and 50c packages. Beware of cheap imitations. Will send 30-day trial, by mail, for \$1.00 per box. Will send 30-day trial, by mail, for \$1.00 per box. Will send 30-day trial, by mail, for \$1.00 per box. Will send 30-day trial, by mail, for \$1.00 per box. Will send 30-day trial, by mail, for \$1.00 per box.
 UNITED MEDICAL CO., BOX 16, LANCASTER, Pa.
 Sold in Salem by Dr. S. C. Stone