THIRD TICKET TOPIC

Faction of T. R. Men Urge One for Multnomah County.

ACKERSON IS UNDECIDED

Friends Renew Efforts to Induce Him to Be Candidate for Representative Against Lafferty, McCusker, Munly.

Talk of a third party ticket in Multnomah County continues. Although the plan is not indorsed by Dr. H. W. Coe, F. W. Mulkey and others of the more prominent Roosevelt supporters who succeeded in tabling a resolution on the subject at the recent convention in Portland, those who advocated the third ticket in the convention have not relaxed their agitation.

It is understood that preliminary steps have been taken to bring out such a ticket in Multnomah County regardless of the recommendations of the Chicago convention or the desires of the recognized third party leaders in this county.

"The new party should not be allowed to become a one-man organization," said Harry Yanckwich, yesterday. Mr. Yanckwich was the author of the third party ticket resolution which was rejected by the Portland convention.

Demand Exists Is Assertion.

"A full ticket is essential to any party organization and the National Progressive party should not be made an exception," he continued. "There exists a demand for a third party ticket in this county and I am satisfied the great majority of those members of the party who are not playing politics desire to give their support to such a ticket. It's all right to boost for the head of the ticket, but the party will be strengthened if it places a full ticket in the field."

If the movement is not launched before, the contention for a third party ticket in this county will be threshed out again when the members of the new party in Multnomah County meet subsequent to the Chicago convention for the purpose of effecting a county organization and selecting a member of the State Central Committee, authorized by the recent state convention.

Friends of C. W. Ackerson have renewed their efforts to induce him to become the candidate of the new party for Representative in Congress from this district in opposition to Representative Lafferty, Thomas McCusker and M. G. Munly.

Ackerson Is Considering.

"I have the matter under consideration," admitted Mr. Ackerson, yesterday, "but I do not intend to do anything that will in any way interfere with the success of the head of the ticket. As to a third ticket, I favor bringing out third party candidates in opposition to every nominee on the Republican ticket who was not a supporter of Roosevelt in the primary campaign. In the contest preceding the April primary election, both Mr. Lafferty and Mr. McCusker supported La Follette while Mr. Munly received the nomination from the Democrats."

The fact that Lafferty has since indorsed Roosevelt and the third party does not satisfy Ackerson's friends, who point to Lafferty's active support of La Follette when Ackerson was doing everything he could for Roosevelt. Their argument is that Ackerson is the original Simon-pure Roosevelt supporter of the group that is seeking election to Congress from this district and they expect to insist upon his recognition as the proper candidate when the time arrives to place third party candidates in the field.

INCREASE THIS YEAR SMALL

Portland Railway Ticket Validations Fewer Than Expected.

Paradoxically the records of the Portland validating office for transcontinental passenger tickets will show little, if any, increase for this year over the season of 1911, in spite of the numerous special attractions held here within the present season.

This is not because the local events failed to attract passengers, but because the tickets "broke" on other cities. Nearly all the Eastern travelers who attended the Elks' National convention went either through Seattle or San Francisco on their return journey, and had their tickets validated in that one of those two cities through which they passed.

Even many of those who did not visit the Sound or California did not have their tickets validated in Portland. If they went to Astoria, Seaside or the other beach resorts, they were required to have their tickets validated there.

Another condition that reduced the number of validations in the Portland office was the order issued a few weeks before the Elks' reunion, that tickets from Montana, Idaho, Utah and parts of Colorado and Wyoming would not require validation. This action was taken on account of the heavy travel from those states to the convention. Had validations been required, the local offices would have been deluged with business. Tickets purchased in Oregon, Washington and California did not require validation, because they are not governed by the Transcontinental Passenger Association.

While thousands of tourists visited the local offices to ask questions, probably less than 3000 had their tickets validated here during the Elks' reunion period.

TOTS TO TAKE MORE RIDES

Mayor's Automobile Offered for Little Ones in Hospital.

Further outings for the little ones who have had to pass long weary hours in the hospital may take place as the result of the happy time that four of them had last Saturday through the kindness of Dr. E. E. Cable. After they had returned with fresh air in their lungs, a glow upon their cheeks and that indescribable air of having had a good time, Miss Emily Loveridge, superintendent of the Good Samaritan hospital, ventured the remark that she could supply unlimited opportunities like that of tasting pure, unalloyed pleasure.

When informed that an attempt was to be made to provide further trips for the tots, Mayor Rushlight, through his secretary, George K. McCord, replied: "Well, that's a real good thing. Anything I can do to help to make the little ones happy?" Then he thought a moment. "Say, our automobiles are not busy Saturday afternoons. If there's another party of youngsters who've not experienced the delights of an automobile ride and who've been shut up in a hospital these Summer days, why, they shall have a trip or two. You can count on my car."

Rosenthal's shoe sale now on. **

MYERS CASE ENDS

Supreme Court Refuses Petition for Rehearing.

TWO JUSTICES DISSENT

In His Opinion Judge McBride Vigorously Upholds Right of Jury Trial — Other Decisions Handed Down.

SALEM, Or., July 30.—(Special.)—Holding that the case of Georgia Frances Stevens versus George Tobias Myers, Jr., commonly known as the "Myers' will case," is in the nature of a suit in equity and that as a result neither party, as a matter of right, could demand a jury trial, the Supreme Court, in an opinion by Justice Burnett today, denied a petition for rehearing, adhering to its former opinion, which reversed the decrees of the county and circuit courts where the will and codicil in question were set aside. Justice McBride and Justice Bean dissented.

On rehearing, the contention was strongly brought out that the proponent and respondent, George Tobias Myers, Jr., was entitled to a jury trial under the provision of the Constitution that "in all civil cases the right of trial by jury shall remain inviolate." It was contended that this case in question was a civil case and the trial by jury could be demanded.

Justice Burnett, in an extensive opinion, which carefully goes into the history of this phase of the law in Oregon, from the beginning of the territorial government down to the present day, holds that in the case in question, the Constitutional provision is not so broad as to be applicable.

Dissenting Opinion Vigorous.

Justice McBride, in his dissenting opinion, which is concurred in by Justice Bean, declares that he regards it as established by the great weight of authority that when the framers of the Constitution used the language, "In all civil cases the right of trial by jury shall remain inviolate," "they meant that the system of trial by jury, which was then in existence and which had been in existence for years, and which had been tried and found satisfactory, should remain intact. It seems to me that this is unquestionably settled by the decisions of this court and that it may be regarded as stare decisis. Broadly speaking, cases in the courts are divided into two classes, civil and criminal, and the term 'civil case,' as here used, is with the intent to include all proceedings not criminal, as the latter are elsewhere provided for in the Constitution. It will be noticed that the word 'case' is used, not 'suit' or 'action,' which are terms of narrower signification.

"It is also suggested and with much plausibility that as the trial by jury in these cases has not been generally recognized in this state since the adoption of the Constitution, this circumstance furnishes a strong argument against the claim of the petitioner in the case at bar. I have never heard either of its being demanded or refused or granted, though all these things may have occurred. It may be true, and no doubt is, that the provisions of the Constitution and laws, which in my judgment give such right in cases of this kind, have been overlooked but 'though the law hath slept, it is not dead,' and the right of trial by jury is one so precious, so vital, to the preservation of our liberties that we can well afford to search a little to find it, even to the extent of raking over the dead ashes of the past 50 years. It is a coal from the altar of liberty and we should rather blow it into a flame than seek to extinguish it. The cause should be re-tried by a jury."

Other cases decided by the Supreme Court today were as follows:

Fred Dose, administrator of the estate of L. E. Dose, deceased, appellant, vs. R. R. Beattie, Sheriff of Clackamas County, respondent; appealed from Clackamas County; J. U. Campbell, Judge. On rehearing, former opirion adhered to. Opinion written by Chief Justice Eakin.

John Kopacin, respondent, vs. Crown Columbia Pulp & Paper Company, appellant; appealed from Clackamas County; J. U. Campbell, Judge. Affirmed in an opinion by Justice Bean. This is an action for personal injuries, in which the plaintiff recovered $1000 in the lower court.

Henry Cerrano, administrator of the estate of Cesare Cerrano, deceased, appellant, vs. Portland Railway, Light & Power Company, respondent; appealed from Multnomah County; John B. Cleland, Judge. Affirmed in an opinion by Justice Burnett. This is an action to recover damages for the death of a 4-year-old child who backed into a street-car operated by the defendant company. In the lower court findings were for the defendant company. The Supreme Court held that there was no negligence on the part of the company; that the doctrine of the "last clear chance" would not apply, and that negligence may not be imputed from accident where there is no time or opportunity in which to avert the accident.

E. T. Rehfield, respondent, vs. L. S. Winters, appellant; appealed from Multnomah County. Affirmed in an opinion by Justice Bean. This is an action for damages, the plaintiff recovering $739.29.

Little Walla Walla Irrigation Company and 40 others, plaintiffs, appellants and cross-respondents, vs. Finis Irrigation Company and 400 others, defendants and respondents, of which 50 are also cross-appellants; appealed from Umatilla County; Henry J. Bean, Judge. On rehearing, Chief Justice Eakin writing the opinion, former opinion is adhered to with corrections made in decree.

Florence L. Sherrod, appellant, vs. City of Baker, respondent; appealed from Baker County; William Smith, Judge. Opinion of the lower court modified in opinion by Justice Burnett. This was a suit to determine water rights and the decree of the lower court is modified to quiet the title of the city to the water of Goodrich Creek to the extent of 400 inches, miners' measurement, with a six-inch pressure, subject to right of plaintiff to use the same to the extent of the permission granted her by the State Engineer until such time as the city completes its pipelines and is ready to furnish the water for the use of its citizens.

Arthur P. Williams et al., respondents, vs. A. C. Burdick & Co., appellant; appealed from Multnomah County; John P. Kavanaugh, Judge. Affirmed in an opinion by Justice Moore. This is an action to recover damages for the breach of an alleged agreement as to the sale of prunes.

STOCK SHOW LURES MANY

Breeders and Dairymen From All Parts Drawn to Undertaking.

Inquiries from dairymen and breeders of dairy stock in all parts of the United States are being received by D. O. Lively, requesting information about the Pacific International Dairy Show, which will be held in Portland, November 18 to 23. The majority of Easterners sending inquiries are men who are interested in the sales of dairy stock, which will be one of the important features of the show.

The premium list for the show is already completed and copies will be mailed today to dairymen and stock-raisers in all parts of the United States.

A second meeting of the finance committee will be held this morning in the offices of Chairman T. S. Townsend, for further consideration of the plans for the show. Premiums aggregating $5000 are to be offered for exhibits in the show.

Hotel Gearhart "By-the-Sea."

More popular than ever—the best of everything the market affords, sea foods a specialty. Reservations taken at 100½ Fourth street **

LOG RATE CASE UP

Sumpter Valley Road Appears in Hearing at Baker.

DISCREPANCIES ARE SHOWN

Railroad Commission Is Asked to Fix Forty Cents Hundred Tariff Against One Much Longer at This Time.

BAKER, Or., July 30.—(Special.)—The Sumpter Valley log rate case opened in the City Hall this afternoon, State Commissioners Aitchison, Campbell and Miller conducting the hearing. Frank McCune represented the Baker Commercial Club, Robert Service his own counter-complaint, and John L. Rand, David Eccles, N. K. West and Joseph Barton, in attendance for the Sumpter Valley road. W. C. Earle, engineer with the State Railroad Commission, was the first witness and testified to the conductors' reports to show the number of cars handled per engine. Chairman Aitchison then gave a report of the findings in the books last April, which took up practically all of the session.

This report shows a number of discrepancies with the testimony as given on the witness stand at different times. One of these was the charging of an account to the maintenance when it should have been on another account. The plaintiffs for their part will be held up in their prosecution of their suit until this is revealed, as they have already offered all their testimony.

In the former hearing they showed the company, according to its sworn evidence, had reported a business of about 70,000 pounds of freight when it actually amounted to nearly twice the amount for one year. At that hearing they asked the commission for the establishment of a 40 cents a hundred log rate as against one several times that amount now. This will be their contention this time.

The culmination of the agitation over the letting of a contract for city lights came this afternoon when the city commissioners decided to throw the matter open for bids. The commissioners were considering a five-year contract with the Eastern Oregon Light & Power Company when the people began to ask why, after they had voted more than a year ago to have a municipal lighting plant, the city wanted such a long contract even if it did have a clause allowing cancellation when the plant was built.

The main question was what has become of the municipal light plant. The Eagle River Electric Power Company, which is entering the city, then asked to be allowed to bid, saying it would furnish power cheaper when the company is ready, October 1. The commissioners today decided to throw the matter of a two-year contract open to bids, service to begin October 1.

St. Johns Citizens Get Water.

ST. JOHNS, Or., July 30.—(Special.)—The St. Johns Water Company has been busily engaged in furnishing water to the patrons along Central avenue. It anticipated the move of Judge Gatens in issuing a mandamas by starting work before it was issued. The company asserts that the City Attorney had sent it a communication, stating that unless water was furnished within 24 hours, the city would notify the contractors on the street to repair and lower the pipes at the water company's expense. Instead of adopting this course, the City Attorney sought relief through the courts. The patrons along the street are now receiving water as usual.

SALEM FIREMAN RESIGNS

Action Follows Fight With Chief Savage at Fire.

SALEM, Or., July 30.—(Special.)—Blake Beck resigned as a fireman last night, submitting his resignation to the City Council, and it was accepted. His resignation grew out of a fight a few nights ago between Beck and Mark Savage, chief of the fire department. The department had been called to extinguish a small fire. Beck was manipulating a hose nozzle and after passing an uncomplimentary remark to the chief, it is alleged, turned the stream in the chief's face. At that the chief knocked him down.

Peter Graber, an old-time fireman, also resigned tonight through sympathy for Beck.

ROSEBURG CASE HOLDS

JUDGE OVERRULES MOTION TO QUASH INDICTMENTS.

Brewery Company Directors' Motion Does Not State Sufficient Reasons to Annul, He Says.

ROSEBURG, Or., July 30.—(Special.)—Holding that the motion did not state sufficient reasons under the statutes to annul the indictments, and even if it did it would be set at naught by an affidavit of the foreman of the grand jury to the effect that the indictees were not called before the jury to testify in the inquiry in which they were defendants, as individuals, Judge Hamilton late Monday overruled the motion to quash the indictments charging five directors of the Roseburg Brewing & Ice Company with violating the local-option laws.

Following disposition of the motion, Attorney Hermann presented a demurrer to the complaint filed against the brewery, Oscar Klinke, manager, and Joseph Heidenrich, deliveryman. In this demurrer he raised the question as to the legality of making the corporation liable for acts of its agents.

In passing on the demurrer Judge Hamilton held that it was a well-established fact that a sale by an agent is equivalent to a sale by the principal, regardless of whether the principal has knowledge of the sale. In the particular case at issue the directors of the brewery are its managing agents under the definition of the law applicable to the case and are criminally liable.

Judge Hamilton set the cases of the brewery, its directors and agents for September 2. It is said that the case will be carried to the United States Supreme Court by the defendants.

Picture Theater Burns.

DUFUR, Or., July 30.—(Special.)—The Princess Theater was partly destroyed last night by fire which caught when the moving-picture machine exploded. For a time a large part of the business portion of Dufur was in danger, but the efficient work of the fire department confined the fire to the theater building. At thetime of the explosion of the machine there was an audience in the theater, but no one was injured except the operator, H. L. Emmons, who escaped with difficulty, and was burned considerably.