

JUDGE BENSON FINDS NO ERROR IN THE PROHIBITION ELECTION

TO HOLD FAIR IN THE FALL

Bishop Thinks Prospects Very Good

FINISH RACE TRACK

Farmers Should Save Best Products for Exhibits for Big County Event

"Prospects are very bright for a fair this fall," said B. St. George, bishop, president of the Agricultural Association. "We have enough Association stock to pay for the improvements on the fair grounds if we can only dispose of it. Our race track will be completed some time this week or the first of next week and will be one of the best tracks in the state. It will take considerable money to put the rest of the ground in shape, but things look promising for a successful fair and race meet this year."

"I will do all I can to make the next one that will be a credit to the new grounds and with the assistance of the public the fair should be a good one."

It seems rather early in the season to talk fair, but this is the time of year for farmers to start in and set up their exhibits if they want to get the best the country produces. The Agricultural Association has worked faithfully to induce the farmers of this county to make the fair success by making liberal displays of the products of their ranches. The Association is a public institution and its fairs and race meets are successful it is up to the public to support them so.

SPRING CREEK NOTES.

Below the junction of Spring and Williamson river is Frank's fishing ground, the most successful camping ground in the Klamath region. The cold sparkling affords typical trout fishing. The point the river is about 150 feet wide and from two to six feet in depth with occasional holes trying in depth from 10 to 15 feet.

The water is clear as a crystal and colder than the ocean. The water swarms with rainbow trout which can be seen by the thousands in the clear cold water. The fishing is splendid at this time and many trout are caught that weigh as much as ten pounds. There are many camps along the banks of the river. Judge H. L. Benson and party occupied one of the tents for several days but they have now returned to the city. The judge is an expert fisherman and can cast a line from 30 to 75 feet, making the fly fall in the water as gracefully as a snowflake. His camp was a jolly one for the judge is a good hand at almost anything. He makes bread about as well as he tells stories. The large graphophone at the Benson camp furnished music for all of the campers.

Other camps along the stream are occupied by ex-County Clerk Geo. Chastain and family, Mr. and Mrs. H. Newham, Alex. Martin, Jr., and party, and by other pleasure seekers from various places.

The place is an ideal one for an outing. The camp grounds are covered with a growth of grass and are shaded with poplar trees. The fishing is superb and it is not a question of how many trout can one catch, but what can one do with them after they are caught. Mrs. Newham broke the record by hooking and landing a six pound rainbow trout. She did not land him until after a fierce struggle lasting ten minutes.

OPERA HOUSE TONIGHT.

William V. Mong and company appear at the opera house tonight in two short plays, "David Garrick" and the "Dyspeptic." Both of these are sure to please and the music by the orchestra between the acts will alone be worth the price of admission. There will also be specialties so that the entertainment will be rather mixed and will be such as will please the general public.

C. J. Swingle is in the city from his Langell Valley ranch. He says that the rain yesterday morning did not reach beyond the gap and that in his section of the county the soil is very dry and rain is needed badly. The hay crop is not up to the average and the grain is in need of moisture. The range is very good and stock of all kinds are doing well.

Remember the musical feature in connection with the show tonight.

KLAMATH COUNTY MUST REMAIN IN DRY COLUMN

Writ of Review Is Dismissed and Plaintiffs Assessed Costs

DECISION IS FILED WITH COUNTY CLERK

Judge Renders Lengthy Opinion, Citing Numerous Similar Cases, and Holds That There Were No Substantial Errors Made by the County Officials

Klamath Falls must continue dry. Judge H. L. Benson has filed with the county clerk his decision in the action brought by A. Castel and Kent Baird against Klamath county, J. H. Griffith, county judge, and Fred Melhase, county commissioner, for a writ of review of the proceedings in the local option election. The decision of the judge is as follows:

This cause coming on regularly to be heard, upon the petition of the plaintiffs for a writ of review, and the Court having heretofore granted said writ, and the county clerk having certified up the record in the said case, now at this time the Court having heard the arguments of counsel, and being fully advised in the premises, finds that there is no substantial error in the record. It is therefore ordered and adjudged that the said writ be, and the same hereby is dismissed, and that defendants have judgment for their costs herein.

Mr. A. Castel, one of the plaintiffs, when asked about appealing the case said it was too soon to say what action would be taken and Kent Baird, the other plaintiff, stated that he was through with the proposition and that as far as he is concerned the action will stop with the decision of Judge Benson.

Following is the opinion of Judge Benson in the case:

The petition of the above-named plaintiffs for a writ of review herein, assigns a number of alleged errors in the record, which the court has examined as fully as possible, and has arrived at the conclusion indicated in the order made and entered herein, for the following reasons:

The errors assigned by plaintiffs are as follows:

1. That it does not appear in the record, that the county clerk compared the signatures on the petition for a local option election with the genuine signatures on the registration books.
2. That the printed notices of election sent out by the clerk had the clerk's name printed thereon, instead of being written by his own hand.
3. That the certificates of the sheriff as to the place where such notices were posted is not sufficiently explicit to enable the County Court to find that such notices were posted in accordance with law.
4. That the act under consideration requires that the County Court shall hold a special term for making the final order declaring prohibition.
5. That there does not appear in the record as certified up to this Court any abstract of the votes cast for and against prohibition.

As to the first of these conditions, it is sufficient to say that the statute nowhere indicates that there should be any record of the clerk's action.

As to the second assignment, the authorities appear to be practically unanimous to the effect that a print-

ed signature may be adopted by a public officer and be as binding as though written by his own hand.

Referring to the fourth assignment it is my opinion that the phrase "Special Session" does not necessarily mean a special term of the court, but rather a special sitting of either a regular or a special term, and that therefore there is no merit in plaintiff's assignment of error.

The other assignments of error may be considered together.

The entire argument of counsel for plaintiffs is based upon the theory that the County Court is a court of special and limited jurisdiction, and that none of the jurisdictional facts can be presumed in favor of such jurisdiction. That in each of the foregoing particulars, the preliminary steps preparatory to the issuance of the order declaring prohibition, must affirmatively appear in the record.

However, while counsel's contention as to the nature of the County Court and its limited jurisdiction is undoubtedly correct, I do not understand that the decisions of our Supreme Court have anywhere indicated the nature of the evidence which must necessarily appear in the record to establish such jurisdictional facts, and it appears to me also, to be perfectly clear that the legislative body, whether it be the State Legislature, or the voice of the people in general, when exercised by the initiative, has ample power to declare the character of evidence which shall be required by the County Court, in a particular case.

The local option law which is under discussion in this case, was proposed by the people by initiative petition, and approved by a majority of the votes cast at the general election held June 6th, 1904. Section 7 of the act provides, among other things: "That prior to any election, the County Clerk shall deliver to the sheriff of the county at least five notices of the election for each election precinct in said county voting on the question." It also provides: "That the sheriff shall at least twelve days before any election hereunder post said notices in public places, in the vicinity of the polling place, or places. Thereupon the clerk and the sheriff shall each briefly enter of record their compliance with the provisions of this section, and such record shall be prima facie evidence that all the provisions of this section have been fully complied with." The record in the case at bar contains the certificate of the clerk that he delivered such notices to the sheriff at the proper time, and the certificate of the sheriff to the effect that he posted such notices in five public places in each precinct within the proper time.

Again, Section 10 of this act provides: "On the tenth day after any election hereon, or sooner, if all the

returns be received, the county clerk taking to his assistance two justices of the peace of the county, shall proceed to open said returns and make an abstract of the vote for the information of the County Court. That said court shall on the eleventh day after the election, or as near thereafter as practicable, hold a special session, and if the majority of the votes hereon in the county, as a whole, or in any subdivision in the county, as a whole, or in any precinct in the county are "for prohibition" said Court shall immediately make an order, declaring the result of said vote, and absolutely prohibit the sale of intoxicating liquors within the prescribed limits, except for the purposes and under the regulations specified herein, until such time as the qualified voters therein at a legal election held for that purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of the law have been complied with in giving notice of and holding said election, and in counting and returning the votes and declaring the results thereof."

But above and beyond the technical language of the statute, it is to be remembered that if there has been a fair and free election, and the will of the people has been voiced fairly and without fraud or intimidation, the Courts should be very slow to set such a verdict aside.

It follows that the Writ of Review should be dismissed.

Company Pleases Large Audience

When Mr. Mong stated that he had the strongest company of players that he has ever presented to the public of this section he did not exaggerate matters, for the play last night, "For Her Sake," was thoroughly satisfactory to the crowded house that witnessed the performance. It can be said that Mr. Mong appeared to better advantage in this play than in any role that he has assumed since his arrival in this city. Mrs. Mong too made an excellent appearance as Bessie Barton, and Lloyd Fountain displayed talent as John Tressidor. Every member of the company gave something that made the play as a whole an exceptionally strong one and the hearty applause of the audience showed that it was fully appreciated.

The musical feature of the performance was highly enjoyable and every member of the orchestra is indeed an artist. Lakeview may justly feel proud of its musical talent. Miss Laura Snelling is a violinist

EXTEND LINE FROM DORRIS

Steel Gang Building Across Big Hill

WORDEN NEXT STOP

Terminus of Road Likely to Be Near Marsh When Big Chief Arrives Here

Dorris is soon to lose the distinction of being the terminus of the California Northeastern. Laying of steel across the hill from Dorris has already started and within a few days the line will be completed to Calor and it is thought that by the end of this month the terminus of the road will be at Worden which is but a short distance from the edge of the marsh. The grade across the tunnel hill has been completed and the steel gang is already past the top of the hill where the deep cut was made.

It is understood that the Harriman party will arrive here about the first of August and the extension of the road is made at this time so that the party will avoid as much of the stage ride as possible. As soon as the road is built to Worden those who claim to know state that a temporary terminus will be established at that place until the road can be completed to the navigable water.

EXCURSION POSTPONED.

The investors and pleasure seekers excursion from Portland has been postponed until August 1st. This action was taken by the railroad company in order to place it in better condition to handle the party that is coming. While in Portland Judge Baldwin and the other Klamath boosters will drum up a crowd for the excursion.

of rare ability and her playing in the orchestra has received many favorable comments. Prof. Clarence Price the piano player, is recognized as an artist in his line, while Prof. Edward Rice, the leader of the Lakeview band, is a cornetist of far more than ordinary ability. Mr. Pagnello is accomplished in playing the slide trombone and Geo. H. Ayres, the clarinetist, is prominent in the musical circles of Lakeview and adds materially to the good music played by the orchestra.

July Specials

SPECIAL PRICES THIS WEEK

We will sell our Remaining Stock
of Dishes at less than Cost. . . .

10 per cent off ON LADIES' . . . KHAKI SUITS

ON SKIRTS, DUCK SKIRTS AND
SILK PETTICOATS

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K. K. K. STORE



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The White Mountain Freezer

makes more cream, better cream, and makes it easier and cheaper than any other freezer on the market

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