

REFERENDUM MOVE FOUGHT

JOURNALISM HEAD AT EUGENE
ON LONG JAUNT.

Finds State-Wide Deprecation of Proposed School Referendum.

Almost unanimous deprecation throughout the state of Oregon is aimed at the proposed referendum against the University of Oregon appropriation now being instituted by Prof. Parkison, according to Erick W. Allen, head of the school of journalism at the state university. Mr. Allen was in La Grande this morning on an Eastern Oregon jaunt in the interest of the state-wide movement already commenced and prompted by the referendum talk. That the school would suffer immense damage if the money was held up for two years is conceded by commercial bodies, newspapers, granges and citizens at large throughout the state, and that the Parkison following should be combatted is also the cry of many hurriedly formed organizations in Oregon.

"These organizations are not alone going to help prevent the referendum obtaining sufficient signatures, but are steadfast in their opinion that the citizenship of Oregon should hastily make it clear that irreparable damage would be done the state's best interests if the crowded conditions at Eugene are not remedied," said Prof. Allen today. "I know of no other movement that is so universally deprecated as this, yet the petitions will be sent out; our advice is, don't sign

this particular petition until you have given some study and consideration to the damage it will incur if sufficiently endorsed this summer."

Prof. Allen is a former Seattle editor who since he came to Oregon has made wonderful headway with the journalism course. He teaches it from University of Wisconsin education basis, augmented with many years of practical experience in the newspaper field.

No matter how long you suffered, or what other remedies have failed to cure you, Foley Kidney Pills will surely help you. They are genuinely tonic, strengthening and curative, build up the kidneys and restore their regular action. John Velfert, Foster, Calif., says: "I suffered many years with kidney trouble and could never get relief until I tried Foley Kidney Pills which effected a complete cure."

Prominent Men Coming.

A letter today from Rev. Charles A. Phipps, general secretary, Oregon State Sunday School Association, addressed to the local Y. M. C. A. Secretary, states, "Brown and I and possibly Hopfield will reach La Grande Sunday morning on No. 6." This will mean three big Sunday school workers in the city for Sunday. Mr. Hopfield is one of the department superintendents of the state organization. Mr. Brown is one of the international association superintendents. La Grande is to have a big day of it. A big Y. M. C. A. men's meeting has been arranged for the afternoon with Mr. Wm. A. Brown as the speaker. This meeting will be held in the Christian church. Mr. Brown gives his second address in a big union meeting Sunday evening at the Baptist church. La Grande is indeed fortunate in having this trio in the city for Sunday.

Washington Society Out Tonight.

Washington, April 18.—Society of the national capital was expected to turn out in force tonight to witness "The Remaking of the Raleighs," a play written by Alfred Washington Pezet, 22 year old son of the Peruvian minister. An apartment house in New York is the scene of the play. The proceeds will go to the Neighborhood House.

Women Organize Party.

Denver, April 18.—Because United States Senator Charles S. Thomas in Washington, didn't appoint a woman as secretary of the national suffrage committee of the United States senate and chose a mere man instead, the women of Colorado are planning to out-Roosevelt and start a new party composed exclusively of women.

Birds Given Protection.

Denver, April 18.—Tree planting and building of shelters for birds throughout the state of Colorado today were the principal ceremonies which marked Arbor and Bird Day, named by such proclamation of Gov. Elias M. Ammons.

To Horsemen

Try Cramer & Burton, the Horseshoers, for all classes of horseshoeing. Special attention given to hand turned work, also to all of faulty feet and gait. We are also prepared to do general blacksmithing. Give us a trial and be convinced. Located next to Cherry's laundry, Jefferson street.

Home From Spring Trip.

Fireman and Mrs. W. W. Kinzie returned this morning from their California trip, taking them to the southern section of the state. Both were much impressed with the coast cities.

New Blacksmith Shop Opens.

Cramer & Burton, horseshoers, and expert blacksmiths, have made arrangements to open, next Monday, an up to date shop on Jefferson avenue next door to the Cherry's Laundry. Both men come highly recommended, as experts in their lines.

CITY CHARTER

(Continued from Page 1.)

the court says, "The legislature foresaw that when a municipality undertook to exercise its power to improve streets at the expense of the abutting property owners, it might happen that the municipality, through oversight should neglect to do every act in the precise form prescribed by its charter and ordinances, or to do it in the regular way, or at the right moment, and that there might be some defect of this nature in the course of procedure which would be in no wise prejudicial to the property owner. It accordingly declares that merely informality or defects in the course of procedure, where the municipality had exercised its powers in substantial conformity with law, should not serve to prevent the enforcement of a charge against the abutting property for its proportion of the cost of the improvement. Remedial legislation of this character, which is intended to deprive a taxpayer of his technical defenses grounded on the fact that everything has not been done in the right form, or in the prescribed order, although there has been a very substantial compliance with the law, is quite common, and also very wholesome. But laws of this character should not be so interpreted so as to deprive the property owner of his rights to insist that his property shall not be charged with the costs of improving streets and making other improvements, unless there has been a substantial compliance with those provisions of the law which were enacted for his benefit and for his protection. It is an elementary doctrine that municipalities have no power to impose burdens on property for street or other improvements, unless power to impose such burden has been expressly conferred upon them by the legislature. It is an exercise of the power of taxation and this power belongs to the state and is one of the highest attributes of sovereignty. When therefore the power is delegated to a municipal corporation and laws are enacted, prescribing the purposes for which it may be used, and the mode and manner of its exercise, these provisions of the law are mandatory and should be carefully observed. A municipality cannot enforce a charge against the property of one of its citizens, unless it is able to show that it has proceeded according to law, by taking all the initial steps which the law prescribed as necessary to create the charge. If it fails to do so something which the law intended to be done for the protection of the citizen, and to prevent the imposition of an undue burden upon his property, an omission of this sort ought not to be looked upon as a mere informality or irregularity in the course of the procedure, but should rather be regarded as a failure to do some necessary act which renders its subsequent acts void, and the charge unenforceable. * * * we feel constrained to hold that the making of a valid contract for the doing of such work is a jurisdictional prerequisite to the establishment of a charge against abutting property for the costs of the improvement. The laws of the state, as well as the ordinances of the city, to which we have already referred clearly contemplate that such work shall always be done in pursuance of a contract and no step in the course of proceeding to charge abutting property owners with the costs of such work would seem to be more necessary for their protection."

It is claimed by counsel for the city that review will not lie to re-

view the action of the council in letting a contract, for street improvement. This contention is perhaps true, so far as the terms of the contract are concerned for those matters are left to the discretion of the council, which is final, but if the charter requires the contract to be authorized by an ordinance and no ordinance is passed, the action of the council in entering into the contract is certainly reviewable. The supreme court of this state in the case of Garnsey vs. county court, 33 Ore., 201, says "Its object (review) under the statute as at common law, is to keep inferior courts and tribunals within the bounds of their jurisdiction, and compel them to proceed regularly in the disposition of matters brought before them for determination, but it cannot be used, as a substitute for an appeal, nor does it lie to correct mere errors in the exercise of a rightful jurisdiction or to inquire whether the ruling of the inferior tribunal, upon the law and evidence and in the application of the law to the facts," is correct. As I have said the passage of a valid

ordinance is necessary to a valid contract, and a valid contract a prerequisite to a valid assessment. A these matters are jurisdictional, and hence, reviewable.

Even if the ordinance was a valid ordinance still I believe the reassessment proceedings absolute void. This ordinance was passed as a part of the original proceeding which I held to be void, because the boundaries of the district were not defined. All subsequent proceeding including the passage of this ordinance, would therefore be void. I believe it was necessary for the court, in order to validate the assessment, to enact all proceedings anew from the defining of the territory embraced in the improving district down to the levying of the assessment. These matters being jurisdictional can be taken advantage of upon review, although not specifically set out follows from the above conclusions that the writ should be sustained.

J. W. KNOWLES,
Circuit Judge.

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And

China Special

5c

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