

RESIGNATION SAID TO BAR EXECUTIVE

Frank S. Grant Files Legal Opinion
With Court.

A Salem special says: The Governor O'Connell should resign as secretary of state, he would relinquish his right to serve as governor and would hold neither office, according to the legal contention of Frank S. Grant, former city attorney of Portland, who filed an amicus curiae brief in the supreme court today relative to the mandamus proceeding recently brought by Governor O'Connell to determine his rights and duties as governor.

Mr. Grant is the first attorney of Oregon to file a brief as a friend of the court in compliance with a general invitation issued to attorneys by Chief Justice McCall two weeks ago. Mr. Grant, in a lengthy brief, holds that Mr. O'Connell can serve as governor only during the time he remains as secretary of state and he takes issue with the opinion of Attorney-General Brown that Mr. O'Connell serves as the state's chief executive throughout the unexpired term of the late Governor Withycombe.

Court Authority Questioned
He contends that the moment Mr. O'Connell resigns as secretary of state the president of the senate becomes governor with the power to appoint a secretary of state.

In addition to these foregoing arguments, Mr. Grant questions the

right of the supreme court to determine Mr. O'Connell's title to the two offices through a mandamus proceeding. He cites other cases which have come before the state's highest tribunal in an effort to prove that the only question which the supreme court can properly determine is whether or not State Treasurer Hoff shall honor Mr. O'Connell's salary as governor.

The question as to the title of the office is a collateral issue, he asserts, which has no place in the mandamus proceeding now before the court.

Other Arguments Expected
Mr. Grant's brief further points out that in case the supreme court should decide that Governor O'Connell can resign as secretary of state and fill out the unexpired term of the late Governor Withycombe, the only way in which the president of the senate might become governor would be through the simultaneous death of both the governor and the secretary of state.

Although his is the first amicus curiae brief to be filed in the supreme court word has reached here that at least one or two other Portland attorneys are preparing arguments which will be submitted to the court within the next few days.

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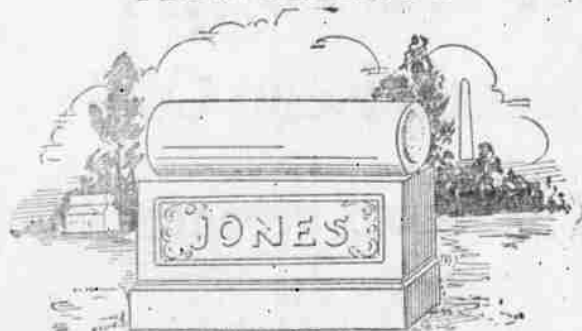
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