

KLAMATH TO REMAIN DRY

Judge Benson Dismisses Proceedings Brought on Account of Election

Jackson county continues the only oasis in the desert of dryness covering 10,000 square miles of southern Oregon. Klamath Falls must continue dry. Judge H. L. Benson having so decided in the action brought by A. Castel and Kent Ballard against Klamath county, J. B. Griffith, county judge, and Fred Melbase, county commissioner, for a writ of review of the proceedings in the local option election on grounds that technical points of the law were not observed in the calling of the election. The decision 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 the 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."

Decision in Full.

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:

- 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 declaratory prohibition.
- 5. That there does not appear in the record any abstract of the votes cast for and against prohibition.

No Record Required.

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 printed 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.

Court's Jurisdiction.

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 declaratory prohibition must affirmatively appear in the record.

Provisions of the Law.

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 6, 1905. 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 12 days before any election hereunder post said notices in public places, in the vicinity of the polling places, 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.

What Law Requires.
Again, section 10 of this act provides: "On the tenth day after any election herein, 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 11th 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 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."

Writ Is Dismissed.
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.

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 Ballard, 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.

NO TRACE OF FIEND WHO ASSAULTED WOMAN

County Sheriff Joe Russell and his deputies have scoured the mountain forests and followed every trail leading from Galice mining camp, not the slightest clue has been found of the man who entered the cabin of Miss Emma Robinson last Friday night and brutally assaulted her. Miss Robinson is fast recovering from the wounds inflicted by her assailant and the severe shock of the terrible experience, but she can give only a meager description of the man. That he was a big and powerful man she well knows, as she struggled desperately with him for some time; she knows also that he carried a revolver.

Miss Robinson has lived alone at Galice for several months, occupying one of the cabins of the Galice Consolidated Mines company, or what was formerly the property of this company. The mines were sold at a sheriff's sale last year and were taken over by the main creditor, T. K. Anderson, who owns and operates the hydraulic mines just above the Galice Consolidated company. Miss Robinson intends to develop the properties and restore them to their old-time activity. She has made many friends in the old mining camp, and the big-hearted, manly fellows of Galice are much wrought up over the affair. It would not be safe for the assailant should he be captured. Sheriff Russell fears he will have considerable difficulty in getting his man safely to the Grants Pass jail in the event of his capture.

KLAMATH COUNTY COURT TO ADVERTISE COUNTY

County Judge J. B. Griffith and Commissioners S. T. Summers and W. A. Walker held a meeting Saturday afternoon at which they agreed to accept the proposition of the Sunset Magazine for advertising Klamath county, says the Herald. The county will pay \$1000 toward carrying out the contract for 20,000 descriptive pamphlets and for a page advertisement in the Sunset Magazine for one year, and a writ-up of Klamath county in one issue of the magazine. The total sum involved in the contract with the magazine will be \$1440.

The directors of the chamber of commerce have not yet closed the contract, but it is probable that this will be done within a few days.

According to the state law the county court can appropriate \$1000 a year for advertising the county. An effort has been made for several years to get the county to make this appropriation, but this is the first money allowed for this purpose. In view of the fact that Klamath county expects to make an exhibit at the Seattle fair, it is argued by many that it would bring better results to use every cent that can be raised to make a big showing there. It is believed that if the county spends this amount with the Sunset and the people have to raise \$400 additional, it will be impossible to obtain anything further for the Seattle exhibit.

MRS. EDMUNDS BRINGS A SUIT FOR DIVORCE

That Charles E. Edmunds used in deceit language toward his wife in the presence of employees at the Heyser hotel is the statement made by Grace F. Edmunds in a suit for divorce, filed in the circuit court at Portland this week. She says also that he was in the habit of frequenting roadhouses, and that he deserted her April 16, leaving her without money with which to buy food. While he lived at home she was subjected to severe beatings, she says, while he was intoxicated. They were married at Seattle July 14, 1904.

Mr. and Mrs. Edmunds are well known in Medford. Mr. Edmunds being formerly manager of the Hotel Nash. It is reported that Mrs. Edmunds will seek a Vancouver, B. C., newspaper man upon securing her divorce.

The Hotel Nash is serving the best merchants' lunch in Oregon daily from 11:30 until 1:30 o'clock. Price 25 cents, with your favorite drink.

SIRES AND SONS.

Andrew Carnegie, it is said, has interested himself in the Esperanto language and has devoted considerable attention to its study.

E. H. Harriman, if he so willed might start today at Savannah, Ga., and walk to San Francisco without stepping off his own property or property that he controls.

Captain Fitzhugh Lee, Jr., Seventh cavalry, military aid to the president, has been designated by the war department to attend the school of equitation at Saumur, France, this summer.

P. B. Peterson of Columbia Falls claims to be the oldest instructor in dancing now in active service in Maine. In all he has taught 112 terms. Mr. Peterson is seventy-four years of age.

Captain C. J. Badger, superintendent of the Naval academy at Annapolis, will serve another year in that capacity. Captain Badger had made application for sea service, but defers to the wishes of Secretary McCall, who is anxious that he continue as superintendent of the academy.

Tim Healy, the Irish member of parliament, is quick at repartee. A voter once informed him that he would "sooner vote for the devil than for Healy." "But possibly your friend may not turn up," said Tim, adding in a tone of mild inquiry, "Perhaps you would support me then?"

Representative Burleigh of Maine is one of the few members of the house whose biography omits the familiar sentence, "Studied law at the — university." He is a real newspaper man, the publisher of the Kennebec Journal and has been governor and state treasurer of his state.

Pen, Chisel and Brush.

M. Rodin, the celebrated French sculptor, has been asked to paint some frescoes for the new art gallery at the Luxembourg palace.

Tolstoy is talking the book he is now at work on into a phonograph, as he finds writing irksome. The book is to be a reader for the great masses and will be, he declares, his most useful though not his greatest work.

Clarence Herbert New, the detective story writer, has had an adventurous career. He was shipwrecked off Victoria, Australia, in 1888 during a voyage around the world and was the only passenger saved after five hours in the water.

Edwin A. Abbey of New York, who exhibited a number of striking canvases at the recent exhibition of the Societe des Beaux Arts at the Grand Palais, Paris, has been elected corresponding member of the Academie des Beaux Arts in place of the late Robert Bonpland.

College and School.

Paraguay had last year 383 primary schools, in which 998 teachers instructed 39,749 pupils.

The name of the Irving Park high school in Chicago has been changed to Carl Schurz high school.

First place among the universities of the world in matter of mere numbers, up to last year held by that of Berlin, has now been won by the University of Paris, which had a student body of 16,000 in last summer's semester.

At a recent meeting of the regents of the State University of Iowa plans for a new law building were submitted and approved. Frank H. Randall is getting his man safely to the department of public speaking, and Daniel Sheehan was appointed assistant law librarian.

Sporting Notes.

Rising Sun, Md., is to have a race track.

It is reported on good authority that General Watts, 2900, is to be sent to Russia to compete in the big international event.

Hostetler of the St. Louis National league team can pitch, catch and play any position in the infield and outfield and do all well.

Edwin H. Sweetland, formerly football coach of Syracuse university, has been secured by Colgate to coach the football squad at Hamilton next fall.

Head Coach James Wray of the Harvard varsity crew declares that it will be next to impossible to compose an eight of the best American college oarsmen to represent America in the Olympic regatta.

Train and Track.

The income of the street railways in Pennsylvania last year was \$3,558,299 more than in 1906 and the disbursements \$3,968,297 more.

At the present rate of increase of traffic on the railways in New York city the facilities will have to be doubled in the next fifteen years to give even as good service as exists today.

The left hand running of trains on double track is practiced by two important railways in the United States, the Lake Shore and Michigan Southern railway and the Chicago and Northwestern railway.

Old Fashioned.

An old fashioned woman never says a man had a relapse; she calls it a "setback."

What has become of the old fashioned novel that began with a solitary horseman appearing on a hill?

What has become of that dear, thoughtful and handsomely dressed woman who always wore her hats two seasons?—*Atchison Globe.*

THE OLD HOWARD RANCH

Three miles south of Medford and 2 1/2 miles west of Phoenix, is now cut up in small tracts to suit the purchaser. One-fourth cash, balance in three payments. This is a rare opportunity for men of small means. Listed with all the agents.

Narry Culbertson, general contractor and builder, cement work a specialty. Medford, Or.

Medford Tribune, 50c per month.

Do You Realize

that lumber and cement are on the bargain counter; that all building material is cheaper than it has been for years, and that the services of competent builders can be secured for wages lower than you will see again? Now, give this a few moments' thought and you will act as do the prudent business men—build now, save money and avoid the rush of coming good times.

CRATER LAKE LUMBER CO.

TEN ACRE TRACTS

VARIETY OF FRUIT—Pears: Comice, Bartlett and d'Anjou. Apples: Newtown and Spitzenberg.

CONDITION—Trees are strong and vigorous. Show splendid growth.

LOCATION—One mile from town and shipping point. Elevation, above frost line.

SOIL—None better in Rogue River valley for fruit or garden truck. In splendid cultivation.

WATER—Can irrigate if desired. Great sub-irrigation.

PRICE—\$50, \$60, \$75, \$85, \$90, \$110, \$225, \$250 per acre.

TERMS—Easy: Six per cent interest on deferred payments. Eight per cent off for cash.

Twelve years devoted to selling realty in this valley enables us to know the value of land. We do not hesitate to recommend every tract of the ALA VISTA ORCHARDS as being a good buy. We will be pleased to show you these tracts. Our time against yours. Auto every day.

W. T. YORK & CO.

Seventh Street MEDFORD, OREGON



WHY IS IT?

That each month in all the best homes in this country, on the library table, and in every club reading room, you find the

METROPOLITAN MAGAZINE

It is because it keeps you in touch with those great public and human movements on which the American family depends. It is because its stories are the best published anywhere. It is because its illustrations in color, and black and white, set the standard. It is because its articles are the most vital and interesting. It is because there is something in each copy for every member of every American family.

A YEAR'S FEAST

1800 Beautiful Illustrations. 1560 Pages of Reading Matter. 85 Complete Stories. 75 Good Poems. 50 Timely and Important Articles. 1000 Paragraphs presenting the big news of the "World at Large." 120 Humorous Contributions. Wonderful Color Work, presented in frontispieces, inserts and covers.

All Yours for One Year's Subscription to THE METROPOLITAN MAGAZINE Price \$1.50 per Year or 15 Cents a Copy

The publishers of the SOUTHERN OREGONIAN have made a special arrangement with THE METROPOLITAN MAGAZINE by which they are enabled to offer the following extraordinary bargain: The cost of one year's subscription to THE METROPOLITAN is \$1.50. The cost of 12 months' subscription to the SOUTHERN OREGONIAN is \$2.00. We offer both for \$2.50.



To keep your temper

When the thermometer is 108 in the shade, be sure that you smoke a good cigar, one that you will enjoy and will make you forget the cigar; R. R. V., 10-cent matter. The Medford 5-cent cigar, and Del Mareca, 15-cent cigar are the best that money can buy. Made by a home industry, union, hand-made—not in the trust.

R. R. V. Cigar Works

Medford, Or.

ABOUT

August 15 we will be ready to sell tiered and seasoned

OAK WOOD

in any quantity at \$3.00 per tier, delivered, or \$2.00 per tier at the ranch.

Good Rail Wood

Some cedar, sawed into tier wood, at \$1.50 per tier at the ranch or \$2.50 per tier delivered.

For all necessary information apply to

WESTERN OREGON ORCHARD CO.

Medford, Oregon.

LOW RATES EAST

Will be made this season by SOUTHERN PACIFIC

Lines in Oregon

FROM MEDFORD, ORE. as follows:

TO	Both Ways Through Portland, California.	One Way Via Portland, California.
Chicago	\$82.40	\$87.50
St. Louis	77.40	82.50
St. Paul	69.90	81.75
Omaha	69.90	75.00
Kansas City	69.90	75.00

Tickets will be on sale June 19, 20, July 6, 7, 22, 23, August 6, 7, 21, 22.

Good for return in 90 days with stopover privileges at pleasure within limits.

REMEMBER THE DATES

For any further information call on

A. S. ROSENBAUM, Local Agent, or write to W. M. MURRAY, General Passenger Agent, Portland, Oregon.



The ELECTRIC TEA KETTLE

Furnishes hot water for tea on very short notice. It can be used on the table or in the kitchen. Attaches to any electric plug. Simple, safe, convenient, durable.

ROGUE RIVER ELECTRIC CO. Successor to Condon Water Power Co. Office 206 W. 7th st., opp. big electric sign. Phone 855.

Our circulation is legitimate and large for a city of this size—larger than any other paper in Oregon can show for population.