

MEDFORD DAILY TRIBUNE

FOURTH YEAR.

MEDFORD, OREGON, FRIDAY, MAY 21, 1909.

No. 54.

PACIFIC & EASTERN DEAL CLOSED

M'MAHAN'S THREAT TO HOLD UP CRATER ROAD APPROPRIATION WILL NOT STAND IN COURT

Local Attorney Quotes Law and Cites Authorities in Connection With Salem Attorney's Threat to Enjoin the State Treasurer From Turning Over the \$100,000 to the Crater Lake Road Commission.

"NEED BE NO FEAR OF ITS CONSTITUTIONALITY," SAYS COLVIG—"McMAHAN WOULD STAND IN THE LIMELIGHT"

Crater Lake Road Bill Is a Public Law and in No Wise Special or Local Salem Attorney Is Simply Exponent of the Mossback Element of Oregon and Wants Notoriety."

To the Editor: L. H. McMahan, a Salem attorney, is preparing to make a grandstand play as the exponent of the mossback element of Oregon, by bringing suit to enjoin the state treasurer from paying the Crater Lake road appropriation. It will be remembered that McMahan is the attorney who brought the suit against ex-Secretary of State F. I. Dunbar and one against ex-Senator Fulton, in both of which cases he utterly failed. McMahan simply wants to stand in the limelight of public attention for awhile.

From a careful consideration of the appropriation bill, we think there need be no fear of its constitutionality. McMahan contends that the act appropriating this money is a local and special law, and therefore violates article IV, section 23, subdivision 7, of the constitution, which reads as follows:

"The legislative assembly shall not pass special or local laws for laying, opening or working on highways, and for the election or appointment of supervisors."

Not Confined to One County.

Mr. McMahan relies greatly upon the opinion rendered by our supreme court in Maxwell vs. Tillamook county, 20 Or. 495, but we think the very reasoning used by the court in that case would sustain the validity of the Crater Lake act. The very title of the case cited interprets the law and plainly designates the local nature of the act pronounced unconstitutional by the court. It was entitled "An act to appropriate \$10,000 to aid Tillamook county in the construction of a wagon road, etc." The supreme court, in the opinion rendered by Judge Lord, takes occasion to say: "The act is addressed to that county alone, personally as a legal entity, and designed to aid it exclusively, and operates only within its boundaries."

The Crater Lake bill is an act to aid in the construction of a highway from the Pacific ocean in Oregon to the Idaho line on the eastern boundary of the state; so it is plain to be seen that its operation is not to be confined to one county only.

Tillamook Case Special.

The supreme court further says in the Tillamook case, in speaking of the act: "It is designed to aid Tillamook county, and no other; it specifically names that county as its beneficiary, and contemplates no broader or other application of its benefits." Such a law is in no sense general, but wholly special, within the meaning of all authorities. It seems to us that it would be difficult to imagine a clearer case of special legislation."

Let us examine another case, passed upon by our supreme court in a

matter, and where the same question was raised. I refer to the case of Allen vs. Hirsch, 8 Or. 412. The act considered by the supreme court in that case was entitled "An act to provide for the construction of a wagon road up the south bank of the Columbia river from near the mouth of Sandy, in Multnomah county, to The Dalles in Wasco county." The court held in that case that the act was not special or local within the meaning of the prohibition of the constitution. The suit in this latter case was brought to compel the payment of certain warrants drawn by the secretary of state upon the state treasurer. The treasurer, wishing to ascertain the validity of the law, refused to pay the road warrants, unless compelled by mandamus.

Is Public Law.

In addition to the Columbia river road appropriation bill, there was another act of the legislature involved. It was entitled "An act to provide for the construction of a road in Grant and Baker counties, to be known as the Eastern Oregon and Winnemucca road." Warrants had been issued by the secretary of state under each of said acts.

In this case (Allen vs. Hirsch) the supreme court held that the said acts did not come within the constitutional inhibition, and one of the reasons advanced by the court is as follows: "There is another reason why the acts of the legislative assembly referred to in the petition are to be regarded as general laws, and not special or local acts. Article 4, section 27, of the constitution declares that 'every statute shall be considered a public law, unless otherwise declared in the statute itself.' Neither of the acts contain such a declaration."

Crater Bill Not Special.

The Crater Lake road bill is certainly a public law, and in no wise special or local. Its object is "to promote and facilitate public travel and transportation." The days of the "footlog" and trail in Oregon have given way to a better condition of travel. We must have roads, and good ones, if we expect people to come here and look over the state, and locate among us. In getting the means wherewith to build and construct these highways we may count on the support of all public-spirited citizens and the opposition of the "mossbacks."

WM. M. COLVIG.

H. L. Kelly brought down from the Elk Creek hatchery a consignment of 10,000 young steelheads, which were planted in the Applegate Thursday.

State Bank Examiner James Steel of Portland is spending a few days in the valley.

HARRIMAN WINS THE PORTLAND GATEWAY CASE

Northern Pacific and Union Pacific Must Sell Tickets From Eastern Points to Puget Sound via Portland.

HAS BEEN CONTENTION FOR OVER QUARTER CENTURY

Interstate Commerce Commission at Last Settles Famous Case—Means Much to Travelers.

PORTLAND, Or., May 21.—Word was received today from Washington, D. C., that the interstate commerce commission has decided the famous controversy between the Hill and Harriman lines involving the Portland gateway case in favor of the Harriman lines. The Northern Pacific must join with the Oregon Railroad & Navigation and Union Pacific in selling by way of Portland through tickets between Puget sound and eastern points.

This has been a matter of controversy between Hill and Harriman for a quarter of a century. The decision means that it is now possible to purchase tickets in any eastern city to Puget sound and have the ticket read via Portland, which has never been done heretofore. Those coming by way of Portland to Puget sound had to buy another ticket north upon their arrival here.

TOU VELLE A SECOND LUTHER BURBANK

In the person of Colonel F. L. Tou Velle of Tolo, Jackson county can claim a rival to Luther Burbank. The colonel, who owns a fine alfalfa orchard, claims that he has successfully grafted strawberry vines upon alfalfa roots, thereby producing the "alfa-berry," an ever-bearing strawberry good for three crops a year of green berries. However, he hasn't shown any of the fruit thereof as yet.

LATE LOCAL NEWS.

Colonel J. F. Mundy has secured oil leases upon 46,000 acres of land near Oakland, where he intends to drill for oil in the near future.

S. A. Nye and Dr. F. C. Page discovered while at Portland that there were some people who had never heard of Medford. One salesman asked whether rail or water was utilized for shipments here, and another wanted to know in what part of the state Medford was located. Both have been enlightened by Medford pamphlets.

State Railroad Commissioner Oswald West passed through Medford Friday on his way south.

Major J. W. Hicks of Central Point spent Friday in Medford.

An operation for throat trouble was successfully performed upon the 4-year-old son of Judge R. E. Kelly by Drs. Seely and Conroy Friday.

The Central Point high school will give an entertainment Saturday night in the Central Point opera house.

Superintendent Carnahan of the Blue Ledge has a pet in a recently captured black bear cub, which he caught while hunting in the Siskiyou. The mother sent the cub up a tree and escaped, imagining it safe.

STANDING WILL BE ANNOUNCED ON SATURDAY

Several Important Changes Have Been Made in Line-Up of Contestants for Free Trip.

OUT-OF-TOWN GIRLS MAKE GREAT HEADWAY

In Tomorrow's Issue of The Tribune Standing of Contestants Will Be Announced.

Tomorrow afternoon The Tribune will announce the standing of the many candidates in the free trip contest and some of the girls are going to be surprised. Several important changes have been made.

The out-of-town girls have made important strides during the week, especially one miss in the southern end of the valley. She begins to look like a winner.

Votes are beginning to pile up rapidly and in June the great strides will be made, for then the race will begin to narrow down. There is plenty of time yet to win a trip, for it doesn't take long to pile up the figures.

Watch for the standing of the contestants Saturday.

SOUTHERN OREGON PEOPLE HONORED BY THE I. O. O. F.

One of the most interesting figures in the parade of the grand lodge of Oregon, I. O. O. F., which is in session in Albany, was Silas J. Day of Jacksonville the oldest living past grand master of the order. He presided over the grand lodge in 1868, when it included the states of Idaho, Washington and Oregon in its jurisdiction. W. A. Carter of Gold Hill was elected grand representative of the convention and J. L. Reynolds of Jacksonville was elected grand herald. W. I. Vawter was appointed a member of the judiciary committee. A. J. T. Smith of Gold Hill, E. C. Payne of Ashland and F. H. Schmidt of Grants Pass were appointed district deputy grand patriarchs to serve during the ensuing year.

FURNISHING LUMBER FOR SEVENTEEN NEW DWELLINGS

The Woods Lumber company is furnishing the building material for 17 new dwellings in Medford at the present time aside from a number of orders that are being filled outside of the city limits.

These buildings are all estimate jobs, and aside from these they are furnishing lumber for many other jobs. L. E. Benn is erecting a residence for Mr. Outman on his property near Phoenix, for which the Woods Lumber company is furnishing the lumber.

FIREMEN DECIDED TO OBSERVE JULY 4TH ON MONDAY, THE 5TH

The fire boys held a brief business session on Thursday evening and decided to change the date of the celebration from Saturday, July 3, to Monday, July 5. This was done to meet the request of the majority of the business men of the city.

Estate Sarah Abbie Foudrey; will admitted to probate.

ALLEN BECOMES PRESIDENT OF ROAD; WILL PROBABLY EXTEND ROAD TO TIMBER AT ONCE

Arrangement Effected With Manager O'Brien of the Harriman Lines in Oregon Whereby the Southern Pacific Will Furnish Rails to Extend the Line Seventeen Miles to the Timber Belt.

WORK WILL PROBABLY START AT ONCE ON EXTENSION OF THE ROAD TO BUTTE FALLS

Will Tap the Largest Standing Body of Sugar Pine and Yellow Pine in the World—Wonderful Natural Advantages to Be Had in Logging—Road Means Much to the Valley.

John R. Allen of 49 Wall street, New York city, Thursday paid the draft attached to the controlling stock interest in the Pacific & Eastern railroad, thereby becoming owner of the railroad. It is understood that he has made satisfactory arrangements with the holders of the present outstanding bonds, and will probably replace them with a new issue. He becomes president of the Pacific & Eastern, and G. P. Humphreys secretary and treasurer, the main office of the corporation to be in Medford, with branch office at 49 Wall street, New York city.

Through an arrangement effected with J. P. O'Brien, general manager of the Harriman lines of Oregon, the Southern Pacific will furnish rails for the extension of the road 17 miles from its present terminal at Eagle Point to Butte Falls, the heart of the sugar pine district. It is presumed that the road will be extended at once.

Taps Rich District.

The Pacific & Eastern will cost in the vicinity, including the old road, of half a million dollars. It will tap one of the richest timber districts in America. It is estimated that 8,000,000,000 feet of unaccountably standing timber is situated in the Butte creek timber district, 50 per cent of which is sugar and yellow pine. It is the largest body of standing sugar and white pine timber in the world, and is the largest body of timber accessible by a lateral road in the United States.

CROSS THE COUNTY ROAD FROM THEY CONTAIN THE SAME QUALITY OF SOIL AS THIS FAMOUS OR PLANT AND CARE FOR THE LAND, AND GIVE IT THOROUGH AND SCIENTIFIC ATTENTION.

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