

MEDFORD DAILY TRIBUNE

FOURTH YEAR.

MEDFORD, OREGON, MONDAY, AUGUST 2, 1909.

No. 115.

CITY WINS A POINT OVER HANLEY

VALIDITY OF SPECIAL SESSION IS UPHELD BY JUDGE COKE

TRIAL OF CONDEMNATION SUIT FOR RIGHT-OF-WAY ON HANLEY RANCH NOW UNDERWAY

Reames Makes Lengthy Argument Alleging Special Session is Unconstitutional and Attacking Validity of Proceedings--May Apply to Hanna for Injunction to Declare Special Proceedings Invalid--Reames Says Is not Representing Hanley and does not Want Name in Proceedings

Circuit Judge John S. Coke, of Marshfield, Monday afternoon upheld the constitutionality of the special term of court, called to try the condemnation proceedings brought by the city of Medford against M. C. Hanley to secure a right of way through the latter's Bute Creek farm for the gravity water main. Selection of a jury began at once.

Raises Constitutionality. For two hours Monday morning the attorneys in the case of the city of Medford vs. M. F. Hanley, for a right of way across the Hanley premises on Little Butte Creek, argued the constitutionality of the statute under which Governor Benson ordered John S. Coke, Judge of the Second Judicial District to proceed to this district and convene a special term of court for the hearing of the case. The Judge took the matter under advisement until 2 o'clock.

Great interest is exhibited in the case, the courtroom being crowded when Judge Coke convened court. Thirty-one jurymen were on hand, but were excused until the afternoon session.

At the opening of the court Attorney A. E. Reames, who has appeared for M. F. Hanley throughout, stated that he had no authority to appear for Hanley at this special term of court, and that he did not wish it to appear in the record that he had appeared. He then raised the question as to the constitutionality of the proceedings, stating that it was in conflict with Section 1, Article 3, of the Constitution, which provides three departments—the judicial, executive and administrative—for the carrying on of the government of the state. He stated that the executive department could in no way interfere with the duties and powers of the judiciary department.

Now in Contempt. Mr. Reames went on to review the case and charged that the city officials had been guilty of contempt of court to request a second court to make the same order which was denied by Judge Hanna. He claimed that inasmuch as the city had asked Judge Coke, through the Governor, to call a special session of the court after this had been denied by Judge Hanna in this district, that the request was clearly a case of contempt. Attorney Reames also charged the city officials with being "very smooth" in applying for a hearing of the case one day after the March term had adjourned, charging them with knowing that the case could not be heard at

that time, thinking that they would be allowed to file a bond and enter upon the Hanley premises. This, he explained, would have a bearing upon the contract which Hanley has with the city, providing for the payment of \$25,000 for 300 inches of water from Wassen Canon.

Neff Defends Proceedure. City Attorney Neff replied to Mr. Reames in full, citing many cases having a bearing upon the sitting of Judge Coke in this district. Mr. Neff stated that the only way in which the matter could be assailed would be by direct proceeding. He went on to review the Hanley case, stating that through dilatory methods, the defendant strove to force the city into complying with the original Wassen Canon contract.

In regard to the constitutionality of the action of the Governor in ordering Judge Coke to call a special term of court in this district, Mr. Neff stated that the act was not judicial, for if it was, the legislature could not fix terms of court, which it has done in many instances. He stated that Judge Coke was a default judge and that his right to call a term of court in this district could not be questioned.

Jurymen Summoned. The following jurymen were summoned by the court: John Arnold, C. A. Seeman, G. W. Weeks, E. Higginbotham, C. W. Laughlin, R. P. Neil, F. K. Deuel, W. H. Venerable, C. E. Trevill, S. H. Moore, G. W. Garver, J. Harriman, T. J. Fish, C. W. Frail, A. L. Wiemer, J. R. Jones, J. E. Day, C. A. Elahai, S. P. Hunter, J. G. Grover, Will von der Hellen, George Garrett, J. J. Murphy and Fred Minthorn.

MEANS TO CROSS OCEAN IN STEERABLE BALLOON

FRANKFORT, ON MAIN, Germany, Aug. 2.—Joseph Brueker of New York proposes to cross the Atlantic in a dirigible balloon. He has arrived here to complete his plans. Besides being a daring aeronaut, Mr. Brueker is president of the Europe-America Navigation Society, and feels assured that he knows the vagaries of the sea. He has figured out how he can make the trip safely. When the northeast tradewinds set in next year he will embark from Lisbon or Cadiz, heading for Porto Rico via Madeira. Thence his course will be to Havana and New Orleans. "I have selected a season," he said today, "free alike from hurricanes in the West Indies and from the northwest winds which frequent the Spanish Coast in winter."

ARMED MEN DENY ENTRANCE TO HARRIMAN

Seventy-five Employes of Porter Brothers, Contractors, Alleged To Be Representing Hill, Resist Rival Builders.

GUERTZ RANCH GUARDED—ESPEE TO SEEK COURTS

Race for Central Oregon Develops Clash Between Workmen and Legal Aid Sought.

GRASS VALLEY, Or., Aug. 2.—Seventy-five armed employes of Porter Bros. contractors, reputedly representing the Hill railroad, are guarding the Guertz Ranch, near here, and resisting passage of the Harriman builders, Twoby Bros., in the race to build the first line tapping Central Oregon.

The Harriman force has appealed to the courts.

HUNDRED HUNTERS READY TO KILL KLAMATH DEER

KLAMATH FALLS, OR., Aug. 2.—About 100 of the local Nimrods have either already gone to the mountains or else will go for the opening of the deer season. Beginning August 1, it will be legal to kill deer in Klamath county. Reports from all sections state that deer are more plentiful than they have been for several years. In addition to the local parties that will be in quest of venison, there will be a large party of non-residents who have come here to join the local forces.

During the past month several bears have been killed. They are however growing scarce and it is seldom that one is bagged.

Game wardens are enforcing the law and very little illegal hunting is being done this year. There has been but one prosecution for killing deer out of season. This served as a warning and it is safe to presume that there have been few violations. Ducks and geese are plentiful in the marshes. The spring was not the best for breeding, but still the shooting will be good. The season for aquatic birds will not open until September 15.

Indian baskets: I offer for sale my entire collection of Indian baskets, in lots to suit purchaser. The collection consists of some very fine specimens made by the Pitt River, Modoc, Hoopa, Plate, Klamath, Chippewa and Sioux. This kind of work is getting to be harder to acquire each year, as the Indian basket makers are dying off very fast. They make fine hall decorations, good presents to send to eastern friends, and are constantly increasing in value. This sale will continue until Wednesday, August 4 only. The prices will be about 25 per cent less than is ordinarily asked for such baskets. They can be seen at Dr. Goble's optical parlor on Seventh street. 114

AGREEMENT IS SIGNED FOR NEW AMENT FISHWAY

Governor Benson and Treasurer Steel Affix Signatures to Contract With Golden Drift Mining Company for New Fish Ladder Over Dam.

NECESSARY TO PREVENT INJURY TO WATER DITCHES

Irrigationists Feared Pipe and Conduits Would be Damaged by New Construction Work.

Governor Benson and Treasurer George Steel have signed, as members of the State Board of Fisheries, an agreement with the Golden Drift Mining Company for a new fish ladder over the Ament dam near Grants Pass, which fishway is now in course of construction.

The agreement was necessitated, states Attorney Hough, of Grants Pass, who represented the dam owners, because of an option to purchase the dam and plant given to the promoters of the new irrigating system, which uses the dam to generate power for pumping water, and insures the irrigationists that their pipe and ditches will not be interfered with by the new fishway.

The fishway is being built at the expense of the state, the previous master fish warden, Van Duzen, having accepted the present defective fish ladder as satisfactory to the state, hence the state could not force the building of the new fishway, which crosses the irrigation conduits.

Christian Church News.

Sunday was a good day at the Christian Church. Services were well attended both morning and evening. Rev. R. R. Burnett preached a thoughtful discourse at 11 o'clock. Bro. Burnett has done much to build up the cause of Christ in Oregon. Bible School attendance was above 100. This is remarkable for the mid-summer. At 8 o'clock p. m. the pastor preached on the subject, "What Will It Cost?"

Ladies' Aid meets Wednesday afternoon at 2:30, in the church parlors. Refreshments will be served. All are invited.

Prayer meeting Wednesday night at 8 p. m. Every member and friends invited. Teacher's meeting after prayer meeting. All come.

Choir practice Thursday night at 7:30. Note the change from Friday to Thursday evening.

Special services next Sunday, both morning and evening. Morning subject, "Doubling a Preacher's and a Church's Power," a great theme. Evening subject, "What the Christian Church Stands For." Many do not understand the plea of the disciples of Christ. Come and hear this discourse.

Medford Cement Company has not sold out, as rumored, but has only changed management. The company will continue to do business as heretofore. New and better machinery will be installed.

Mrs. M. E. Yockey spent the week visiting with Mr. and Mrs. Charles Nickell on Sterling.

Mr. and Mrs. H. E. Boyden are camped at Coleslin.

STRIKE ORDER LIKE TO DETHRONE KING

Spanish King Determined to Adhere to Course in Morocco Against Advice--Republic Bound to Follow

MADRID, Aug. 2.—King Alfonso, after a conference with the ministers today, ignored the advice of his ministers and military advisors, and decided to support the policies of Premier Maura.

The military advisors told the king that the Moroccan war was a certain repetition of the Cuban war. The king announced that he would uphold Maura with all possible strength.

It is officially stated that 119 Barcelona insurgents were court-martialed and shot yesterday at Fortress

Morto Juich.

LONDON, Aug. 1.—Unless the leaders of the estrige movement in Spain weaken a general industrial strike throughout Spain will be forced within 48 hours. The strike will include water and lighting plants, and street cars. Today's news reports say that laborers at Bilbao, Saragossa, Valencia and Palamos will obey the strike order, and that not a wheel will turn in any of these cities.

It is possible that it will result in the establishment of a republic if the plans of the revolutionists succeed.

HARRIMAN AND TAFT TO MEET AT LODGE

Colonel Holabird On His Way to New York to Make Arrangements to Visit Lake.

Information from inside sources is to the effect that Harriman and Taft will meet at Pelican Bay this fall. All details of the meetings have not been arranged, but they are far enough along to warrant the prediction that, unless unforeseen obstacles prevent it, Klamath County will see the world's greatest executive and its greatest railway magnate greet each other at Pelican Bay lodge.

When Taft stepped into the White House he by no means carried on his shoulders the load of antagonism created by his predecessor. He is a man brainy enough to think and act for himself, and whatever he does it will be a Taft policy out and out. This characteristic was never more prominently brought out than in the President's attitude towards the "malefactors of great wealth" and other members of the Ananias club. His regard for Mr. Harriman has always been most cordial, and unless affairs of great moment demand it, he will not pass by the door of the great railway magnate without lifting the latch-string.

Holabird to New York.

Col. W. H. Holabird is now on his way to New York to receive final instructions. Incidentally, he may go to Washington. Whether he does or not, no one will know what he is going to do until after the task has been completed, for the Colonel is noted for his remarkable ability to keep his mouth shut. He, nevertheless, is pretty certain to be master of ceremonies at an event that will attract world-wide attention and the chief magistrate of the nation will come under his sway for the brief period he remains at the lodge.

The visit of the President to Crater lake will bring prominently to the attention of the nation the necessity for its preservation and development and will result in the appropriation of such money as may be necessary to make the northern half of Klamath County a tourist resort of world-wide note.—Klamath Herald.

CITY WELL PROTECTED FROM CONFLAGRATION

Pressure Rips Shingles Off of Building like a Buzz Saw—Two Fires in Two Days.

Fire in the roof of the building on Front street which houses the Ivy Leaf restaurant Monday morning, afforded the first chance the fire boys have had to try out the new pressure on the water mains from the gravity system. Medford need have no fear of a serious conflagration if the fire can be reached in time, for the pressure could not be better. As soon as the stream of water struck the roof of the building Monday morning the shingles began to fly in all directions. The blaze was not a serious one, and the department responded in fast shape.

A small fire in the basement of the telephone office Sunday afternoon called out the department. No serious damage was done.

PANTAGES VAUDEVILLE ALL WEEK AT THE BIJOU

At last Medford is to get a rare treat in the vaudeville line—the well-known and popular team of sketch artists, Ingles and Darling, direct from a long and successful engagement in the Pantages Circuit, come to the Bijou theatre for one week, commencing tonight. Their acts are strictly high-class and moral, and full of bright, sparkling humor. These well-known artists need no introduction as they have always proven a feature on any bill and come extra-well endorsed by the management of the theatres in Sacramento, San Diego and Ashland, where they played to packed houses all last week at the Star theatre. Tonight they will appear in the celebrated English playlet, "A Husband in Clover." This sketch is too well known to need any comment. It is considered one of the funniest and best sketches written—has been played all over the Moss & Stall Circuit in England and the Pantages Circuit by Ingles & Darling in America. The picture program is one of the best in a long time. The admission remains the same as usual.