

DOUBT IF IT'S VALID

Question as to Referendum Amendment.

LOWER HOUSE WANTS TO KNOW

Adopted While Other Amendments Were Pending, and That is What the Constitution Forbids.

SALEM, Or., Jan. 28.—(Staff correspondence.)—The question of the constitutionality of the initiative and referendum has been raised in the House. The matter was considered a short time today, but the discussion was getting so deep that the House decided to postpone the question until next Wednesday at 2 P. M.

When the initiative and referendum was proposed in 1899 five amendments were then pending in the Legislature or before the people. One of these was for woman suffrage. The constitution provides that while an amendment or amendments are awaiting action of a Legislature or of the electors, no additional amendments shall be proposed.

Sec. 2, Art. XVII. If two or more amendments shall be submitted in such manner that the electors shall vote for or against each amendment separately, and while an amendment or amendments which have been agreed upon by one Legislative Assembly are awaiting the action of a Legislative Assembly, or of the electors, no additional amendment or amendments shall be proposed.

The question of the constitutionality of the initiative and referendum was raised last Monday by the committee on resolutions. Davey chairman, which reported against the adoption of two resolutions for constitutional amendments, which were adopted in the Legislature on June 10 and 11, 1902. The resolutions were to authorize state institutions at other places than Salem. These resolutions are now ready for second passage.

The discussion on the floor of the House thus far has been on these two resolutions, but everybody understands that the initiative and referendum is involved in the outcome of the discussion in the House. Both the resolutions have been adopted by the Senate at this session. The constitutionality of other proposed amendments now up for second passage is also involved. One of these is the initiative and referendum to provide for the election and compensation of the State Printer. An other is for "home rule for municipalities."

Another is to eliminate from the constitution section 25, article 1, relating to mulattoes and free negroes. If the decision of the House committee on resolutions should be sustained, these five proposed amendments could not be regarded as now pending, and in order that they be incorporated into the constitution, they would have to come up in this Legislature for first passage. They would then have to be adopted by the Legislature of 1903, and by the people in 1904.

The question of the constitutionality of the initiative and referendum was raised in the House this afternoon, but action was deferred at the suggestion of Mr. Malarkey, and on the motion of Mr. Eddy, for one week in order to enable members of the House to study the subject more closely. Mr. Malarkey made an able speech on the question, and held the attention of the House closely for fully 10 minutes. He first had inclined to the opinion that a new amendment was prohibited while another was pending, only when the two related to the same subject. His remarks today showed that he was approaching closely to the amendment which is now pending.

"I am frank to say," went on Mr. Malarkey, "in view of the seriousness of this subject and the question it may bring before the Supreme Court (referring to the initiative and referendum) that I wish the committee to study the amendments, but more I look into the section the more I am impelled to the conclusion that it means plainly just what it says. The speaker analyzed the two phrases of the section by saying that they were independent in sense of each other. He believed that several words had been dropped unknowingly from the instrument somewhere in its formulation, after which the Oregon instrument had been modeled. In fact, the section of the Oregon constitution was identical with the corresponding section of the Indiana constitution, with the omission of the words necessary to the grammatical sense and structure of the word. The omitted words follow the word 'submitted' in the first clause, and as thus filled out the clause reads:

"If two or more amendments shall be submitted (they shall be submitted) in such manner that the electors shall vote for or against each of the amendments separately."

The words omitted are indicated above in brackets.

HOUSE DISCUSSES CLERKS. Shows a Spirit of Economy and Caution. SALEM, Or., Jan. 28.—(Special.)—An action on the recent Senate debate over clerks was heard in the House this morning. The hearing committee reported that it did not have enough clerks to carry on its work, and that the business of the committee should be expedited in consequence. Hodson, one of the committee, introduced a resolution to authorize the committee to employ all the clerks it required. His motion was referred to the committee at once without referring it to the House.

The argument against the resolution was that it would open the way for every committee to get the same favor from the House, and that, therefore, the old extravagance as to clerks would be repeated. The opponents of the resolution held that the committee on clerks should recommend new clerks when the several committees needed more, and that the clerks should be elected by the whole House in the regular manner. The advocates of the resolution contended that this system was what was hampering the work of the House.

Those who spoke for the resolution were Hodson, Hermann, Judd, and those who opposed were Kay and Phelps.

"If we stop over our rule in this case," said Mr. Kay, "other committees will have to be allowed more clerks also."

Mr. Hermann said that the committee already had three clerks—an insufficient number when the men who opposed the resolution, "If we have to have more clerks," resumed Mr. Kay, "let us get them in a business-like way. I think this resolution should be referred to the committee on clerks, and that the clerks should be elected by this body in the usual manner."

"If the several gentlemen," said Mr. Hodson, "referring to the men who opposed the resolution, 'wish to tie up the business of the House, they can do so by this procedure.' Mr. Hodson said business would be held up every time more clerks were needed. Mr. Phelps said with Mr. Kay. He said the same request would come from other committees, and that it would have to be granted. Mr. Judd said he favored economy as much as did anybody, but prompt work was necessary. The men on a committee should have the right to select clerks who they may need to do competent work. Mr. Kay replied that he did not wish to retard the work of the House by insufficient number of clerks. He said the resolution simply opened up the way to extravagance in clerk hire. He thought the clerks should come from the committee according to the law. A motion to suspend the rules and without the resolution was lost, and the resolution was referred.

TO MAKE BAKER PAY UP

THE OLD PANHANDLE ROW APPEARS AGAIN.

Union County Wants Matter of State Taxes Equitably Adjusted.

SALEM, Or., Jan. 28.—(Staff Correspondence.)—Senator Pierce of Union, Walla and Umatilla counties, proposes to make Baker County "do the square thing" in the Panhandle annexation matter. Baker County got the Panhandle away from Union County in the last session of the Legislature, and now Pierce has introduced three bills which are intended to make Baker County bear her share of taxes, according to her increased proportion of property by reason of the annexation.

The first bill in Senate bill 147, it recited that the act of 1901, a law was enacted requiring Union County to pay .022 of the state taxes, but that by reason of the annexation of the Panhandle to Baker County, property to the amount of \$450,000 was taken out of Union and added to Baker; that by reason of this change, Union County's proportion of the state taxes should have been .022, and that the county should have paid \$300 less taxes for 1901. The bill provides that the state treasurer shall credit Union County with \$300 on its taxes for that year.

The second bill, Senate bill 148, proposes to amend the general tax law so as to require Baker County to pay .025 of the state taxes instead of .022, as provided by the act of 1901, and to reduce Union County's proportion to .022 instead of .025, as specified before the Panhandle was added to Baker County.

The third bill, Senate bill 149, recites the facts regarding the change in the proportion of property in each of these counties and proposes that the change should be in the proportion of taxes as set forth in the preceding bill shall be made to apply to the taxes for 1902.

Thus in the three bills Senator Pierce hopes to relieve Union County from the payment of more than her share of state taxes from the date the Panhandle bill took effect two years ago. As will be noticed, the first bill, which proposes to relieve Union County of the payment of \$300 does not provide that this sum shall be paid by Baker County. When asked how the state will get this \$300, Senator Pierce replied:

"Oh, that is easy. The bill will be referred to the Judiciary Committee, in which Senator Rand of Baker is chairman. Senator Rand will have the bill amended so as to require Baker to pay that \$300. Senator Rand and I are working together. He is as desirous of having the matter equitably adjusted as I am, and will not oppose requiring Baker county to pay her share of the taxes."

TO BREAK UP SHOE-STRING.

Senator Stielwer Proposes New Apportionment Bill.

SALEM, Or., Jan. 28.—(Special.)—Senator Stielwer of Multnomah county, proposes only so many changes in the Senatorial and Representative districts as are necessary to break up the "shoe-string" district in Eastern Oregon. Wasco County is now in the 20th Senatorial district with Sherman County, in the 21st district with Gilliam, Grant, Sherman, Wasco and Wheeler, and the 22d district with Clatsop, Clatskanie and Lake. Stielwer's bill proposes to put

RECORD OF THE OREGON LEGISLATURE

Bills Passed by the Senate.

- S. R. 3, by Marsters—To provide for death executions at State Penitentiary. Passed January 27.
S. R. 10, by Stielwer—To regulate carriage of sheep by express. Passed January 27.
S. R. 14, by Mays—Classing bicycles with horses in the law to punish larceny. Passed January 26.
S. R. 27, by Myers—Giving crematories same exemptions as cemeteries. Passed January 27.
S. R. 28, by Smith of Multnomah—To create a State Board of Health. Passed January 27.
S. R. 31, by Croisan—To prevent stock running at large in Marion County. Passed January 26.
S. R. 34, by Sweek—To provide manner of proving existence of foreign corporations. Passed January 27.
S. R. 41—To permit state fair board to control its own printing. Passed January 27.
S. R. 57, by Myers—To define the rights of riparian owners. Passed January 27.
S. R. 73, by Daly—Relative to examination of commercial fertilizers. Passed January 27.
S. R. 75, by Daly—To require that schools be kept open not less than four months in each year. Passed January 27.
S. R. 81, by Pierce—To appropriate \$20,000 for Eastern Oregon Agricultural Experiment Station. Passed January 27.
S. R. 85, by Croisan—Amending Third Judicial District Judgeship act. Passed January 26.
S. R. 96, by Smith of Umatilla—Relative to issuance of certificates for practice of medicine. Passed January 27.
S. R. 97, by Stielwer—To require peddlers to pay license fee. Passed January 27.
S. R. 102, by Daly—Providing that state shall carry its own fire insurance. Passed January 27.
S. R. 116, by Wehrung—To authorize counties to appropriate money for advertising purposes. Passed January 27.
S. R. 119, by McGinn—Authorizing construction of suspension bridge at Oregon City. Passed January 26.
The following incorporation acts: North Powder, Bours, Dufur, New Astoria, Prineville.

Bills Passed by the House.

- H. R. 5, by Davey—To amend Third Judicial District Judgeship act. Passed January 21.
H. R. 8, by Phelps—To prescribe method of constructing fences in Eastern Oregon. Passed January 23.
H. R. 16, by Riddle—Regulating titles of insurance companies. Passed January 27.
H. R. 24, by Reed—Relating to proving of official documents. Passed January 26.
H. R. 47, by Kay—Relative to garnishment proceedings against public employees. Passed January 26.
H. R. 49, by Banks—Relating to execution and acknowledgment of deeds in foreign countries. Passed January 26.
H. R. 51, by Hale—Relative to salaries of certain Josephine county officers. Passed January 27.
H. R. 67, by Burleigh—To change time for holding county court in Walla and Harney counties. Passed January 27.
H. R. 75, by Nottingham—Relative to pay for patients in insane asylums. Passed January 26.
H. R. 77, by Eddy—To provide that statute of limitations shall not run against the state. Passed January 23.
H. R. 78, by Wheeler—To authorize City of The Dalles to issue additional water bonds. Passed January 23.
H. R. 80, by Phelps—To regulate election of Road Supervisors. Passed January 27.
H. R. 94, by Burgess—To create Stockman County. Passed January 23.
H. R. 94, by Phelps—Regulating Deputy District Attorneys of Sixth Judicial District. Passed January 27.
H. R. 109, by Both—To relocate county seat of Columbia. Passed Jan. 27.
H. R. 117, by Burleigh—Relating to pay of Walla County officials. Passed January 23.
H. R. 147, by Hermann—Fixing salary of county officials. Passed January 23.
H. R. 141, by Both—Fixing salary of Columbia County Judge at \$1000. Passed January 23.
The following incorporation acts: Clatskanie, Sebilimty, Rainier, Dallas, Merrill, Wasco, Willamina, Falls City.

Bills Passed by Both Houses.

- H. R. 1, by Malarkey—To appropriate \$500,000 for the Lewis and Clark Fair. Passed January 23.
H. R. 77, by Cornett—Authorizing construction of a free ferry across the Willamette at Harrisburg. Passed January 23.
Signed by the Governor.
S. R. 64, by Marsters—To create irrevocable school fund for Douglas County. Signed January 26.
H. R. 58, by Fisher—For a freeboat at Portland. Signed January 26.
H. R. 101, by Reed—Portland charter bill. Signed January 23.
H. R. 108, by Gill—To levy tax in Multnomah County for support of library. Charter bills for Corvallis, Alamo and The Dalles.
Joint Memorials Adopted by Both Houses.
S. J. M. 1, by Mays—Memorializing Congress to construct locks and canal at the Dalles.
S. J. M. 4, by Mulkey—Supporting President Roosevelt in his attitude toward trusts.
S. J. M. 6, by Miller—Memorializing Congress for popular election of United States Senators.
S. J. M. 1, by Ginn—Memorializing Congress to pass bill for relief of settlers of Sherman County.
Joint Resolution Adopted by Both Houses.
S. J. R. 1, by Mulkey—Amending constitution empowering election of State Printer by Legislature.

WASCO IN THE 20th BY ITSELF, MAKE THE 21st DISTRICT OF KLAMATH, LAKE, CROOK AND GRANT, AND THE 22d OF SHERMAN, GILLIAM AND WHEELER COUNTIES, THUS RETAINING THE PRESENT NUMBER OF SENATORS FOR THE THREE DISTRICTS, BUT FORMING THE DISTRICTS MORE COMPACTLY.

The present law the 21st Representative district is composed of Wasco, Crook, Klamath and Lake Counties, with three Representatives, and the 22d of Wasco, Gilliam, Grant, Sherman and Wheeler, with three Representatives. Stielwer's bill proposes to make the 21st district of Klamath, Lake, Crook and Grant, with two Representatives, the 22d of Sherman, Gilliam and Wheeler, with two Representatives, and the 23d of Wasco, with two Representatives, thus giving the counties the same representation, but making the districts smaller.

NEW IRRIGATION LAW.

Senator Williamson's Bill Proposes Many Changes.

SALEM, Or., Jan. 28.—(Special.)—Senator Williamson's bill for the amendment of the arid land law proposes a number of changes. The present law under which irrigation companies may secure contracts for the reclamation of arid land. The present law provides that persons wishing to acquire water rights under an irrigation contract must secure a certificate from the lien holder to the effect that the lien has been satisfied, and the purchaser will be entitled to a deed from the state, which will be subject to the state, the purpose being to prevent the irrigation companies from securing title to the land through the medium of "dummies."

The bill also omits that clause of the present law which gives the companies exclusive control and possession of the land covered by their contracts, from and after the signing of their contracts. It requires three years' residence and the reclamation of not less than 20 acres of land, and an evidence of actual settlement, before the purchaser can secure a deed to the land. The purpose of this is also to prevent the land from passing into the hands of others than actual settlers. The bill also provides that when a lien of an irrigation company has been paid, the irrigation works shall belong to the settlers who have purchased the land.

BILL FAILS BY ONE VOTE.

Blinley's Measure to Detect Cattle Thieves.

SALEM, Jan. 28.—(Special.)—Representative Blinley has a bill (No. 44) designed to protect the honest stockholders of Eastern Oregon; but the House managed to get into a good deal of a tangle over it this afternoon. It is the design of the bill to prevent the destruction of hides by slaughterers of cattle who have bought them from thieves, and want to remove all marks of identification. It is required that persons engaged in the business of slaughtering cattle must keep a record of the same, open for public inspection. Any person not regularly in the business of slaughtering cattle must keep hides in his possession for 30 days, and must show them to any owner of cattle who demands. Cornett of Linn objected to the measure. He occasionally killed a beef and he did not want to be required to keep the hide 30 days. There was very little argument, as the Eastern Oregon members evidently expected the measure to go through. And it did, apparently. The chair announced that the bill had 34 yeas, 18 noes; but it was afterwards discovered that it had only 30 yeas, one short of the necessary constitutional majority. The bill failed.

The Eastern Oregon men became active after the defeat, and persuaded the House to reconsider the vote and recommit the bill, on the understanding that its objectionable features should be eliminated.

DR. SMITH IS CAUSTIC

SCALPS SENATOR MILLER FOR OPPOSING HEALTH BILL.

Linn County Senator Had Measure of His Own—But Smith's Passes the Senate.

SALEM, Or., Jan. 28.—(Staff Correspondence.)—The Board of Health bill introduced by Senator A. C. Smith of Multnomah county, has been the subject of much interest in the deliberations of the Senate this afternoon. The bill was passed with but one dissenting vote, but only after a lively debate in which Senator Smith's vigorous and cutting style of discussion was the predominant feature. When the bill was placed in third reading, Senator Smith made a very eloquent, comprehensive and explicit statement of its purposes and the need of its enactment. He cited a large range of statistics showing the good that has been done by the Philippines in improving the sanitary condition and reducing the number of deaths from disease. At the close of Dr. Smith's address the argument in favor of the bill seemed to be so satisfactory that the bill would pass, but Senator Miller, of Linn, did not see it that way.

Senator Miller secured the floor and made an argument against the bill, arguing that his own bill, Senate bill 8, provides a sufficient health law, without making an appropriation, while the Smith bill requires an appropriation of \$500 a year. He made a plea for the taxpayer. His opposition to the bill was principally upon the ground that his own measure was a better one, and this was all that was necessary to bring Senator Smith to his feet.

"Senate Bill No. 4, which the Senator from Lebanon wants passed, is a private production not deserving of our attention," he exclaimed. He explained that though the bill carries no appropriation, neither does it provide a practical means of establishing quarantine, keeping vital statistics or preventing the spread of disease. Then the doctor got out his oratorical scalpel and pierced the Senator from Linn with:

"If the Senator's head were as wide as his palm, he would have seen that this bill is not sufficient to accomplish the end desired."

He then read the section which specified that a person entering a quarantined house should change his clothes, etc., and Dr. Smith's comment was:

"He should have also specified the caliber of the comb that shall be used in removing the hayseeds from his hair."

Senator Smith's second address furnished no small entertainment for the members of the Senate and the visitors in the lobby. No one seemed to enjoy the doctor's caustic remarks more than the Senator from Linn, who was the recipient of the doctor's compliments. The bill passed with but one dissenting vote.

A bill to do away with county-seat fights in the Legislature has been introduced by Representative Gill. The measure provides that whenever the inhabitants of a county desire to move their county seat they shall present a petition to their County Court praying for the removal and mentioning the proposed town or cities to which the county seat is to be moved. If such petition contains three-fifths of the voters of the county, the question is to be submitted to an election. Three-fifths of the votes are to be necessary for a change of location. This same bill was presented to the Senate by Senator Myers.

Representative Webster is favoring a bill to make Sheriffs, Deputy Sheriffs and Constables ex-officio Wardens of fish and game. The bill provides that such officers may be punished for failure to perform their duties. They are to be required to protect forests and timber lands from fire, and game and fish from unlawful destruction. They are to have power, without warrant, to search and examine any boat, conveyance, vehicle, fish box, fish basket, game coat or game bag or other receptacle for game or fish when they



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DR. SMITH IS CAUSTIC

have reason to believe that the laws have been violated. They are empowered also to seize any game or fish which they have reason to suspect has been secured by unlawful means, and no citizen may recover for damages resulting from such search or seizure.

Representative Test has introduced a bill to amend the jury law. In all actions three-fourths of the number on a jury are to be sufficient for a verdict, except in actions in which is involved a charge punishable, on conviction, with death or imprisonment in the penitentiary. In the latter cases the verdict is to be unanimous. In an inquest jury two-thirds are to be sufficient for an inquest.

Representative Both has introduced a bill to fix the salaries of officers of Multnomah County as follows: Sheriff, \$1400; deputy, \$900; County Clerk, \$1800; clerical assistance, \$300; Treasurer, \$600; Assessor, \$1000; County School Superintendent, \$800.

Representative Hines has introduced a bill to prevent the marriage of persons afflicted with tuberculosis or syphilis. No County Clerk, says the bill, shall issue a marriage license to any person or persons unless such person or persons shall each furnish a certificate from a legal practitioner of medicine, sworn to before an inspection of the person, that he or she is free from tuberculosis or syphilis.

Galloway of Yamhill introduced a bill yesterday in the House to authorize County Courts to protect macadamized roads by placing obstructions on the sides of highways, and to provide penalties for the work of the station, and to secure the passage of the bill with four dissenting votes. Those who voted "No" were: Senators Corbett, Howe, McGinn and Miller.

Speaker Harris today announced the following joint committees: To investigate water supply of state institutions in accordance with House concurrent resolution of Mr. Judd-Judd, Reed, Robbins. To inspect University of Oregon in accordance with Senate concurrent resolution of Senator Kuykendall-Nottingham, Both, Galloway.

The amendment to the medical law, passed by the Senate yesterday, authorizing that hereafter all hangings of condemned persons shall take place at the State Penitentiary. The bill was introduced by Senator Marsters. As the purpose of the measure, as stated by the sponsor, it will probably pass the House also.

Without a dissenting vote the Senate yesterday passed Senate bill 3, providing that hereafter all hangings of condemned persons shall take place at the State Penitentiary. The bill was introduced by Senator Marsters. As the purpose of the measure, as stated by the sponsor, it will probably pass the House also.

Representative Davey, of Marion, has introduced a bill to increase the annual appropriation for the State Fair from \$8000 to \$12,000. A bill to authorize the City of Portland to license and tax the digging, excavating, mining, quarrying and blasting of earth, sand, gravel and rocks has been introduced by Representative Hodson. "Speak up," is the advice President Brownell gives the members of the Legislature almost daily when they are assembled in joint convention for the purpose of voting for candidates for the Senate. But, notwithstanding the injunction, a number of the members announce their choice in such low tones that the clerk can scarcely catch the names. There is usually a good-sized crowd in the lobby, and more or less shuffling, coughing and whispering adds to the confusion. The last time Dolph ran for the Senate it was the rule among his supporters "to speak out loud and strong," as so to give added force, if possible, to the large vote he had. The fact that loud speaking did not prove effective may account for the modesty of some of the members now.

Senator Mulkey has introduced a bill in the Senate empowering the State Board of Education to issue state life diplomas to all persons now holding state diplomas issued prior to February 1, 1899, provided such persons comply with the provisions of the acts in force on February 1, 1899.