

STATE REPLES TO 'TAG' SYSTEM

30,000-Word Brief Contents Initiative and Referendum Laws Are Valid.

SUPREME COURT TO RULE

Attorney-General Submits Argument in Refutation of Allegation Law Is Opposed to Republican Government.

SALEM, Or., Oct. 5.—(Special.)—The state's brief, prepared by the Attorney-General in the case of the Pacific States Telephone & Telegraph Company, to file with the United States Supreme Court in the pending case, which will decide the validity of the initiative and referendum, went to the hands of the printer this morning and contains about 30,000 words.

The brief is most comprehensive and extensive in its answer to the main point of the corporation, that the initiative and referendum laws are invalid because the Constitution of the United States guarantees a republican form of government and that law-making under the initiative and referendum is not compatible with such a form of government.

Question Alleged Political.

The power to determine whether a state has a republican form of government is vested in Congress. Hence, is a political rather than a judicial question," recites the brief.

After citing numerous authorities, the brief continues: "The issue at hand being an attack on the fundamental law of the state, and said law being the instrument which creates the court and defines its powers, can it be possible that the court has jurisdiction to pass on the political complexion of the Constitution itself unless it is so expressed in the instrument? There is no such thing as inherent powers in the courts. They can exercise no jurisdiction or power except that which is derived from the Constitution creating the court, and the Constitution of the United States Constitution guarantees to every state a republican form of government and therefore makes it the duty of the general government to determine when the state has such a form. It is conceded by all constitutional writers that when a new state applies for admission to Congress, the department to determine whether the state constitution, as proposed, is in the required form, and if not, it is rejected and must be changed to meet the requirements of Congress. No provision is made, nor has it ever been claimed, that the Supreme Court of the United States should decide the question, or that it has power to do so."

Courts Rights, as Seen, Cited.

The brief continues, after citing numerous authorities to back up its contentions, that "while the court may decide whether an amendment to a constitution has been adopted in the prescribed manner and whether it denies any constitutional right, either as to property or person, it would, we submit, be considered an encroachment on the prerogatives of Congress, should the court undertake to decide whether the constitution of a new state seeking admission is republican in form and to decide whether it should become a member of the Union."

The brief sets out that if the court decides to retain jurisdiction, the principal question will be whether the initiative and referendum amendments to the constitution of Oregon contravene the provisions of the Federal Constitution as being un-republican in form or in any other manner.

"This question is fundamental in character, affecting the authority of the state to enact its laws and regulate its internal affairs in any manner agreeable to its citizens, and should not be decided by technical rules, but should be approached and disposed of on broad grounds and liberal views. A state constitution should not be held to contravene the Federal Constitution unless the general scope and plan of government provided in the former is opposed to the general scope and plan of government required by the latter, to be maintained in form and substance."

Assembly Power Remains.

Setting out the amendments in question, the brief continues: "The amendment does not attempt to do away with the Legislative Assembly, but leaves it intact with full power to enact or repeal any and all laws and perform every obligation imposed upon it by the Federal Constitution and laws. It merely reserves the right to propose laws and to enact or reject the same at the polls, independent of the Legislature, and to amend or supplement the laws passed by the Legislature, including amendments to the constitution."

"We are unable to understand wherein the reservation of the initiative and the power to demand that any act passed by the Legislature not necessary for the immediate preservation of the public peace, health or safety, be referred to the people for their approval or rejection, is un-republican in character or contravenes any provision of the Federal Constitution. The members of the Federal convention considered a 'republican form of government' to be a government which derived all its powers from the great body of the people, and this view also maintained by many other eminent statesmen."

Law Held to Be Safe.

Declaring that the framers of the Constitution believed that representation was made necessary only because they believed it impossible for the people to act collectively, the brief says that the laws under consideration provide a way for the people to act collectively and at the same time with knowledge. The people do not vote en masse or viva voce, but alone in single booths and under the solemn sanction of the Australian ballot.

"This also avoids the danger of a law being enacted through the sudden heat of passion or prejudice, or engendered at the time of meeting by the eloquence of some orator. In fact, it leaves all the ancient objections to popular government with absolutely no support in sound reason."

"As we have seen it acts as a check upon vicious legislation by the legislative assembly and at the same time provides a means whereby good measures denied by the Legislature can be carried into effect and the will of the people respected and made effective in practice as well as in theory. The rights of no man, whether pertaining to person or property, are jeopardized by the Oregon system nor is the constitutional safeguard imperiled or destroyed."

Court Rulings Alleged Favorable.

"Both the Federal and state courts have uniformly held that the initiative method of enacting laws was not re-

MAYOR TELLS OF 'OFFICIAL BRIBER'

Oregon Manager of Blome Paving Company Held to Grand Jury at Klamath.

TRAP IS LAID FOR AGENTS

Councilmen and City Executive Agree to Fasten Evidence on Men, Who, They Declare, Offered \$1000 for Official Influence.

KLAMATH FALLS, Or., Oct. 5.—(Special.)—Declaring that Samuel McMahon, Oregon manager of the Rudolph Blome Paving Company, of Chicago, told him that that company kept a man in Portland whose business it referred to them for approval or re-

CO-ED IS ELECTED PRESIDENT OF SOPHOMORES AT WILLAMETTE



HERMAN CLARKE

WILLAMETTE UNIVERSITY, Salem, Or., Oct. 5.—(Special.)—The sophomore class election was held this afternoon. Miss Grace Edgington was chosen president and Herman Clarke, vice-president. The president-elect is a graduate of the Hood River High School and has won several prizes for excellence in oratory.

The new vice-president is prominent in student affairs and treasurer of the Glee Club.

Other officers elected were: Lothe Penn, Salem, secretary; George Vandewert, Pendleton, treasurer.

PET COW GOES WOMAN

MRS. P. H. ESTBERG, AGE 63, INJURED AT WILLAMETTE.

Animal Recently Sold to Neighbor Pitches - Former Owner Into Fence When It Is Approached.

OREGON-CITY, Or., Oct. 5.—(Special.)—Mrs. P. H. Estberg, 63 years old, one of the well-known residents of Willamette, was attacked and seriously injured by a heifer Wednesday. Mrs. Estberg had raised the animal and recently sold it to Mr. Ek, who resides on the opposite side of the street. Mrs. Estberg was passing through an enclosure, where the heifer had been placed to graze, when the animal started after her. She was thrown ten feet into a corner of the fence.

She screamed for help, and Mr. Ek, who was working a short distance away, ran to the woman's rescue, and assisted her to her home.

Mrs. Estberg's face was lacerated and she suffered severe internal injuries. It is thought by the injured woman, who had made a pet of the heifer when young, that it was playing when it charged upon her, and it will be allowed to still graze on.

BOND ISSUE STIRS ASHLAND

Protest Against Road Fund Filed and Medford Is Angry.

MEDFORD, Or., Oct. 5.—(Special.)—Apparently chagrined at the victory of the \$1,500,000 bond issue for good roads, against which they registered a two to one majority, the citizens of Ashland now threaten to join the County Treasurer from honoring any county warrants above the \$5000 authorized by law. It is also reported that they will fight the legality of the bond issue in the courts.

Through C. P. Briggs, an Ashland attorney, notice was served to the county court at Jacksonville today. Mr. Briggs asserted that Ashland did not want to see the county court go further in debt under the present system of issuing warrants. If this action is successful it will mean the abandonment of all road work in the county for the present, and work on the \$200 Central Point road will be postponed for the year.

The announcement has caused great indignation in Medford. The bond issue was passed in the county last Saturday by a vote of nearly two to one, and Ashland was the only town of any size to oppose it. The county court had this year between \$25,000 and \$30,000 which could be expended for road building. More than this was expended under the system of piecemeal road work that has been done. Sailing upon this possible illegality, Medford citizens declare that Ashland is endeavoring to check the good roads crusade throughout the district. A movement has already been started by Medford business men to sign an indemnity bond to guarantee payment to Twelv Bros., contractors on the Central Point road.

The extent in use today by sea captains and pilots is a small affair, measuring only a few inches of the sea's surface. It is used by astronomers had a radius of 50 feet 2 inches.

IMPORTANT THAT PUBLIC SHOULD KNOW ABOUT GREAT KIDNEY REMEDY.

The testimonial I am to give you comes unasked. I have been suffering from lumbago for ten years and at times was unable to stand erect. A Mr. Dean, of this city, saw me in my condition (bent over) and inquired the cause. I told him that I had the lumbago. He replied, "If you get what I tell you to, you need not have it. I said I would take anything for ease. He said, "You get two bottles of Dr. Kilmer's Swamp-Root and take it, and if it does not fix you O. K. I will pay for the medicine myself." I did so and am a well man. For five months I have been as well as could be. Before I took your Swamp-Root was in constant pain day and night. This may look like advertising, but it seems to me most important that the public should be made familiar with this treatment, as it is the only one I know which is an absolute cure. I owe a great deal to Dr. Kilmer's Swamp-Root, and am anxious that others situated as I was should know and take advantage of it. Hoping that this testimonial may be of benefit to some one, I am,

J. A. HOWLAND,
1714 Humboldt St.,
Denver, Col.

State of Colorado,
City and County of Denver, ss.
Personally appeared before me, a Notary Public in and for the city and county of the legislative assembly of the State of Colorado, J. A. Howland, known to me as the person whose name is subscribed to the above statement, and upon his oath declares that it is a true and correct statement.

DANIEL H. DRAPER,
Notary Public.

Letter to Dr. Kilmer & Co., Binghamton, N. Y.

Prove What Swamp-Root Will Do For You

Send to Dr. Kilmer & Co., Binghamton, N. Y., for a sample bottle. It will convince anyone. You will also receive a booklet of valuable information, telling all about the kidneys and bladder. When writing, be sure and mention The Portland Daily Oregonian. Regular fifty-cent and one-dollar size bottles for sale at all drug stores.

would do McMahon a favor in using his influence in the adoption of granite paving. Mr. Sanderson said that he replied that he did not want any favors. The Mayor said that James Hughes, an employer of the Blome company, and McMahon had failed in an attempt to get the Mayor to go to a room in the Hotel Baldwin later, the Mayor said McMahon called at his home a second time and offered to leave \$1000 on a mantle or table or any convenient place.

The Mayor told of a conference with Councilmen Harkness and Alford at which time the three had agreed upon a plan by which they hoped to entrap McMahon and Hughes.

Attorney O'Neill, arguing for Hughes, declared that Mayor Sanderson was protecting bitulithic pavement and said that he was paid \$17,000 by the Warren Construction Company, of Portland. Hughes' case comes up tomorrow.

Three Clubs Go to Fair.

Today has been set aside at the Clark County Fair at Vancouver, Wash., as Portland day, and special efforts to have representations on hand are being made by the Commercial Club, the Ad Club and the Rotary Club. The Rotary Club members will meet at Second and Washington streets today, where they will take a special car for Vancouver. Special cars will be on hand to convey the Ad Club and Commercial Club members. All three clubs have been sending out literature urging their members to attend.

DON'T BE READY-MADE.

Why be a "ready-made" man when it costs no more to be tailor-made?

There's no need for you any more to be contented with the hit-or-miss fit of ready-to-wear clothes since Ray Barkhurst, the Tailor, got into action. There's no need for you any more to pay the high prices exacted because of necessity by the average tailor since Ray Barkhurst began making clothes.

Ray Barkhurst will make a suit to your individual measure at a price no higher than you'll have to pay for a decent ready-to-wear suit.

You may want to know how he can do this.

He buys in large lots direct from the mills' agents for spot cash. He operates the largest tailoring shop in the city, thereby being enabled to operate at lowest cost. He employs a cutter, whose every piece of work is flawless and above criticism. He personally supervises the construction of every garment and inspects it thoroughly before it is turned over to you. He personally guarantees every suit he sells. If it isn't satisfactory, he wants it back and your money or another suit is yours for the asking.

He will make you a suit to your measure for \$22.50. \$25, \$30, \$35 or \$40, and he'll guarantee you a saving of \$10 to \$15 on any of them.

Come and see him—it will pay you big.

Ray Barkhurst

THE TAILOR
CORNER SIXTH AND STARK STS.

Extensions in Suburban Districts

Applications for a franchise to Eastmoreland on Bybee Street so as to reach the Reed Institute, recently opened to the public, and an extension on East Harrison Street are very simple matters. People have recently moved in and occupy these new districts and are clamoring for streetcar extensions.

In each case it will be years before the proposed expenditures will bring any return to pay the cost of the service or the interest on the investment.

In Rose City Park a somewhat different situation exists. Here the enterprising citizen desires paving for a distance of over two miles, and the expense involved to the Company will amount to \$125,000.

In addition, City Attorney Grant has expressed the opinion that the franchise granted on Sandy Road to the Company by the County Court is of no legal value.

Be that as it may, to double-track and pave in this district involves so large a sum of money that, until the technicality raised by the City Attorney has been cleared up, the Company cannot borrow the money needed for the investment.

Therefore, the Company has applied for a franchise from the city, in addition to the one which has been granted to it by the county, at a time when the territory involved was outside the city limits.

The end of the Rose City Park line is 5 miles from Fifth and Washington Streets.

It requires with the bridge delays and the traffic interference met with on Washington Street, 40 minutes to make the single trip. With a double track, better time can be made and more satisfactory service be established.

The request for the franchise is in compliance with the wishes expressed for better service by the Rose City Park citizens.

There is nothing to be added to the Company revenues, except through the future growth, if the franchise is granted.

On the other hand, it will involve a very heavy outlay and there is some doubt as to its expediency from the investor's point of view.

Is it not plain that the franchise asked for is more in the interest of improved service than to the Company's advantage? Tomorrow's talk will deal with surrendering franchises.

PORTLAND RAILWAY, LIGHT & POWER CO.

W. H. McBRAYER'S

"Cedar Brook"

TO use W. H. McBrayer's Cedar Brook is to enjoy that smooth, mellow, delicious flavor that has made Cedar Brook the accepted whiskey of critical drinkers for three generations.

It has Stood the Test of Time because its high standard of quality has always been maintained.

W. H. McBrayer's Cedar Brook is not a name here today and gone tomorrow—it is the whiskey without a rival.

Try Cedar Brook Today and you will never return to your whiskey of yesterday. It will win your approval on its merits.

8 YEARS OLD

BOTTLED IN BOND

ROTHCHILD BROS., Distributors, Portland, Oregon.