

REHEARING SOUGHT IN UNIVERSITY SUIT

Attorneys for Friendly Ask Reopening of Referendum Cases.

OPINION HELD ERRONEOUS

Court Advised to Consider History of Times in Construing Laws.

SALEM, Or., May 10.—(Special.)—Declaring under any view of the law the plaintiff has a right to maintain the suit and that the opinion of the Supreme Court is erroneous on both the premises on which the decision was based, Judge Slater today filed a petition for rehearing in the case of S. H. Friendly against Ben W. Elliott, Secretary of State in University of Oregon referendum cases.

In asking for a rehearing Judge Slater and Attorney Pipes cited many authorities. They held that the statute under consideration is a remedial statute and ought not to receive a narrow or technical construction. It asserted that the statute construed in its entirety shows by express provisions that the legislative intent is to invest the individual non-petitioning voter upon his own initiative to protect himself against an alleged wrong or unlawful act of those who petition for a referendum to a vote of the people of a measure passed by the Legislature.

Voter's Rights Increase.

The petition, in part, says: "The whole act taken together manifests upon its face an express intent to confer upon the non-petitioning voter the right to act in his own behalf at all stages of this new process of legislation. The question before the court in construing this statute is not, as the court seems to think, whether the statute shows upon its face an intent to increase the remedial right of the individual citizen, for that right is contained in the general language of the statute; but whether there is an expressed intention in the statute to limit the exercise of the granted power only in a suit maintained in the name of the state."

"The opinion rendered in this case is based on two premises, which we believe to be erroneous. First—it is held that the statute in question conferred no new rights of remedy upon the citizen to petition for a writ of mandamus against the Secretary of State to compel him to file a petition; and second, that the right of the state now to maintain a suit to enjoin the Secretary of State is the same as it was before the enactment of this statute, and therefore in both instances the law remains as it was before the statute was enacted in respect to who may be parties litigant."

No Debts Due Public.

"The Secretary of State owes no duty to the public generally imposed upon him by law to file a petition in a regular petition, and the public generally, not being petitioners, had no right to demand that it be filed."

"When, therefore, any citizen was authorized by this statute to apply for a writ to compel him to file a petition, the rights of the citizens generally were in fact increased, or rather they obtained a right that previously they had not possessed."

"As to the second premise upon which the opinion in this case rests, it clearly appears that there is given to a court of equity in general terms, a power that it did not previously possess, and in this case the right sought to be enforced is a mere political right of which a court of equity did not have jurisdiction."

Individual Becomes Legislator.

"In construing this statute the court should look to the history of the times, the changes in the forms of government, the general prevailing principles or policy applicable to governmental affairs. The form of legislation dealt with in this act is based upon a general principle; the right of the individual to participate directly in governmental affairs, and not be required to depend upon a delegated representative to propose for him or to defend his rights. It is reasonable to suppose that there was any intent upon the part of the Legislature to leave 55 per cent of the people without a voice in the government, or to deprive them of their rights, when the other 5 per cent may at all stages act for and on behalf of themselves."

WITNESS WEAKENS IN CASE

(Continued From First Page.) might have resulted differently. The defendant admitted having said something like that to Boland, but he denied that the language used in the letter in evidence, signed by him, ever came from his lips. It also developed on cross-examination that Judge Archibald paid Williams' fare from Seranton to Washington that Williams might respond to the subpoena from the judiciary committee to appear before it.

SLAYER TO BE DEPORTED

Italian, Acquitted of Pasco Murder, Has Bad Record in Italy.

Real Negotiator Sought.

Williams was asked if he and Dainty did not regard Judge Archibald as the real negotiator for the lease of the Eberhart property by the Lehigh Valley. "I thought Judge Archibald might be able to swing it," replied Williams. "I thought he could try it, anyhow."

Girls Will Serve Dinner.

VANCOUVER, Wash., May 10.—(Special.)—The girls of the Vancouver High School, clad in white aprons and white caps, will cook and serve luncheon for the members of the Vancouver Commercial Club next Wednesday. The comestibles will be from dishes which the girls have learned to prepare in their domestic science classes. The girls have established a good reputation as fine cooks.

REFORMS ASKED

Klamath Water Users Move to Remedy Conditions.

CHANGES SOUGHT OUTLINED

Extension of Time for Payment to Land Holders Financially Crippled and 40 Years to Pay Out in Arc Wanted.

KLAMATH FALLS, Or., May 10.—(Special.)—Here are reclamation service reforms asked by the Klamath Water-Users' Association:

Extension of time for payment to land holders who are temporarily embarrassed financially.

Elimination of fees sent to Lakeview. Twenty years, instead of ten, in which reclaimed land may be paid for.

Development of power projects under Klamath reclamation project.

Construction of Poe Valley reclamation unit.

Urging the organization of a National Water-Users' Association and outlining a number of reforms desired in the conduct of the United States Reclamation Service. Albert E. Elder, secretary of the Klamath Water-Users' Association, in calling an annual meeting of the organization for May 31, made an extended report covering conditions among the water-users here. The meeting is to be held at Houston.

Regarding the extension of time in the making of payments Elder said: "Under the present law, neither the Water-Users' Association nor the Department of the Interior has authority to grant an extension of time to a water-user, no matter how meritorious the case may be. The board of directors of the association in several instances recommended that clemency be shown in individual cases and in the future such a policy will be pursued so far as is consistent with the laws and the agreement between the association and the secretary."

New Law Desired.

"We realize, however, that the law should afford the secretary more latitude in extending the time in which to pay. It is at present endeavoring to have such a law passed."

It is proposed that the Secretary of the Interior receive recommendations for leniency from the directors of the Water-Users' Association and at his own discretion allow an extension of time not to exceed one year.

Another change recommended is that the Reclamation Service here be allowed to deposit money collected instead of sending it to Lakeview Land Office. A charge of 25 cents is made for exchange on every \$100 sent to Lakeview. Officials of the Reclamation Service favor the change.

Officials of the Reclamation Service, however, do not approve of the plan to change the present time in which land shall be paid for from ten to 20 years. The objection is based on the fact that money received for reclamation land goes into a revolving fund and extension of the time to 20 years would result in delaying other projects which are to be developed with the money.

Co-operation to Be Given.

E. G. Hopsen, supervising engineer of the reclamation project here, in a letter to the water-users promised co-operation in the movement to develop pumping projects. He wrote: "The service will do its best to encourage the development of these by offering attractive rates, considering the interests of the water-users and the United States."

Construction of the Poe Valley, of Second Unit, project, which has been delayed by the ruling of the Government that work shall not begin on any project until title to all lands under the project is clear.

PENDLETON LAYS STONE

NEW HIGH SCHOOL STARTS WITH MUCH CEREMONY.

Officials Join in Parade to Site of Building—Completed Structure Will Cost \$80,000.

PENDLETON, Or., May 10.—(Special.)—Preceded by a parade of several hundred school children through the business section of the city, the laying of the cornerstone of the new high school was held today. The new building will stand on the south hill.

Rev. Milnes, of the Presbyterian Church, delivered the invocation, which was followed by music furnished by the High School Glee Club.

Mayor W. F. Matlock and Dr. C. J. Smith, president of the School Board and master of the ceremonies, helped spread the mortar, while Principal Hampton placed the records in the vault of the corner-stone. These records include historical documents, one being a list of the first public school pupils of Pendleton in 1853. City Superintendent Landers then made an address, in which he predicted a marvelous growth for the institution. State Superintendent Alderman followed with a short talk.

The new building will cost \$80,000 and will be the finest of its kind in Eastern Oregon.

GOVERNOR TO BE SPEAKER

West Will Address Graduates at Albany College.

ALBANY, Or., May 10.—(Special.)—Oswald West, Governor of Oregon, will deliver the address to the graduating class of Albany College this year, commencing day at the college this year will be June 12.

The commencement exercises will begin Saturday, June 8, with the recital of the Conservatory of Music, and the intervening days will be filled with many commencement events. Sunday, June 9, will be Baccalaureate Sunday. In the forenoon of that day President Crooks will deliver the baccalaureate address and that night C. E. Sox, of the board of trustees of the college, will deliver the annual address to the Young Men's and Young Women's Christian Associations of the college. The president's annual reception will be a leading event June 10, and the annual meeting of the board of trustees will be June 11. The conservatory of music also will present a vocal concert June 11.

During the last two years Canada has sustained a loss of over \$45,000,000 worth of exports by fire.

WOMAN GETS \$5000

Antone Yocubets Pays Amount to ex-Wife at Parting.

MORTGAGE PUT ON FARM

Spouse Whom Crabtree Farmer Met at Employment Agency in Portland Is Married to Him but Since June 29, 1911.

ALBANY, Or., May 10.—(Special.)—Alice Yocubets, third wife of Antone Yocubets, of Crabtree, whose matrimonial experiences have attracted considerable attention from courts and officials of Linn County during the past four years, secured \$5000 as a cash settlement of her property rights when she secured a divorce from Yocubets in the State Circuit Court here Wednesday.

The property rights were settled out of court, but the fact that Mrs. Yocubets received \$5000 developed yesterday when a mortgage for this amount in favor of Alice Yocubets and covering Yocubets' 150-acre farm near Crabtree was filed for record in the County Recorder's office.

Yocubets met his third wife in a Portland employment agency. He went to Portland to secure a housekeeper and the agency furnished Alice Burns. She kept house for him and his two boys a few months and then was married to him at Albany June 29, 1911. She has thus secured \$5000 for living with Yocubets for about ten months.

Less than two weeks after the marriage Mrs. Yocubets fled to the home of a neighbor, asserting her life was in danger, but she soon returned home.

Wife Is Met in Portland.

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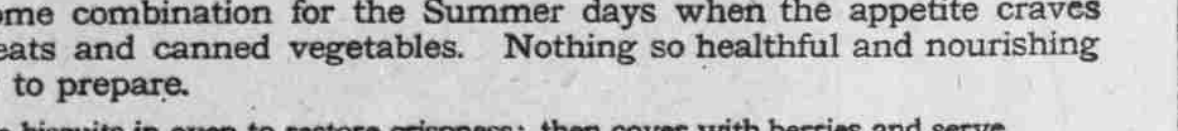
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