

HIGH COURT SAYS CHARTER IS VALID

Justice McBride Writes Opinion Giving Portland Legal Right to Vote.

MEMBERS OF BENCH DIFFER

Minor Points Questioned by Other Jurists, Though They Concur in Action - Supreme Court Expresses Hope in Experiment.

SALEM, Or., May 28.—(Special.)—In an opinion written by Chief Justice McBride which deplores the apathy exhibited by more than half the registered voters of the city, the Oregon Supreme Court today decided that the so-called commission charter of Portland, approved by a small majority of the electorate who participated in the election of May 3 is valid.

The decision means that at the election June 2 the voters will elect a Mayor and four Commissioners who will have executive and administrative duties as a department of public affairs, a department of finance, a department of public safety, a department of public utilities, and a department of public improvements. The distribution of the work among these departments will be made by order of the Mayor, who may change them at his discretion. All the Justices concurred in the opinion, although it is reported there were slight differences as to minor points. The opinion concludes:

"It must be confessed that the change is a tremendous one, and the centralization of all the powers of the city in the hands of five men is an experiment in which mistakes in the selection of the persons who are to wield this enormous grant of power might be fraught with serious consequences. But these are matters with which we have nothing to do; they were left to a decision of the voters at the polls, and by a small majority they have decided to try the experiment.

Non-Voters "More Ciphers." "As to the 54 per cent of the voters who did not take enough interest in this important matter to cast a vote either way, the only conclusion must be that they do not care how they are governed and are merely ciphers put in a column by themselves. This court cannot legislate a government for the City of Portland. It can only declare the judicial results of the election and express the hope that the new experiment may prove a successful one."

Whatever the Legislature could lawfully have done before the constitutional amendments giving the power to amend their own charters, such cities may lawfully do within the limits of the constitution and the paramount rights of citizens and the paramount right of the state over the city. The constitutional amendment adopted June 4, 1906, as again amended, gave full powers to enact and amend their charters, taken together with the amendments of the City of Portland, gives to the City of Portland full power to enact or amend their charters, and to amend the provisions of any charter not conflicting with the constitution or criminal laws of the state.

It is doubtful whether that portion of the McNary ordinance which provides that the amendment shall go into effect 30 days after the proclamation of the Mayor of the result of the election, is in violation of Section 1, Article IV, of the amended constitution, provides that any measure submitted to the people shall take effect when it is approved by a majority vote and not otherwise. It is now effective, however, in any view of the law.

Political Question Settled. The fact that the proposed commission charter prohibits any designation of the political party of the candidate upon the ballot does not render the amendment void. It does not prohibit any party from endorsing or working for any candidate. No party has any more right to have its party endorsement on the ballot than has a church or a secret society.

The objection that the amendments are submitted as a mass and are to be voted upon as one vote avails nothing. The amendments taken together and read with the original charter constitute a harmonious whole and are a proper subject to be submitted to the voters.

The power to amend necessarily implies the power to change. An amendment is a changing and making better or different. While a city cannot amend its charter so as to make it a municipality, it can make any amendment not inconsistent with the constitution and laws of the state. In part the opinion says: The principal contention of counsel for plaintiffs is that the amendments voted on May 3, 1912, and which for convenience, we shall designate as the "commission charter," are now in effect, so that no amendments can be made under the commission charter for the city officers provided for therein.

By section 1a, Article IV, of the constitution as amended June 4, 1906, full powers of initiative are reserved to the people of all municipalities as to all local, special and municipal legislation of any character. It was provided that the manner of exercising such powers should be prescribed by general laws except that cities and towns might prescribe the manner of such exercise as to their municipal legislation.

No Change Made in 1910. By section 2, Article XI, of the constitution, as amended June 4, 1906, the legal voters of cities were given power to enact and amend their municipal charters, subject only to the constitution and to the criminal laws of the state. The subsequent amendment to this section, adopted November 3, 1910, makes no change as to the matters here considered. By the provisions of section 12 of ordinance No. 16211, approved March 26, 1907, it is provided that the votes on municipal amendments shall be counted, canvassed and returned by the election boards and that it shall be the duty of the Auditor to canvass the votes given for each measure or amendment.

The Mayor is required within 30 days from the time of the election to proclaim the adoption of each measure or amendment which shall have received the affirmative majority of the total number of votes cast thereon, and thereafter such measure or amendment shall become and be in full force and effect. In these two constitutional provisions and in the ordinance referred to we have complete machinery for submitting charter amendments and declaring the result of the vote thereon, and these seem to have been complied with in every particular. In section 10 of article 12 of the constitution, as amended June 2, 1907, it is provided: "Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise."

when George A. Thacher addressed them on the proposition of voting bonds for a detention home. Mr. Thacher said the system of fining women of the underworld is only commercializing vice; that the money collected in fines aids in reducing taxes, and to that extent the taxpayers profit by vice. He said the present system turns the women loose again, and the only way they have of making up for their losses paid out in fines is by returning to their former practices.

Arthur M. Churchill, secretary of the committee of 1909, explained the preferential system of voting. He advised everyone to vote for first, second and third choice for Commissioners.

Dr. George Story described in detail the needs of the city for more garbage incinerators, and was asked many questions. L. H. Weil urged the playgrounds measure and presented comparative figures showing the progress made in recreation work in other cities.

T. J. Geisler advocated the purchase of a small tract for municipal park. He spoke of its great natural attractions and of its value as an advertising medium for the city. He added that the committee proposed to expend the ultimate expenditure of \$30,000 is by no means a Portland Heights proposition, but one that affects the welfare of the whole city.

GOVERNOR DEFENDS ACT

WEST THINKS BLACK GUILTY OF ONE CRIME.

Shooting of Dr. Robertson Doubtful and Fear Needless, Says Chief Executive.

SALEM, Or., May 28.—(Special.)—Governor West in a written statement today defends his act in pardoning Homer Black, sentenced to serve ten years in the Penitentiary for waylaying and shooting Dr. C. H. Robertson about 4 1/2 years ago. The governor says he does not believe Black shot Dr. Robertson, but does believe he was at least a participant in the crime when Frank Gile, while asleep in a Salem store, was beaten over the head with a blunt instrument by housebreakers.

Regarding the Robertson case, the statement says in part: "The indeterminate sentence law, passed in 1911, was made applicable to cases similar to Black's, and he was pardoned on the ground that he was an investigation of the matter has caused this office and the members of the Parole Board seriously to doubt the guilt of Black. I have every reason to believe it was a case of mistaken identity. I am of the opinion, however, that Black is guilty of the crime, and that he was made against him, of breaking into a local store, or at least had guilty knowledge of the crime, and came into possession of some of the spoils. Granting this to be true, he has had his punishment."

"He was a model prisoner at the institution, and I believe he would have left without ill will toward any one, and feeling that as far as the prison officials are concerned, he was under the circumstances, given a square deal. The provisions of the Parole Board keep him under the control of the prison authorities. He has left the state, and I am sure that Dr. Robertson has nothing further to fear from him. It is at least idle to speak as some of the newspapers have done, of citizens being alarmed and arming themselves for protection."

LEWIS MAN IS AT LARGE

Sheriff Foster Searches in Vain for George Blankenship.

CHEHALAIS, Wash., May 28.—(Special.)—Sheriff Foster is in Eastern Lewis County, where he is making persistent search for George Blankenship, Blankenship and Mike Wornik had a fight at a roadhouse early Sunday. Wornik was shot four times, according to meager reports of the affair, and is lying at the point of death at the hospital at Eatonville. His recovery is not expected.

Blankenship is said to have taken to the woods after the shooting and has not yet been located. The two men were loggers and quarreled over a woman at the roadhouse, according to report.

Last night a wounded man was held at McKenna, near Yelm, on the supposition that he was Blankenship. Deputy Sheriff Yelm was called to the scene to identify the man as the one wanted. Blankenship has many acquaintances in Eastern Lewis County and there are many ways by which he can make good his escape.

SULZER AFTER GAMBLERS

Race Track Betting Edict Aimed at Belmont Park Sport.

ALBANY, N. Y., May 28.—There must be no gambling on the racetracks or anywhere else in the state, says Governor Sulzer in a letter to Arthur Brisbane, governor of New York. The Governor declares he "shall adhere tenaciously" to the letter he has written to the authorities of counties in which tracks are situated, warning them to enforce the law.

If there is any gambling on the Belmont Park racetrack, or any violation of the law, says the Governor, "I shall hold those officials responsible and will take action." The Governor says he is opposed to gambling on the racetracks and will enforce the law.

Workman Gets Damages.

ROSEBURG, Or., May 28.—(Special.)—After a deliberation of two hours Tuesday night, a jury awarded Lyman Spencer damages in the sum of \$1900 against the Hargroves Door & Lumber Company, of Roseburg. Spencer alleged that while operating a circular saw, two of his fingers were injured in such a manner as to render them useless.

Shingles Assessed Higher.

ABERDEEN, Wash., May 28.—(Special.)—Assessed values of shingles and laths have been raised by County Assessor Wiley, despite the fact that this year finds nearly three times as much of these materials for assessment.

PARTY WAR WAGES

Idaho Democrats Find Strife Costs Patronage.

MONTANA MAN GETS POST

Evidence of Desire to Patch Up Differences Seen in Alleged Agreement to Divide Offices Not Yet Filled.

BOISE, Idaho, May 28.—(Special.)—The appointment of W. C. Wahley, of Montana, as Collector of Internal Revenue caused a stir of expectation among the Democrats in both factions of the party in this state, for each expected to secure the plum.

It had been hinted that George E. Hill, secretary of the Democratic state central committee, had the revenue collectorship tucked away in his vest pocket. He is now the Hawley-Perky faction labeled the "conservatives." Frank A. McCall, of Coeur d'Alene, had been pushed forward as the candidate for the post of the Nugent-Pence or "progressive" faction. Both factions are now wondering how their respective candidates have been going through the post carries with it a salary of \$4500 a year and several fat salaried deputies. The only excuse both factions have for their respective candidates is that Montana has a strong Democratic delegation in Congress, while Idaho is represented by a solid Republican delegation.

Hope Still Set to Exist. Idaho Democrats are still living in hopes that the patronage for this state will soon be distributed, thereby cutting off salaries now going into the pockets of others. There is fear that some cliques are attempting to push slates through that are objectionable.

That some of the leaders of both factions have had their heads together is now admitted. This is said to account for the agreement by which the Hawley-Perky faction was to be given the right to place State Chairman Gray as United States Marshal and Frank Moore, of Moscow, as Attorney-General, while the Nugent-Pence faction was to have everything else in sight.

Lead Office Post Sought. The Blackfoot land office offers a fine berth to some Democrat. Both factions have candidates. J. J. Guheen, who resigned as receiver, is a Republican and now is its candidate. Assistant Attorney-General of this state. He was Attorney-General during the Gooding administration. No successor has been appointed. State Senator Rayvenal Macbeth wanted the post. State Chairman Gray, however, endorsed some other Democrat before he knew Senator Macbeth was a candidate. This is said to have caused a falling out between these two Democratic leaders in the same faction.

Sam J. Rich, former Immigration Commissioner, is also a candidate for the office and there are two others.

MOUNT HOPE STRIKE ENDS

After Three Months of Fighting Miners and Company Agree.

MORRISTOWN, N. J., May 28.—The strike at the Mount Hope line of the Empir Steel & Iron Company was settled today, and some of the miners went back to work. The strike began last March. Battles between strikers and armed Deputy Sheriffs were waged almost daily, but at such long range and behind such effective entrenchments that casualties were few.

The details of the settlement were not made public. The men, it is said, gained an increase in wages and shorter hours, but failed to make the company discharge the men who remained loyal during the strike.

PRESIDENT AIDS CHILDREN

Father's Fine Is Remitted That He May Leave Prison.

WASHINGTON, May 28.—The plight of three little motherless girls working in a Southern cotton mill and needing the help of their father, Marion Cook, serving a two-year term for the term of illicit distilling in North Carolina, caused President Wilson today to remit the \$100 fine which was a part of Cook's sentence and which he was unable to pay.

Cook was convicted at Asheville, N. C., and as a result of the President's action will be released June 16.

MILL DESTROYED BY FIRE

H. H. Martin Lumber Company, at Centralls, Loses \$12,000.

CENTRALIA, Wash., May 28.—(Special.)—A disastrous fire of unknown origin early today destroyed the shingle mill of the H. H. Martin Lumber Company here. The loss is estimated at \$12,000, and is covered by insurance. The flames were discovered about 1:30 o'clock, but by the time the local department reached the mill it was doomed and work was confined to the dry kilns and sawmills. This is the second time the mill has been burned, the entire plant having been destroyed in 1903.

JAMES BAKER REARRESTED

Impostor and Woman Impersonator Who Jumped From Train Caught.

ALBUQUERQUE, N. M., May 28.—James Arthur Baker, who posed as a woman school teacher in Portland, Or., and other places, who escaped from Sheriff Wilson, of Riverside, Cal., at Flagstaff, Ariz., early Tuesday by jumping from a train, was captured here this afternoon.

Baker was wearing overalls and jumpers.

Confederate General Dies.

WASHINGTON, May 28.—General Lansford L. Lomax, one of the oldest surviving Generals of the Confederate cavalry, died here today, 79 years old. He was an intimate friend of General Robert E. Lee, and served with distinction in many noted engagements. He will be buried at Warrenton, W. Va., tomorrow.

DAYTON

Eye-sight Specialist 508-9 Svetland Bldg., 5th and Wash. Fifth Floor Entrance Fifth Street

We welcome competition in the street railway business, but every move Mr. Heusner has made stamps his franchise as a promotion scheme. The People's Rights League is composed of Portland's substantial business interests. WE WELCOME COMPETITION in the street and interurban railway business. BUT HAS MR. HEUSNER ever PROVED to the PEOPLE OF PORTLAND that his FRANCHISE means real COMPETITION? There is NOTHING in the franchise as Mr. Heusner's attorneys have prepared it for the ballot, WHICH PREVENTS the SALE, TRANSFER, LEASE, or ASSIGNMENT of the franchise as soon as he gets it, to the Portland Railway, Light & Power Co., The Hill or Southern Pacific interests.

The eliminating of this, Section 28; the cutting down of the city's income for the 25-year franchise, from \$81,000 to \$37,500 and the omission of other vitally-important measures which the Council demanded for the city's protection, are WHAT THE PEOPLE'S RIGHTS LEAGUE and thousands of others who have examined the proposition, OBJECT TO.

This is what the Los Angeles Realty Board finds out after a bitter experience with dual occupancy of the city's streets by railway companies. Los Angeles Realty Board REALTY BOARD BUILDING 431 SOUTH SPRING STREET LOS ANGELES, CAL. May Twentieth Nineteenth Year.

Nothing but a barefaced promotion scheme. Go to the polls next Monday and Vote 103 X NO PEOPLE'S RIGHTS LEAGUE By T. A. Linthicum, Secretary.

MARSHFIELD RATES UP

Railroad Commission Will Open Sessions in Portland.

SALEM, Or., May 28.—(Special.)—The first hearing of the Railroad Commission to fix rates by public service corporations will begin June 13 in Portland, and be concluded at Marshfield June 19.

Three cases relating to water rates at Marshfield will be brought up. The companies are demanding rates the city declares unreasonable. The decision will establish a precedent.

Alleging that the Sorenson Logging Company refuses to carry passengers and freight, Emil F. Mattson has applied to the Railroad Commission for an investigation. The company will conduct a hearing at Astoria early in June.

A request of the Pacific Telephone & Telegraph Company that it be allowed to discontinue its offices at Champeau, June 1, will be heard. The Commission has denied an application of the company to discontinue its office at Blodgett.

May 30th Excursion. Decoration Day excursion to LAKE VIEW PARK, at the west end of Oswego Lake. Boat, swings, beautiful grove. Train leaves Jefferson St., S. P. Depot, at 9:45 A. M. Fare 30c; round trip to Bryant Station, tickets from Archibald & Allen, 210 Gorlinger Bldg., Second and Alder sts.

Pure Water at METZGER. At the left is shown the big Water Tower at METZGER, Portland's ideal suburb, eight miles out on the Oregon Electric! We've gone down 285 feet—nearly the entire depth through solid rock—to reach this never-failing source of pure water. Analysis shows it is better than Bull Run—vibrant with lime and iron, so necessary to growing children. Pay \$20 Down on Only \$20 a Lot. Big Excursion to Metzger Sunday 25c. This includes round trip fare and lunch. Special train leaves Jefferson-street station at 10 o'clock Sunday morning. Reservations limited to 400. GET TICKETS AND INFORMATION ABOUT METZGER now at our office. Callan & Kaser 722-724 Yeon Building Members Portland Realty Board.

Rev. Mr. Tapscott, of the Baptist Church. The song service was given by a combined choir of all the churches under the direction of Benjamin C. Crow. In the evening the churches combined with the Christian Church, where Mr. Crow was ordained to the ministry, Rev. C. H. Hilton, of Forest Grove, presiding.



Your Own Frame or mounting may be as good as new, if so you should not be put to the expense of buying an entirely new pair of glasses. We will gladly supply the new lenses at a very reasonable price. Thus a small investment will fully protect your eyes.

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