REVERSAL OF JITNEY DECISION CITY'S AIM

Municipal Attorney Contends State Constitution Provides for Emergency Clause.

POSSIBLE EFFECT FEARED

If Ruling Is Upheld, Council Would Be Unable to Pass Legislation to Meet Calamity, Is View.

Appeal May Follow.

seen from the growth of the city charter.

Constitutional Amendment Cited.

"We believe," said Mr. LaRoche yesterday, "that the judge is wrong in his contention. There is a provision in the constitutional amendment of 1902 which gives the State Legislature the power of passing a measure with an emergency clause.

"In 1806 the constitution was amended so as to give to the electors of cities all referendum rights reserved to the people of the state, as to local or municipal legislation. Our contention is that the rights so reserved to the electors of the cities is no broader than silner in the performance of any dury imposed upon him by any provision of the ordinance.

"We believe," said Mr. LaRoche yestitution and sp.

Commissioner Not Inst.

The provision requiring jitney drivers to get a certificate from Commissioner balled from Commissioner to get a certificate from Commissioner to get a certificate from Commissioner balled from Commissioner to get a certificate from Commissioner balled from Commissioner to get a certificate from Commissioner balled from Com "in 1806 the constitution was amended so as to give to the electors of cities all referendum rights reserved to the people of the state, as to local or municipal legislation. Our contention is that the rights so reserved to the electors of the cities is no broader than the rights reserved to the electors of the state as to state legislation. Judge Bagley refers in his decision to article 4, section 1a, and article 11, section 2, as the only parts of the constitution affecting the quetsion. We believe that article 4, section 1, controls and must be read in connection with the parts of the constitution quoted by the judge.

"In our brief in the jitney case we will press this view of the law, and should the court decide that the Council has no power to pass measures with the emergency clause we shall appeal to the State Supreme Court. It is a matter of vital Importance.

Future Effect Is Feared. "A decision against the emergency clause would not affect measures passed with the emergency clause heretofore because they would all have gone into effect 30 days after passage anyway and the 20-day period has expired. It would, however, be a serious matter for the future. It would preclude the possibility of the Council passing measures where there is dire need of immediate where there is dire need of immediate where there is dire need of immediate action for the preservation of the health, peace or safety of the city."

The temporary restraining order will prevent the enforcement of the litness measure until the case is tried on its merits and a decision is obtained from the court

The city has begun enforcement of the measure, the police having taken steps to prevent overcrowding of the cars and Jitney Inspector Gallup baving started the examination of cars and drivers and baying taken action ing from metallic throats the 22d an-to force the installation of interior must Spokane Interstate Pair opened

JITNEY LAW SET ASIDE

(Continued From First Page) jitney men can be decided in Circuit

Judge Bagley cited constitutional au-thority for his decision that an emerg-

thority for his decision that an emergency clause cannot be attached to a measure to head off referendum petitions. The Legislature may do it, but the City Council cannot.

Judge Bagiey, who ordinarily holds court at Hillsboro, was called in by Circuit Judge Gatens as an outside judge to hear the Jitney suit.

Following the Supreme Court decision which killed the old Jitney ordinance but affirmed the power of the Council to pass legislation of that sort, the Council passed snother ordinance passed another ordinanc with an emergency clause attached, which went into effect more than a

week ago. The jitney men have been operating under this ever since. Outside Judge Called In.
A. A. Thielke, W. J. Christensen and
L. Trullinger, as officers of the

W. L. Truilinger, as officers of the jitney men's organization, filed a suit to break the ordinance. This was assigned to Judge Davis. The attorneys said they thought it ought to come before Judge Gantenbein, because he had heard the previous jitney case. "Nothing of the sort," said Judge Gantenbein. "This is a new ordinance and a new suit on new grounds." Judge Kavanaugh was too busy to hear it, and Judge Gatens called in Judge Bagley. The arguments for the temporary restraining order were heard Friday. The decision was made at 2 o'clock resterday.

The constitution, says Judge Bag-

The constitution, says Judge Bag-ley, grants to the voters of the City of Portland "the right of referendum upon all municipal legislation of every character without any exception what-ever." He says also that it "does not except any municipal measures affect-ing the health, peace or safety of the people from the effect of the refer-endum."

In order to attach an emergency clause, the Council or any legislative body, must declare that an emergency

exists affecting the health, peace safety of the public, License Section Declared Vold. Another portion of the ordinance criticised by Judge Bagley is that which requires fitney drivers to get a certificate from Commissioner Daly before they can procure a license. This portion of the ordinance is void, declares Judge Bagley, because it imposes no duty on the Commissioner to leasue the certificates and prescribes no poses no duty on the Commissioner to lasue the certificates, and prescribes no terms on which it shall be issued. He quotes a decision of Justice Matthews in the United States Supreme Court in which such legislation is declared to be contrary to the principles of republican government.

Otherwise, the ordinance is valid, and there is no doubt about the authority of the Council to pass such legistry of the Council to pass such legis-

ity of the Council to pass such legis-

The decision says in part: "It is conceded that the City of Port

power and authority to enact the character of legislation attempted by this ordinance, provided it is not class legislation or discrimnatory to such an extent as to render it void, and therefore if the ordinance does not fall within he ordinance does not fall within term of class legislation and its the term of class legislation and its provisions are not arbitrary or confiscatory or discrimmatory to such an extent as to render it void, the ordinance should be upheld, provided properly passed under the constitution and laws; and if there exists no doubt as to the validity of the ordinance and its provisions, no preliminary restraining order should lasue.

"But in the event of its doubtful validity or in the event some of its provisions are void and cannot be eliminated without destruction of the entire ordinance, then a restraining order should issue preserving the rights of the plaintiffs until such time as the entire matter can be finally

as the entire matter can be finally adjudicated and determined by a court of last resort."

Emergency Right Conceded. Judge Baglev agreed with the con-tention of the city that the question of an emergency is a legislative question and cannot be examined into by the ference to Have Entirely Free

"But another and more serious ques-tion appears to be raised, namely: That the electorate of the City of Portland, by the inclusion of such emergency clause, was deprived of the right of the referendum reserved to it by the state constitution."

Taking the position that the state constitution, are constitution are constitution are constitution are constitution are constitution are

the ordinance.

"While holding this particular portion of the ordinance to be void, it does not necessarily follow that the entire ordinance is voided. The provisions of it in relation to the certificate of the Commissionar and to the change of route can be wholly eliminated and of route can be wholly eliminated and theoremaining portions of the ordinance be enforced without confusion, as it is not apparent from the ordinance itself that the certificate mentioned served any purpose that is imperative to the successfuld operation of the other pro-visions of the ordinance."

disions of the ordinance." The injunction, which stops enforcement of the ordinance for 10 days, will be signed when the jitney men post a bond of \$500. Within the 10-day period the case will be heard finally.

nual Spokane Interstate Fair opened its gates formally at 10 o'clock this

With a little sunshine we will have

"With a little sunshine we will have the best fair, we have ever had," de-clared Thomas S. Griffith, president of the Fair Association, after making an inspection of the grounds before the opening hour.

"The livestock exhibit is one of the best we have ever had in peint of dairy cattle, and all other departments, with the exception of the swine, have filled up with an excellent class of show

with an excellent class of show stock.
"I am well pleased with the fair as it shapes today. The amusement programme is one that should please everybody, as we have a more varied programme than last year."

Four thousand people, it was estimated, passed through the turastiles before noon today. The exhibits were

before noon today. The exhibits were a little slow in shaping up this year, but the fairground was a hive of activity during the early morning.

More exhibit material was on hand to fill the available space than was

SCHOOL-TRIP CONTRACT LET

Fruit Valley Pupils Will Have Auto-Truck Service.

VANCOUVER, Wash., Sept. 12.—
(Special.) — The school children of Fruit Valley, near Vancouver, will be taken to and from the different schools here by auto truck, the contract having been let to Howard Cash.

It is expected that about 25 children will attend the Vancouver schools, and the auto truck will take the pupils for the fifth grade and under to the Columbian School and the others to various schools.

TIDE MAROONS AGGIES

FOOTBALL PLAYERS CAUGHT ON ROCKS NEAR NEWPORT.

Life Guarda Rush to Rescue, but Men Walk Ashore After Being

VANCOUVER OFFICE SOUGHT

Sessions in Hall of Representatives Expected to Continue Two Days.

DELEGATES' NAMES GIVEN

Rein and Will Take No Part Except to Make Address.

specific recommendations, I hope this may be accomplished. I shall be glad

may be accomplished. I shall be glad to co-operate in whatever action seems to be for the best interest of the state. Certainly a healthy discussion will be of benefit to all concerned."

In addition to the members of the Legislature, Oregon's Congressional delegation and representatives of different state organizations, all the 25 counties in the state will send delegates to the conference. So far the delegates named by the counties and organizations which have been received at the Governor's office are as follows:

Douglas County—Rebert E. Smith Rese.

Douglas County-Robert E. Smith, Rose-burg; N. D. Cool, Drain; J. G. Day, Olalia; H. A. Rasor, Riddle; T. A. Rafferty, Rose-

Josephine County—R. M. Robinson, H. D. Norton, Wilford Allen, Fred A. Williams, R. P. George, Grant County—Loring V. Stewart, Day-ville,

passed around in the city, and more than 100 spectators profuse with offers of fried chicken and other substantial viands to the unfortunate gridiron men ined the shore. At 4 o'clock the mer walked ashore after four hours on the

EARLY TRIP IS RECALLED Pioneer Umpqua Navigator Revisits Roseburg.

ROSEBURG, Or., Sept. 13 .- (Special.) -William Wade, engineer on the first and only boat that ever navigated the Umpqua River from its mouth, hear Gardiner, to Roseburg, is spending a few days in Douglas County renaving few-days in Douglas County renewing the acquaintance of many of the old-time settlers, who vividly recall the day when the frail craft unexpectedly reached the city and tied up at the old wharf near the foot of Douglas street. The boat was known as the "Swan," and was of the stern-wheel variety. It was in command of Captain Hawn, with Mr. Wade in charge of its engines.

Leaving the mouth of the Umpqua River at Gardiner, the boat passed up the river as far as Scottsburg without incident. There it encountered the Sawyers rapids, and it was with the greatest difficulty that the trip was con-

Much Damage.

to a recent investigation conducted by entomologists of the United States Department of Agriculture. This moth, it is estimated, causes a loss in the total output of Douglas fir of from 7 1/2 to 15 per cent and in one mill, where the loss was lower than the average, it amount ed in money to \$18,900 for that see Crook County—J. F. Blanchard, Prins-ille.

Polk County—Walter L. Tooze, Jr., Dal-ta; O. A. Macy, Independence: J. Waldo inn, McCoy; E. E. Paddock, Independence: ra Mebring, Falls City.

SPOKANE FAR IS OPEN

SPOKANE FAR IS OPEN

COUNTY—Walter L. Toore, Jr., Dalha; O. A. Macy, Independence; J. Waldo in the case will be heard finally.

SPOKANE FAR IS OPEN

SPOKANE FAR IS OPEN

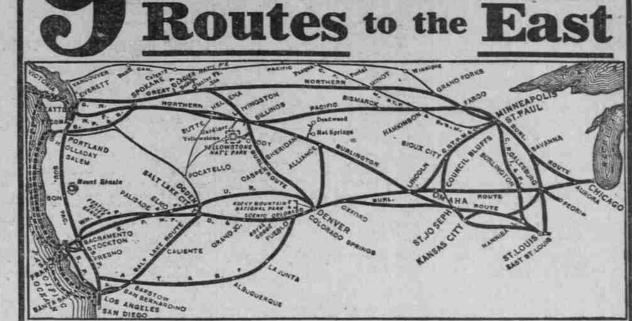
COUNTY—A. J. Johnson, Corvallis; Benton County—A. J. Golmson, Corvallis; Covarion, Stovall, Philomath; J. W. Buster, Covarion of the first of a period of 15 years. The Douglas fir pitch moth lays its eggs either on the edge of a wound in the fir or on places where the bark is smooth. As soon as the larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the outer larvae hatch they eat their way through the eggs wing its turn, thus completing a triening life circle.

The mature insect lives only about five days, merely long enough to deposit its eggs, which accounts for the fact that so few of them are ever seen. Lans County—George W. Briedweil, P. B. Weller, W. W E. Bean, Eugene; J. S. Mediey, Cettage
Grove: I. B. Cushman, Acme; H. L. Bown,
Eugene.
Yamhill County—George W. Briedwell,
Amity; Roy Graves, Sheridan; Jesse Edwards, Newberg; Harry Gist, Yamhill; J. B.
Dedsoh, McMinnville.
Umatilia County—C. P. Strain, Pendieton
Columbia County—C. P. Strain, Pendieton
Columbia County—C. P. Strain, Pendieton
Columbia County—A. L. Clarg, Rainler;
J. G. Watts, Scappoose; W. A. Hall, Claiskanie; Carlton Lewis, Rainler; W. A. Harris, St. Helens.
Washingten County—E. W. Halnes, Forest Grove: William Schulmerich, Hillsboro,
John Thornburgh, Forest Grove: W. N.
Barrest, Hillsboro; L. A. Long, Hillsboro;
Curry County—W. A. Bishel, Gold Beach;
P. M. Littler, Gold Beach; W. J. Ward,
Brockings; James P. Russeil, Langlois; J.
A. Bowman, Langlois,
Wasso County—N. Whealdon The Dalles,
Laze County—Virgil Conn, Paisley.
Delegates thus far chosen by the va-

woods, income of the control of the

land, under its police powers, has the but has been inactive for some time. In the meantime word had been was J. A. Dougherty,

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master Myers-Supervising Architect Yet to Pass.

VANCOUVER OFFICE SOUGHT

Otty Candidates at Coming Election
Are Filing.

VANCOUVER Wash. Sept. 12.—
(Special.)—Candidates for city offices at the general city election December 7 are beginning to file with the City Clerk.

R. C. Sugg. an attorney. has file for the office of Mayor; G. M. Davison, and the street of the silippery rocks but a short distance of certa. For City Attorney.

Clerk. R. C. Sugg. an attorney. has file for the office of Mayor; G. M. Davison, and the street of content of the silippery rocks but a short distance of certa. For City Attorney.

Clerk C. Sugg. an attorney. The certain of the silippery rocks but a short distance of the silipper rocks but a short distance of the silipper rocks but a short distance of the silipper rocks

PLANS ARE ASSURED

tion," said Mr. Hobart's letter, answering one from Mr. Myers, in part. "We have the steel plans, with the exception of the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly everything has been worked out at large scale and we are compiling these on the proper size sheets, also to submit to Washington.

Time for Postoffice Drawings

Uncertain, However.

EVERYONE IS CONFIDENT

To the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly everything has been worked out at large scale and we are compiling these on the proper size sheets, also to submit to Washington.

"We are also making the heating and they are coming think we are going to have a ferfectly corking building or you."

Another letter was from Charles E. Dunbar, in the office of the First Assistant Postmaster-General in Washington. Mr. Dunbar said he had conformed and all the men of St. Rose's Catholic Church are invited to attend.

Usual Promises, Given at Intervals of 30 Days, Again Flood Postmaster Myers—Supervising

To the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly exception of the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly exception of the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly exception of the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly exception of the foundation, ready to send to the Government and have our architectural plans coming splendidly. Nearly exception of the foundation, ready to send the exception of the exception of the foundation, ready to send the exception of the foundation, ready to send the exception of the foundation, ready to sen

A third letter was from Daniel C. Rober himself, First Assistant Postmaster-General, Referring to a letter of August 31 from Postmaster Myers, Mr. Rober said that he would do what he could to expedite the Postoffice Debuilding. "Though the Postoffice Department," he added, "has very little jurisdiction over construction of Government buildings, the matter being almost exclusively in the hands of the

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anything so simple, mild and inexpensive can stop the itching and burning instantLY! And they find it still more wonderful that the improvement is permanent and that Resinol really drives away the eruption completely in a very short time. Perhaps there is a pleasant surprise like this in store for you. Resinol Ointment and Resinol Soap are sold by all druggists. Trial few write to Tent 2-R Resinol. Baltifree, write to Dept. 2-R, Resinol, Balti-

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