

SUNDAY CLOSING LAW HELD VALID

Opinion by Justice Burnett, of Supreme Court, Reverses Lower Tribunal.

STATE POLICE RIGHT CITED

Exemptions Defended on Basis of Public Need—Decision Expected to Result in More Stringent Enforcement of Statute.

SALEM, Or., Sept. 14.—(Special.)—Constitutionality of the Sunday closing law was upheld today by Justice Burnett of the Supreme Court, who has reversed the decision of Circuit Judge Morrow in the case of the State against Leigh E. Nichols, appealed from Lane County. Nichols was charged with keeping his cigar store open Sunday.

That the decision may result in a more stringent enforcement of the state law prohibiting the keeping open on Sunday of any "store, shop, grocery, bowling alley, billiard room, or tipping house, or any place of amusement" is believed probable by attorneys and others here who have studied it. The law exempts from its provisions theaters, drug stores, doctors' offices, undertakers, livery stable keepers, butchers and bakers.

In the attack upon the constitutionality of the statute, attorney for Nichols contended that it was violating section 20 of article 1 of the state constitution, which declares that "no law shall be passed granting to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens." That the measure also was contrary to the 14th amendment to the Federal Constitution was alleged.

Police Right Cited. Pointing out that it is by virtue of the police power that the legislative branch of the state government assumes to control its citizens in their daily affairs, Justice Burnett continues: "It finds its sanction in the right of the state to provide for the public health, welfare and safety. The only restriction which the state can impose is that the legislation must have some reasonable relation to those elements of public concern and must be uniform in its operation upon persons similarly situated. The principle rendering it lawful to forbid the pursuit of an occupation on Sunday is settled in this state. . . . The underlying reason for the rule is the propriety of providing a day of rest and relaxation for those engaged in certain employments."

Exemptions Are Justified. Justice Burnett justifies the statutory exemption of certain businesses in the following language: "A good reason for this may be found in the fact that drug stores, doctor shops, undertakers, livery stable keepers and livery-stable minister to wants that are more imperative, as a rule, than those supplied by the general run of business in the occupations named, while theaters afford mental diversion conducive to rest and relaxation. The law applies to all persons coming within the class described and limited in the statute. We are convinced that the classification set out in the statute is reasonable and that the legislation is a proper exercise of the police power."

Other opinions today are: R. T. Howard and others against German American Insurance, appellant, appealed from Jackson County; suit to recover on insurance policy; opinion by Justice Eakin; judgment of Circuit Judge Morrow modified. R. T. Howard and others against Hartford Fire Insurance Company, appellant, appealed from Jackson County; suit to recover on insurance policy; opinion by Justice Eakin; judgment of Circuit Judge Morrow modified. Jessie Pullen, appellant, against City of Eugene, appellant, from Lane County; suit involving damages for personal injuries; petition to recall mandate denied; opinion by Chief Justice Moore.

Chief of Police Clark, of Portland, will not close the cigar stores in the city until he has orders to that effect from the Mayor or Commissioners. Asked yesterday if he intended to close up the stores where tobacco is sold next Sunday, Chief Clark said that he would not unless he was asked to by those in higher authority in the city government. As to what will be done regarding enforcement of the Sunday closing law in Portland, Oregon, after the Supreme Court decision and his conference with City Attorney LaRoche. It may be several days before a copy of the court's opinion is received. "I have given the subject no thought," said the Mayor. "The court decision came only today, and we have not had time to get a copy of it. When we find out the exact status of affairs regarding the Sunday closing we will take action."

Douglas Attorney to Enforce Law. ROSEBURG, Or., Sept. 14.—(Special.)—District Attorney George Neuner announced late today that he would enforce the so-called Sunday closing law in Douglas County in the event it had been held constitutional by the Supreme Court of the state. The law heretofore has been unheeded by the prosecuting officers of Douglas County and was considered a dead letter.

Ridgefield Council Fixes Budget. RIDGEFIELD, Wash., Sept. 14.—(Special.)—The Town Council Tuesday announced its estimate of expenses for the coming year. The expenses will be \$5444 and the usual receipts \$100, leaving \$1244 to be raised by taxation.

PATROLMAN WHO WAS FORCED TO FIRE FATAL SHOT IN AUSTRIANS' RIOT AT LINNTON; ONE OF THE WITNESSES AND PROSECUTOR.



REFERENDUM IS AIM

Jitney Interests to Circulate Petitions at Once.

TIME LIMIT IS 30 DAYS

If Court Upholds Law but Invalidates Emergency, Enforcement May Be Held off Until 1917 if Signatures Obtained.



Richard DeLeon

Use of the referendum to stave off enforcement of the jitney regulation ordinance in case the courts rule finally that the emergency clause on city ordinances is of no effect, is the plan of the Jitney Interests. Officials of the Jitney Drivers' Union obtained blanks yesterday from City Auditor Barbur and will start the circulation at once of referendum petitions. The referendum is being resorted to as a precaution against the referendum period of 30 days expiring and the measure going into effect without the emergency. If the courts knock out the emergency the measure as passed would go into effect without the emergency in 30 days from the date of passage. To head off the possibility of this the Jitney Interests plan to have referendum petitions ready to file in case the courts declare the emergency illegal, but uphold the validity of the ordinance. As the Jitney case stands now Circuit Judge Bagley has ruled that the emergency clause cannot be attached to city ordinances and therefore if the Jitney ordinance is valid it cannot

go into effect for 30 days after the date of passage. During that 30 days a referendum can be invoked against it. The injunction granted by the Judge was on the proposition of the validity of the emergency and not on the validity of the provisions of the ordinance. The validity of the ordinance will be passed upon at the Jitney hearing in the Circuit Court Friday. In case the court holds that the measure is valid and the city has the right to enforce it 30 days after passage the Jitney Interests hope to be ready with a sufficient number of names on referendum petitions to file before the 30-day period expires. This would mean holding up the ordinance until the city election of June, 1917. In case, however, that the emergency clause and the ordinance are held to be valid the Jitneys will be unable to make use of their petitions, for the measure will have been effective from the date of its passage by the Council. An appeal to the Supreme Court then will be the only course open to its opponents.

There are said to be 500 uses for the palmyra palm, which grows throughout tropical India.

10 MORE RIOTERS ARE BOUND OVER

Austrian Government's Attorney Defends Men in Linton Disturbance.

13 TO FACE GRAND JURY

Disorderly Conduct Is Admitted; Patrolman Describes Shooting, Which He Said Was in Defense of Brother Officer.

Ten Austrians were bound over to the grand jury under \$500 bond each for their participation in the Linton riot of Sunday night, in which one rioter was killed and several police officers injured, when they appeared before Municipal Judge Stevenson yesterday. Five others under arrest could not be positively identified by the police and were turned loose.

C. T. Haas, of the firm of Woerndle & Haas, representatives of the Austrian government in Portland, conducted the defense, but placed no witnesses on the stand. Testimony was given by Patrolman A. L. Long, the officer whose beat was in Linton, and whose shot killed Joseph Kocar, one of the Austrians, who gave the name of Joseph Rotose; Edward H. White, of Linton, who was knocked senseless by the rioters when he attempted to aid the officers; City Detective Tom Hammersly, who received a broken thumb and badly bruised head in the fracas; W. J. Folk, a well-known sawmill man of Linton, witness of the fight; Patrolmen Morris and Sims, who were in the first detachment of officers sent from Portland and who were beaten and driven back by the rioters, and Police Captain Circle, who led the reserve squad of 16 bluecoats that quelled the disturbance and arrested 15 men.

Riot Blamed to Liquor. Liquor was blamed for the affair by all sober, the men were said to be quiet and industrious citizens. Under influence of whisky and beer they were not responsible and were insulting.

The affair started, the testimony tended to show, in an all-day drinking orgy in a house occupied by Austrians. Trouble began when some of them went outside and disturbed people living near with obscenities and cursing. There was no anti-American demonstration of moment, according to testimony, until the battle with the reserve officers began, when the affair took a racial turn in which the Americans were vigorously cursed as such and threatened by the rioters. The defense failed to prove by the prosecution's witnesses that the rioters did not know the men who tried to quell them were officers and did not understand the commands of the police. It was testified that the stars of the officers were displayed and that most of the men in the mob had a knowledge of English.

Admitting the disorderly actions of the rioters, Attorney Haas intimated in his cross-examination of witnesses that Mr. White, who was knocked unconscious by the rioters, was an aggressor.



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attacking the drunken mob from a feeling of undue self-importance.

Officer Tells of Shooting. Mr. Woolfolk, of Linton, testified that he objected to the language and insults of the Austrians within a short distance of his home, annoying his wife and family.

Patrolman Long testified that the man he shot had just struck Detective Hammersly a blow on the head that sent the detective to his knees, and that the officers' lives were in danger. "This fellow tried to hit me when I tried to help Hammersly; I shot him," said Patrolman Long.

Mr. Woolfolk testified that when he saw Patrolman Long shoot that "I was afraid he missed. He was right in shooting."

The men bound over to the grand jury are Joe Mennis, Pete Ponia, Joe Hiek, Henry Komo, Mike Frier, Joe Sabata, Jacob Kupsek, John Frier, Joe Parnos and John Benz. Those released were Joe Kori, John Kupp, Joe Komo, Martin Ducamari and Joe Lucas.

White, who was unconscious, in the auto to be taken to a physician.

JEAN SLOAN HAPPY PARENT

Courthouse Elevator Operator Says "Both Doing Fine, Thanks."

Jurors, judges, lawyers and clerks all stopped to shake hands with Jean Sloan, elevator operator in the Courthouse, yesterday. The profusion of congratulations he accepted graciously, and shook with one hand while he operated the lever with the other. "Both doing fine, thanks," he repeated over and over as the news spread.

Out at 704 Harvard street Mrs. Jean Sloan is attended by a nurse, and a lusty-lunged eight-pound baby girl occupies a crib beside her.

Vancouver Grants Divorces.

VANCOUVER, Wash., Sept. 14.—(Special.)—Three divorces, granted in the Superior Court today, were more than offset by the number of mar-

riage licenses issued in the office of the County Auditor, Julia C. Ward secured a divorce from Silas W. Ward on the grounds of nonsupport; Zoe Thompson was divorced from Frank H. Thompson on the grounds of nonsupport and abandonment, and Edna E. Hendrix secured a decree from W. C. Hendrix on charges of cruel and inhuman treatment.

Three Sue Gas Company.

OREGON CITY, Or., Sept. 14.—(Special.)—The Portland Gas & Coke Company is made defendant today in three personal injury suits filed in the Circuit Court by Attorney L. Stupp. The plaintiffs, Mrs. Clara Randa, Ernest P. Randa and Miss Florence White, were injured May 17, 1914, when an automobile in which they were riding tipped over, owing, they allege, to a defective trench belonging to the gas company on one side of the county road. Mrs. Randa asks for \$2000, Mr. Randa for \$708 and Miss White for \$550. Mrs. M. L. White, a fourth passenger of the car, filed a suit against the gas company several days ago.

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