DECISION AFFECTS VOTERS OF OREGON

Pre-election Pledge in North Dakota Similar to That in This State.

HELD NOT CONSTITUTIONAL

Supreme Court of That State Says Promise of Legislators to Vote for Popular Choice of Senator Cannot Be Binding.

The decision of the North Dakota Supreme Court that the pre-election pledge of Legislators to support in the Legislature for United States Senator the popular choice of the people is invalid and not binding is of particular interest to the electors of Oregon, where essentially the same constitutional question would have to be passed on by the State Supreme Court should the validity of Statement No. 1 be raised.

This decision by the North Dakota court was rendered in disposing of a proceeding brought in the courts to restrain the electors from expressing their choice for United States Senator in the general election in that state which was held November 3. In refusing to restrain the people from expressing their choice for Senator, the court discusses at considerable length that provision of the law which requires candidates for the Legislture to obligate themselves by a pledge to support for Senator that candidate receiving the greatest number of popular votes. This feature of the law is unqualifiedly pronounced unconstitutional and positively of no binding effect on the Legislator assuming the obligation.

Legislators Relieved of Pledge.

It is held by the North Dakota court that the electors of that state under the provisions of their primary law have the right to vote in the general election for their choice for Senator, but the pre-election pledge, compelling legislative candidates to support the popular choice for Senator is declared inoperative and of no effect. The court holds that Legislators who took the pledge are relieved from living up to it and are privileged to support for Senator their personal choice, regardless of the vote of the people, which is regarded legally as only a suggestion from the electors as to their preference.

This provision of the North Dakota primary law was attacked on the ground that, in requiring legislative candidates to take and subscribe to an oath to support the Senatorial candidate receiving the highest number of votes in the general election, it violated the constitution of the state in that it added another oath, declaration and test as a qualification for office.

In rendering its decision the court concurs in that contention, and says that the provisions of the law permitting the people to designate their choice for Senator does not amount to an election by the people of their United States Senator; hence, they do not contravene the provisions of the Federal Constitution, which provides for the election of United States Senators by the State Legislatures, but if they do violate such constitutional provision, the complainant in the case at bar was powerless to complain, for the reason that no constitutional right of the citizen had been violated. The controversy not being a judicial one, the United States Supreme Court itself is the proper tribunal to determine the question, holds the court.

In assuming the pre-election pledge to support the popular choice for United States Senator, the North Dakota court holds that the candidate for the legislature obligates himself to discharge certain of his public duties in a certain way. By such a pledge, says the court, the candidate divests himself of all discretioned freedom of action in the discharge of his official duties if elected. This not only hampers the candidate assuming the obligation, avers the court, but restricts other persons from becoming candidates for legislative office. It is held to be no answer to the charge that this provision of the North Dakota law is unconstitutional to say that the pledge merely imposes a moral obligation which would rest on the candidate subscribing to the same in the absence of a statute on the subject. That such would not be true is contended from the fact that in many cases the candidate would decline voluntarily to make such a pledge to his constituents.

Indorsement Is Petition in Effect.

It is not contended, says the opinion, that the provision of the law permitting the voters of each political party merely to designate their choice for Senator amounts to an election of Senator. This proceeding, maintains the court, is of no more consequence than the right of petition which cannot be denied the people. It simply provides a convenient method for exercising the constitutional right of petition. It was further held by the court that it had no jurisdiction to pass on the constitutionality of the election of Senator under the provisions of a primary law enacted by the voters of the state since the Federal Constitution provides that each branch of Congress shall be the judge of the elections, returns and qualifications of its own members. The question of whether a Senator has been elected in the constitutional way is not a judicial question for the courts to decide, asserts the North Dakota court, but it is a question which rests entirely with the United States Senate itself.

"If this court should decide that the provisions of the statute in question are constitutional," continues the opinion, "such decision would in no manner be controlling and the Senate could say that a person elected by our Legislature at the coming session was not legally elected and could refuse him a seat. The question is a Federal one exclusively and the tribunal to determine the same is designated in the Federal Constitution to be the United States Senate."

Justice Spalding filed a dissenting opinion in which he concurred with his associates in their interpretation of the North Dakota primary law and the unconstitutionality of the pre-election pledge. He went farther, however, and held that the law was also unconstitutional for the reason that it provided that the popular election for Senator and the general election should be held at the same time and place. Justice Spalding maintained that the legislature erred in not providing for two separate elections.

A copy of the North Dakota decision reached Portland yesterday. By reason of the general interest in the action of the Supreme Court of that state, the decision is printed in full herewith:

Text of the Decision.

Fisk, J. The relator, who is a qualified elector of Kottinger County, makes application to this court in the name of the state for the issuance of a prerogative writ to enjoin the defendant, as Secretary of State, from certifying to the various auditors the names of certain persons as candidates for the office of United States Senator from this state for the purpose of having such names printed on ballots to be issued at the ensuing general election, to determine the choice of the Republican electors as between such candidates.

Relator prays that if such names have already been thus certified by defendant that he be required and commanded to cancel such certificate.

In his affidavit upon which the application is based, relator avers that he requested the Attorney-General to make application for such writ, but he refused.

Upon the filing of relator's said affidavit, an order to show cause was issued requiring defendant to show cause, if any there be, on October 23, 1908, why the writ prayed for should not issue. Upon the return day of such order to show cause defendant filed a motion to quash such order and to dismiss the proceedings on specified grounds, only three of which it will be necessary to notice.

First—It is defendant's contention that "no question of public right or one affecting the sovereignty of the state, its franchises or prerogatives, or the liberty of the people," is presented or involved by relator's application.

Second—That the affidavit upon which said order to show cause was issued affirmatively discloses that the relator has not sufficient interest in the subject matter of the proceeding or the determination of the questions sought to be adjudicated to enable him to institute or carry on same as plaintiff; and.

Third—That it affirmatively appears from said affidavit that plaintiff has been guilty of laches in making the application, and hence, is not entitled to the equitable relief prayed for.

Answering briefly these contentions we decide that the first and second points are not tenable. The questions involved clearly are public; juris and some of them at least pertain directly to the sovereignty of the state, its franchises and prerogatives, and the liberty of the people, and the relator, being a citizen, may institute and prosecute the proceedings, when, as in this case, he has requested such proceedings to be instituted by the Attorney-General and the latter has refused such request.

The third ground of the motion to quash the order to show cause pertains more properly to the merits, but, however this may be, we are clear that relator is guilty of great laches in making his application, and we might well refuse the writ solely upon this ground. However, on account of the great importance of the public question involved, we have concluded to ignore or overlook plaintiff's laches and to rest our decision upon the more vital questions pertaining directly to the merits.

Relator relies, for his right to the equitable relief sought by him, upon the following three propositions:

Pledge Outside Oath.

First—"The law in question," (Chapter 109, Laws of 1907), "and all parts thereof dealing or attempting to deal with the selection of a party candidate for the office of United States Senator, is void and unconstitutional in that it requires of each candidate for the Legislative assembly that he shall take and subscribe an oath to a pledge which add to the qualifications of a candidate and of an elector, other than those required by the constitution of the state.

Second—"The act in question deals with the general election laws providing for the submission of a certain form of ballot at such general elections, and contains a subject not included within the title of said act, nor considered in connection with the real object of the act.

Third—"The Legislature cannot provide for any action by the electors or the people of the state upon the subject of nomination or selection of members of the United States Senate."

We shall assume for the purpose of this case that if these contentions are sound, the writ should issue, although we confess our inability to understand just how the writ prayed for, can, if issued, operate to undo what has already been done by defendant pursuant to this law. The candidates for the Legislature have long since taken oath, and made or given the pledge exacted of them by sections 2 and 4 of the act. Such pledge, at the most, merely created a moral obligation to fulfill the same. If the law under which the pledge was exacted is held void, the moral obligation will still continue, and no judgment of a court can obliterate it. It would seem that courts do not and cannot deal with mere moral obligations as distinguished from legal obligations. Their functions are restricted to the latter. But, however this may be, we shall assume for the purpose of this case, that relator's counsel are correct . . to the remedy invoked, and we will proceed to consider the correctness of the contentions upon which relator bases his right to such remedy.

It is broadly asserted that chapter 109 aforesaid, which is known as the primary election law, is unconstitutional and void, in so far as it relates to the nomination of, or permits an expression by the people of their choice of, a candidate for the United States Senate. To this extent only is the validity of the law challenged. It is urged, first, that the law is invalid and unconstitutional in that it requires of legislative members an additional oath, test and declaration to that fixed by the constitution of the state, section 211. Said section is as follows: "Members of the Legislative Assembly and judicial departments, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation: 'I do solemnly swear (or affirm as the case may be) that I will support the constitution of the State of North Dakota; and that I will faithfully discharge the duties of the office of ..... according to the best of my ability, so help me, God.' If under oath, (under pain and penalty of perjury, if an affirmation), and no other oath, declaration or test shall be required as a qualification for any office of public trust."

Section 1 of the act in question requires the candidate for the office of member of the Legislature to file a petition to which shall be attached the following oath: "I, ..., being duly sworn, depose and say that I reside in the County of ....., and State of North Dakota; that I am a qualified voter therein and a ..... ; that I am a candidate for nomination of the office of ..... to be chosen at the primary election to be held on ....., 190.., and I do hereby request that my name be printed upon the primary election ballot as provided by law as a candidate of the ..... party of said office."

Pledge Required of Candidate.

Section 4 of said act also requires such candidate to give the following pledge: "I, the undersigned, a candidate for the office of member of the Legislative Assembly of the State of North Dakota, do obligate myself to the people of the State of North Dakota and to the people of my legislative district that during my term of office I will support and vote for that candidate for United States Senator in Congress of the party in which I am a member who has received a majority of such party votes for that position at the primary election next preceding the election of the United States Senator in Congress; provided, that in case no candidate of my party receives 40 per cent of all the votes cast for the office of United States Senator of my party, then and in that case I pledge myself to vote for the candidate of my party who receives the highest number of votes of my party at the general election succeeding such primary election."

If the provisions of said act requiring said oath and pledge conflict with section 211 of the constitution of this state, then, of course, those portions of the act are null and void. We think it plain that they do thus conflict, as they add another oath, declaration and test as a qualification for the office. The tendency of such provisions is to deter, hamper and interfere with, not only persons in becoming candidates for members of the Legislature, but with the electors in nominating such candidates, and to this extent said provisions interfere with the free exercise of the elective franchise of the citizens.

The constitution of the State of Michigan contains an oath in substance the same as that required by section 211 of our constitution, and provides, as does our constitution that "no other oath, declaration or test shall be required as a qualification for any office or public trust." And in the case of Dapper vs. Smith, 101 N. W. (Mich.) 60, the court said: "Kent County primary election law, section 3, requiring that before the name of a candidate shall be placed on the ballot at a primary election such candidate shall on oath declare his purpose to become such is a violation of the constitution, article 18, section 1, prescribing that oath which shall be required of public officers and providing that no other oath shall be required as a qualification for any public office, since thereby the voters are precluded from choosing as a candidate one who declines himself to seek the office."

Later on in the opinion it is said: "This provision is not one designed for the benefit of the aspirant for public station alone. It is in the interests of the electorate as well. The provision of this law which requires that before the name of any candidate shall be placed on the ballot at the primary election such candidate shall on oath declare his purpose to become such, excludes the right of the electorate of the party to vote for the nomination of any man who is not sufficiently anxious to fill public station to make such a declaration. The man who may be willing to consent to serve his state or his community in answer to the call of duty when chosen by his fellow citizens to do so, is excluded and the electorate has no opportunity to cast their vote for him. It is not an answer to this reasoning to say that the electors may still vote for such a man by using pasters. We cannot ignore the fact that parties have become an important and well-recognized factor in government. Certain it is that this law fully recognizes the potency of parties and provides for party action as a foundation toward the choice of an officer at the election. The authority of the Legislature to enact laws for the purpose of securing purity in elections does not include the right to impose any conditions which will destroy or seriously impede the enjoyment of the elective franchise. We cannot escape the conclusion that the provision in question does most seriously impede the elector in the choice of candidates for the office and that it is in conflict with the provisions of section 1, article 18, of the constitution."

It is, of course, plain that the provision of our statute exacting the pledge aforesaid is much more vicious than the Michigan provision which was condemned in the foregoing case. The candidate is required by such pledge to obligate himself to discharge certain of his public duties, if elected, in a certain way. He, by such pledge, diverts himself of all discretioned freedom of action in the discharge of a portion of his official duties, if elected. This necessarily operates to hamper and restrict persons in becoming candidates for such office, and is therefore void. It is no answer to this to say that the statute merely forces upon him a moral obligation in respect to the matters covered by the pledge, and that such an obligation would rest upon him in the absence of such statute. This would not necessarily be true where the candidate has not seen fit to voluntarily make such pledge to his constituents.

Pledge Violates Law.

We conclude that the requirement of such a pledge violates Section 211 of our Constitution in that it exacts an additional test in contravention thereof. But does it necessarily follow from this that all other portions of Chapter 109, relating to the election of United States Senators and giving the electors of each party an opportunity to express their choice for the candidates for such office are also void? We think not. The pledge requirement is but one step to effectuate the main object sought to be accomplished, to-wit: The selection of a United States Senator in accordance with the choice of a majority of the members of the political party with which he affiliates. Another, and entirely independent, step or method looking to the accomplishment of this object is the provision permitting the voters of each party to record their choice at the primary, and, in certain cases, at the general election. The fact that the Legislative object sought to be accomplished is, or may be to a certain extent, interfered with by reason of the fact that one provision or measure looking to such end is ineffective on account of the invalidity of the law, is, to our minds, no reason why the main object must fall when other independent provisions of the law designed to aid in effectuating such object are not vulnerable to attack. In other words, the provisions of this law permitting an expression of the party will as to United States Senators, if constitutional, must stand, even though the provisions requiring a pledge from the Legislative candidate that he will abide by such expressed will cannot stand because unconstitutional. The main object of the law will ordinarily be accomplished about as effectually without the statutory pledge as with it. As before stated, the statutory pledge, if valid, would create no more than a mere moral obligation. Therefore it cannot be successfully contended that the Legislative intent will be frustrated if one provision of the statute is upheld and the other nullified. Each are separate and independent provisions, although designed to effectuate the same main object or purpose. Furthermore, Section 36 expremly provides: "In case any of the provisions of this act should be declared unconstitutional, that shall not affect the validity of any of the other provisions of this act."

This logically brings us to a consideration which is that the entire act, so far as it relates to candidates for United States Senator, is void under the Constitution of the United States. Much of the argument of relator's counsel upon this branch of the case is based upon the assumption that the pledge feature of the law, when considered in connection with the provisions permitting the members of each political party to designate their choice as to Senatorial candidates, in effect operates as an election of United States Senators by popular vote instead of by the Legislature, as the Federal Constitution requires. Therefore, the pledge feature of the statute is eliminated because unconstitutional, much of counsel's argument ceases to have any force. It certainly cannot be contended that the provisions permitting the voters of each political party merely to designate their choice for Senator amounts to an election of such Senator, as it amounts to nothing more than the right of petition, a right of which they cannot be deprived. The Legislative member is in no manner obligated or required, except perhaps morally by reason of party support and fealty to vote and support the candidate of his party's choice as thus expressed.

Court Has Not Jurisdiction.

But, conceding, for the sake of argument, that the provisions of this primary law contravene the provisions of the Federal Constitution relating to the election of United States Senators, it by no means follows that this relator can raise the question or that this court has jurisdiction to pass upon it. The Federal Constitution provides, by Section 5, Article 1, that: "Each House shall be the judge of the elections, returns and qualifications of its own members. . . . . " Manifestly, therefore, the question whether a Senator has been elected in the constitutional way is not a judicial question for the courts to determine, but relate entirely with the United States Senate. If this court should decide that the provisions of the statute in question are constitutional, such decision would in no manner be controlling and the Senate could say that a person elected by our Legislature at the coming session was not legally elected and could refuse him a seat. The question is a Federal one exclusively and the tribunal to determine the same is designated in the Federal Constitution to be the United States Senate. This identical question was before the Supreme Court of Louisiana in the recent case of State vs. Michel, 46 So. 430, and the court very summarily disposed of the question as follows: "The next objection has reference to the promise which the voters at the primary are required to make that they will support the nominee. It is said that by this promise the nominees at said primary and members of the Legislature find themselves pledged to vote for the nominee of the same primary for United States Senator, and that that is contrary to the duty imposed upon them by the Constitution of the United State in voting for United States Senators. Suffice it to say on this ground that the engagement in question is precisely the same as that which the member of a political caucus enters into, and that no member of any Legislative caucus has ever thought that he violated his duties under the said provision of the Constitution by becoming a member of the caucus and binding himself to abide by the result."

No right is guaranteed to the citizen by the Federal Constitution pertaining to the election of United States Senators. Hence relator has no standing in this court to complain that the provisions of the primary law relating to the election of United States Senators is obnoxious to the Federal Constitution.

It is next contended that the law in question includes subjects not included within the title, as it amends the general election laws of the state. We are satisfied that this contention is wholly without merit. The feature of the law insofar as it relates to what shall be done at the general election, is clearly germane to the subject embraced in the title of the act. In fact, what takes place at the general election is merely a continuation of the party caucus or primary for the purpose of determining the choice of the two candidates receiving the highest vote of the June primary. The fact that it is conduced at the same time and through the same election machinery as to the general election conducted, does not make it a part of the general election. This was done for convenience and to save expense. It is merely the consummation of an incomplete party nomination. It is, therefore, strictly germane to the subject expressed in the title.

The case of State vs. Drexel, (Neb.), 105 N. W., 174, is cited as an authority in support of counsel's contention upon this point, but as we read the opinion, it is not in point at all. The court was then dealing with a section of the primary law, which read: "In no case shall the candidate of any political party be designated upon the official election ballot as a candidate for more than one political party, and shall be designated upon the official ballot as the nominee of the party in whose nomination his name appears as the political party with which he affiliates. This section, as the court held, did not deal with the question of a primary election at all, but with the makeup of the official ballot to be used at the general election, and hence was not germane to the title of the act. The question in the case at bar is widely different. But it is asserted by the relator's counsel that the provisions of the act, insofar as they relate to the general election, tend to destroy the secrecy of the ballot and hence are void. If their promise is correct their conclusion would be sound, but to our minds their argument is based wholly upon an erroneous interpretation of the law in question.

Parties Mixed in Primaries.

Counsel say in their printed brief: "All tests are required under the theory that party preservation justifies such tests as may be necessary to prevent members of other political parties from participating in the primaries of parties of which they are not members, and yet this section provides for the determination of the Republican candidacy for United States Senator by the act and vote of every elector of the state, whether Republican, Democrat, Socialist, Prohibitionist or Independent." They then quote the following portion of the statute: "The name of each candidate shall be placed on such ballot in the same manner as the candidate for state office and shall be voted for in the same manner." Counsel then say: "Every elector, when he presents himself to exercise his right of suffrage, must be tendered the separate ballot containing the names of the Republican candidates for United States Senator, whether such voter be a Republican or a member of any of the other parties. To pursue any other method would be wholly void and unconstitutional. Section 129 of the constitution of the state provides: 'That all elections by the people shall be by secret ballot subject to such regulations as shall be provided by law.' Such regulations would of necessity be only regulations consistent with the subject expressed, namely, secrecy. At the general election no voter could be questioned as to his intentions or as to whom he voted for or as to what his party politics were. For this is not a primary election. The primary election is based upon the theory that publicity is essential in order to preserve the party organizations, while the entire Australian ballot system, bsed at general elections, shall be proceeded with under the theory that all ballots shall be secret."

The language above quoted serves clearly to demonstrate that relator's counsel are laboring under a misconception as to the correct construction of the statute. As before stated, the provisions of the act relating to matters which shall take place at the general election with referance to determining the party choice as between the respective candidates for the United States Senate are as entirely separate and distinct from the general election as though they were to take place upon the following day after the June primary. And to say that the legislative intent was to place all candidates of all the parties upon one ballot is to impute to the Legislature a purpose to obliterate party lines and to ignore party organizations which they heretofore had so carefully safeguarded and preserved. When this statute as a whole is considered, it is entirely clear that the legislative intent was, namely, that a separate ballot should be used for the candidates of each political party where such candidate failed to receive 40 per cent of their party vote at the June primary. The wording of the statute is possibly susceptible of the construction assumed by counsel, but where reasonably permissible, we must give the language a construction which will effectuate rather than nullify the apparent legislative will and the whole act must be construed together in order to arrive at a proper interpretation. In the same section we find the following clause: "That in case no candidate receives 40 per cent of all the votes of his party . . . then the two candidates of each party who receive the highest number of votes cast at such primary election shall be placed on separate ballot to be voted for at the general election following." The word "separate" as there used, does not mean separate from the general ballot but it means separate as to each political party and the sentence quoted by counsel should be read as follows: "The candidate of each party to be placed on such separate party ballot under their proper party heading." This construction harmonizes with the balance of the act. This effectually disposes of counsel's contention upon that point. But a word with reference to the secrecy of the ballot at the general election. As we have said, what takes place at the general election with reference to recording the voter's choice as to his party's candidate for United States Senate is a mere continuation of the June primary and may be correctly said to be a part of the primary. This being true, the following provisions of the act are as applicable to such primaries held at the time of the general election as to the primary held in June. "The judges and inspectors of election when handing a ballot to a voter shall inform him that he must vote for the candidates of the political party such ballot represents only, and the voter shall call for the ballot representing the party or principles with which he affiliates and he shall receive such ballot and no other." Also, "it shall be unlawful for any person to call for or vote a ballot at the primary election herein provided for except a ballot representing the party or principle with which he affiliates, and any person who has reason to believe that the ballot called for by the voter does not represent the party or principle with which said voter affiliates, may challenge such voter and he shall not be entitled to cast his ballot unless he makes and files with the inspector of such primary election an affidavit to the effect that such ballot represents the political party with which he affiliates." The words "primary election" herein provided for," refer not only to the June primary, but to the continuation thereof held at the general election. If the above construction of the statute is sound, and we believe it is, then there is no room for the contention that the constitutional provision with reference to secrecy of the ballot will be infringed. Such a test applied to voters at a primary election is comparatively necessary to preserve the party organization and is everywhere upheld. The secrecy of the ballot to be voted at the general election is preserved just as effectually as though this caucus or primary was held on the day before instead of on the day of the general election.

With reference to the meaning of the constitutional provision as to a secret ballot, the Supreme Court of California in a very recent case said: "It is the secrecy of the ballot which the law protects, and not the secrecy as to the political party with which the voters desire to act. The primary law does not prevent him from voting secretly. We cannot preceive where this law exposes any person advocating doctrines distasteful to any section of the community to its enmity any more than such a person would be exposed if he cast his ballot at a primary election held under the direction of the party managers without control of the law." Katz vs. Fitzgerald, 93 Pac. 112.

Another point urged by relator's counsel is that the act is a delegation of power expressly granted to the Legislature. This contention is devoid of merit. In the first place it does not amount to a delegation of power. The Legislature still elects the Senator and the act merely gives the voters of each party an opportunity to express their choice of candidates. As we have heretofore observed, furthermore, it does in effect delegate such power, this relator is not the one to complain. As before stated, that is a Federal question with which the court has nothing to do. Again, conceding that it is a delegation of power, the Legislature, in electing a United States Senator, does not act in a Legislative way at all. It merely acts as an elective body and we know of no provision of our State Constitution which thus limits the Legislature.

Lastly, it is said that the act attempts to bind successive Legislatures. Our answer to this is that each Legislature has plenary power when not restricted by the State or Federal Constitutions and hence may repeal the entire primary law at any time it chooses to do so. Furthermore, it is not true, as stated, that the act thus operates. It does not bind the Legislature to do anything. It merely permits an expression of choice by the voters and by its provisions in effect provides a convenient method of exercising the constitutional right of petition. In Section 185, Bluck's Const. Law, in speaking of the right of assembly and petition as conferred by the First Amendment to the Federal Constitution, the author says: "The right secured by the Constitution extends only to petitions 'for the redress of grievances.' In respect, however to the privilege which attends petitions made in good faith and in a proper manner the term is one of wide import. It includes not only requests for the passage or repeal of laws, and for the removal of officers who have abused their authority, but also recommendations to office, remonstrances against proposed appointments or the grant of licenses and privileges, and demands for any sort of official action or forbearance."

Entertaining the foregoing views, it follows that the writ prayed for must be denied, and it is so ordered.

Mormons to Make Salt.

CHICAGO, Nov. 7.—Salt Lake City, the home of the Mormon Church, has heard the rumor that the Mormons are going into the salt business and have sent a representative to Chicago to close a deal for the holdings of the salt trust. According to the dispatch from the city in Utah, D. W. Clayton, manager of the salt works on Salt Lake, will negotiate the sale. He is said to have unlimited capital behind him. Joy Morton says that he has never heard of Clayton or of any attempt to purchase any of the salt properties in which he is interested.

NEGRO EQUAL IN CAFES

Washington, D. C., Court So Decrees but Doesn't Limit Prices.

WASHINGTON, Nov. 7.—A decision was rendered by Corporation Counsel Thomas yesterday that hereafter hotels, restaurants, cafes, ice cream saloons, places where soda water is sold and barber shops in the District of Columbia, will be compelled to serve colored persons in the same room and at the same price as white persons. The old plan, it is said, will be restored and undesirable patrons driven away by charging prohibitive prices. If a negro should float into the favorite collation-room of Upper Tendom and merely ask for a cup of coffee he will be politely informed that the beverage will cost him $2.55. If he wants a plain steak he will be notified in advance that the check will be $11.60 and with onions $16.25. The courts have sustained such tactics.

Buy Large Tract at Vale.

VALE, Or., Nov. 7.—(Special.)—H. R. Garrett and M. W. Smith, of North Yakima, Wash., purchased 54 acres of city property last week and organized the Vale Realty & Investment Company and have surveyed and platted the land into Nelsen's First Addition to Vale.

AILMENTS OF MEN

My Practice Is the Largest Because I Invariably Fulfill My Promises

There is a popular impression that specialists' fees are exorbitant. If such be true, we wish to state that it is not applicable to us. On the contrary our very large practice and unusual facilities for treating men enable us to offer the very best treatment inexpensively.

DR. TAYLOR, The Leading Specialist.

A physician is not entitled to his fee in advance. We are the only specialists in the West who conduct business on these principles.

NOT A DOLLAR ASKED FOR UNTIL A CURE IS EFFECTED.

This is not limited in time or conditional in character.

VARICOCELE.

Varicocele interferes with local circulation and the process of waste and repair throughout the organs involved. When neglected it brings total or partial loss of power and may even result in a wasting away of the organs themselves. I cure varicocele in one week. My method is absolutely painless, no surgical operation is involved, and there need be no detention from business. The lost tone and elasticity is restored and weakened and dilated veins vanish and normal circulation and health are again established.

My Fee in Any Uncomplicated Case Is $10 YOU PAY FOR CURES ONLY!

CONTRACTED DISORDERS.

Every case of contracted disease I treat is thoroughly cured; my patients have no relapses. When I pronounce a case cured there is not a particle of infection or inflammation remaining, and there is not the slightest danger that the disease will return in its original form or work its way into the general system. No contracted disorder is so trivial as to warrant uncertain methods of treatment, and I especially solicit those cases that other doctors have been unable to cure.

STRICTURE.

My treatment for stricture is entirely independent of surgery. A complete cure is accomplished without cutting or dilating. All growths and obstructions in the urinary passage are dissolved, the membranes cleansed and all irritation or congestion removed throughout the organs involved.

SO-CALLED WEAKNESS.

Perhaps the most prevalent of all ailments peculiar to men yields readily to the mild methods of treatment I employ.

"Weakness" is merely a symptom of local disorder, usually an inflamed condition of the prostate gland. This I overcome by a thoroughly scientific system of local treatment, and the full and normal degree of strength and vigor is permanently restored.

SPECIFIC BLOOD POISON.

Until the perfection of my system of treatment, specific blood poison (commonly known as syphilis) was regarded as incurable, and the limit of medical aid was to keep the disease dormant by the use of strong mineral drugs. I positively drive the last taint of poison from the system. My cures are absolute. Every symptom vanishes to appear no more. I use harmless blood-cleansing remedies only, such as were never before used in the treatment of the disease.

Those in any trouble suffering from SPERMATORRHOEA, VARICOCELE, HYDROCELE, BLOOD POISON or any other disease tending to destroy and disfigure and to render happiness impossible are urged to call upon me without delay.

NOT A DOLLAR NEED BE PAID UNTIL CURED

Consultation and Advice Free

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Private Entrance 234½ Morrison St

MARRIED WOMEN

Every woman covets a shapely, pretty figure, and many of them deplore the loss of their girlish forms after marriage. The bearing of children is often destructive to the mother's shapeliness. All of this can be avoided, however, by the use of **Mother's Friend** before baby comes, as this great liniment always prepares the body for the strain upon it, and preserves the symmetry of her form. **Mother's Friend** overcomes all the danger of childbirth, and carries the expectant mother safely through this critical period without pain. It is woman's greatest blessing. Thousands gratefully tell of the benefit and relief derived from the use of this wonderful remedy. Sold by all druggists at $1.00 per bottle. Our little book, telling all about this liniment will be sent free.

MOTHER'S FRIEND

THE BRADFIELD REGULATOR CO.
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MEN!

DON'T FAIL TO VISIT OUR

FREE MUSEUM OF ANATOMY

A complete exhibition of science and art.

Presenting a vivid and realistic study of the origin and development of the human race from the beginning to the end.

Also a figure study of health and disease in all its various phases, represented by life-size models in wax and papier-mache.

These lifelike models are the cleverest work of the foremost masters of the world.

Reader, you should see this great exhibition and note how wonderfully we are made.

CONSULTATION AND EXAMINATIONS FREE AND OUR CURES GUARANTEED

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For a complete cure in any simple uncomplicated case.

We cure Weakness of Men, Varicocele, Hydrocele, Nervous Debility, Blood and Skin Diseases, Sores, Ulcers, Swollen Glands, Kidney, Bladder and Rectal Diseases, Prostate Gland Disorders, and all Contracted Special Diseases of Men.

Men make no mistake when they come to us. We give you the results of long experience, honest, conscientious work, and the best service that money can buy. If you are ailing, consult us. Medicines furnished in our private laboratory from $1.50 to $5.00 a course.

If you cannot call, write for self-examination blank. Hours, 9 A. M. to 8 P. M. daily. Sundays 9 to 12 only.

OREGON MEDICAL INSTITUTE

291½ Morrison St., Between Fourth and Fifth, Portland, Or.

WHEN THE KIDNEYS GIVE OUT

Backache, Rheumatism and Bladder Troubles Make Life Miserable

Do you ever feel that you simply can't go any further—that you must have rest for that lame and aching back—relief from that constant dead, tired feeling—freedom from those stabbing, darting pains?

This is the condition that so often comes at middle age, bringing with it an extreme nervousness and irritability that makes others think you "cranky" and "hard to get along with."

Likely your kidneys are worn and tired and need help. In any machine there is one part that works the hardest and gives out first. The kidneys work night and day, removing from the blood the uric acid and other waste created by overuse of strength and energy. Naturally a life of unusual activity doubles the duties of the kidneys, and in time the strain tells.

With healthy kidneys, one has a good chance to live long, but weak kidneys afflict old age with great discomforts. The back becomes bent and lame, rheumatism is chronic, eyesight fails, and too frequent or involuntary passages of the urine cause embarrassment by day and loss of sleep at night.

Doan's Kidney Pills bring new strength to old backs and quick relief to weakened kidneys. They banish backache and rheumatic pain, and regulate the bladder and urine. When once a proper filtering action is restored through curing the kidneys, the dangerous uric acid is once more expelled from the blood, and danger of gravel, stone, dropsy, heart trouble, diabetes and Bright's disease removed.

Doan's Kidney Pills are for sick kidneys in old or young. There is not a particle of narcotic or poisonous drugs in this remedy. It is recommended publicly by thousands.

Portland Proof.

W. Jenkins, retured, 1110 E. Harrison St., Portland, Or., says: "Doan's Kidney Pills have been used by myself and other members of my family with entire satisfaction. Acute attacks of backache annoyed me off and on for some time and dull, dragging pains throughout the kidney regions made it difficult for me to attend to my work. The kidneys were badly out of order and the secretions caused me considerable annoyance. When Doan's Kidney Pills were brought to my attention, I procured a box and began their use. They brought relief sooner than I expected and I continued taking them until my trouble had entirely disappeared. From that time to this I have had continued freedom from any of my former annoyances and I cheerfully recommend Doan's Kidney Pills to all sufferers from weak or inactive kidneys."

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