



Site Selected, but Location Not Made Public-Large Tract Necessary-New Zoo May Be Modeled After Bronx Park in New York, if Sufficient Money Is Secured.



JETHER or not Portland is to have an up-to-date soo is the is more thickly settled and the resi-question now before the Park dents are annoyed by the noise of the Since complaints were recently

Board. made by residents near the park in regard to the animals being a nuisance to that neighborhood, the Board has ing the caged animals.

ered, but only recently was a site found, which will probably answer the The Board has not yet made purpose. ablic the location of the site.

No plans have been made in regard the size or style of the proposed buildings. The plan of the Board is to erect first-class, modern buildings and to increase the number of animals in the exhibit, making of it a large

dents in that neighborhood, but now it

Mm Mische says that the present zoo is conducted along the same lines as the zoos abroad; merely a "collec-tion." with no object in view collecsearch to the animals being a numaned o that neighborhood, the Board has een considering the matter of mov-ing the caged animals. Several locations have been consid-red, but only recently was a site and, which will probably answer the areful selection not a 'collection,' with definite policy as to what animals should be omitted, and what should

be secured. be secured. "That goo at the city park is like Topsy; it 'just growed.' Its first his-tory began with a few dogs which were kept out there. To these were added other animals, which were taken to the park to be cared for in the ab-sence of any other suitable place. Ad-ditions have been made from time to time until we have the present zoo. It was never planned nor intended; just happened." just happened." In order to make the new soo an at-tractive place, members of the Park Board say it will be necessary to ac-quire 200 or 400 acres, and at the same time it must be accessible to the public. just happened. run along in the same old way. They are totally unconscious of the great change in their life being planned, and "There is no doubt that most people will take a peculiar attitude in the are totally unconscious of the great matter of a new roo," said Superin-tendent Mische, "as a zoo always folcity park, there were only a few resi- I lows a fully developed park system. proaching-"moving day."

not only false, but wickedly and de-liberately false. Another favorite statement of these and other anti-assembly speakers in enumerating the various corporate interests who controlled the state assembly, was to mention Judge Carey as representing the great Hill interests. Judge Carey was not only not a delegate, but was not in Portland at the time. I am charitable enough toward Mr. West to believe that he would not have made these statements if he had positively known them to be false. I think he simply read them as having been made by others and adopted them as his own. It does occur to me, how-ever, that a man who talks about taking a shotgun to others for misrepre-senting him ought to be a little care-ful about the statements he makes

with reference to one who has always een his friend.

Now, I do not wish to be misunder-stood with respect to these matters. I am not apologizing for my action in taking part in the assembly. I agree that assemblyism in Oregon is dead, at least for a long time, but I did not believe and do not believe now that it is possible under the free-for-all syswithout any convention or assembly to confer together, to nominate a ticket composed of decent and repu-table men, and I think the experience so far of the people of Oregon and Multnomah County will bear me out in this. There never was a boss even of Tammany so utterly depraved as to place men on a ticket with the record and the character of several of the nen pommated on the anti-assembly ticket at the recent primary election. The legislative ticket which was nominated two years ago was bad enough, but not so bad as this.

It was said that the assembly was against the direct primary. That state-ment was also untrue so far as I am informed and believe. I do not think

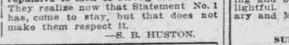
Results Are Uncertain Under

Impracticability of the People Making Radical Changes.

there were a dozen men in either assembly who would have favored the re-peal of the direct primary at the pres-ent time. They did believe, with Govent time. They did believe, with Gov-ernor Hughes, ex-President Roosevelt and President Taft, that it ought to have the convention system engrafted upon it, the convention being advisory and the final primary being in the na-ture of a vote upon the action of the convention. They did believe in the passage of some law that would pre-vent Democrats invading the Republi-can primary by the thousands as they can primary by the thousands as they did in the recent primary, but this it seems can never be. The anti-assembly people will never agree to it for obvious reasons.

It was said that the assembly wa

against Statement No. 1. The charge was true. The assembly was made up principally of men who had convictions and who were not of the class of the school teacher who, when asked by the Board of Directors on applying for the Board of Directors on approach to teach school whether he proposed to teach that the world was round or flat, an-swered: "I teach either round or flat as the Directors desire." They were not men who believing in the gold not men who believing in the gold standard were willing to cast their votes as legislators to send a free sil-ver man to the United States Senate, and it was hard for them to have very much respect for a man who was so anxious to go to the Legislature that he was willing to asrea to cast his anxious to go to the Legislature that he was willing to agree to cast his vote to send a man to the United States Senate whose opinions were the direct opposite of those of the legis-lator himself. They were perfectly willing and fayored the plan of a leg-islator pladging himself to abide by the choice of his party, but the idea of a man pledging himself to vote for one of the opposite party was and is one of the opposite party was and is repulsive to men of strong convictions. They realize now that Statement No. 1





Is the place to visit. Orange groves in full bloom, tropical flowers, famous hotels, historic Old Missions, attractive watering places, elightful climate, making this favored section the Natio

Can be given its own intrins an sound-ings. When it comes to the moving of the animals, there will no doubt be con-siderable interest aroused, especially among the small boys. How will the animals be moved? is being asked by many. Some have an idea that this is to be a very difficult task, but Mr. Mische explains that it will be very structed.

aimple. A large strong cage will be used, which will be placed next to the animai's regular cage from which he will be driven into the temporary cage. The doors will then be crosed and the The doors will then be closed and the cage placed on a moving truck. This programme will be carried out with each and every animal. The lion and the buffalo will be a little hard to handle, while the elk will have to be transferred when his horns are off. At the present time there are in the park 405 birds, including engles, owls, narrots canaries etc., and 175 animals.

parrots, canaries, etc., and 175 animale. Of the latter number 106 are guinea pigs. These no doubt will be moved, and will be "charter members" of the

was not planned, so far as I know because men on the committee who

were for Bowerman insisted upon the selection of other men for delegates who were known to be friendly to other

gatherings, who had some selfish in-

terest to advance, but the great ma-jority in the county assembly and in

the state assembly in my judgment

were honest sincere men, anxious only to advance the interests of the Republi-

But referring again to personal mat

and in

At the meeting of the Oregon Bar | has imposed upon it two kinds of duties Association last Thursday Frederick Association last Thursday Frederick V Holman, its president, read an ad-dress on the uncertainty of results under which it exercises police powers; the other is private or proprietary, in under which it exercises police powers; the other is private or proprietary, in which it is as a legal individual. It is which it is as a legal individual. It is the latter capacity in which it owns its waterworks, and it is liable for negli-gence as a private gon constitution and pointed out prob-able danger into which they would lead this state. It was a lawyer's adgence as a private corporation or an in dividual is." . . .

dress to lawyers, yet popular in its bearings. The address will no doubt be published in pamphlet form for Mr. Holman quoted several decisions of distribution among members of the association. Mr. Holman has small confidence in

direct legislation, as witness this: "And so it came about that without changing the voters, except by numchanging the voters, except by hum-bers, as Oregon is a rapidly growing state, the people who supposed they could not govern themselves by a rep-resentative form of government, to which they were accustomed, adopted

which they were accustomed, adopted a democratic form of government, of which they knew nothing as to its workings, evidently believing that as they were incapable of electing proper representatives they were capable of enacting their laws by popular vote, and as conditions were unsatisfactory and as conditions were unsatisfactory they could be bettered by upsetting the existing order.

"But the result, partly at least, must be disappointing to these theorists, for the crudity of these popular amend-ments to the constitution and other en-actments has been such that they have been amended by the courts-practical-be berighting amendments by decily legislating amondments, by deci-sions-to make these enactments work-able. Fortunately, perhaps, the initiaviz., the Legislature and the people tive amendment of section 2 of article XI of the Constitution relating to city charters dtd not provide against their amendment by judicial decisions, but amendment by judicial decisions, out only by the Legislature. And this sug-gests whether a further amendment to the initiative provisions of the Oregon Constitution might not be made by abolishing the Legislature and giving Discussing Justice King's decision in this case, Mr. Holman declared: "Instead of two lawmaking bodies there would seem to be three, or, pos-

sibly four. "First-The Legislature,

a determined.

geo conducted on up-to-date lines. The buildings, say the Board, will be of ornate design, substantial and with steam-heated cages, and improved fa-clitties for feeding the animals. "We should like to pattern the new goo after that of Bronx Park, New York," said E. T. Mische, superintend-ent of parks. "The cost of buildings, grading and improvements will be anyto conducted on up-to-date lines. The

ent of parks. The cost of outloings, grading and improvements will be any-where from \$15,000 to \$160,000. But before we take steps to establish a new zoo and move the old one, we must have definite plans as to just what will ta

are going to do. noo was started at the tendent Mische, all legislative power to the people and to the courts, as is the case with amendments to the Constitution."

The address was confined mainly to the enactment and amendment of c ters of citles, towns and other munic-lpal corporations and the decisions of courts in relation. thereto. Mr. Hol nan called attention to the uncertainty and confusion relative to the per-centage of voters required for filing initiative and referendum petitions, and showed how these affected direct legislation subsequent to the amendment of Section 1, Article IV of the Ore-

gon Constitution as voted June 2, 1902. He called particular attention to the law as established on the following

powers and subjects, viz.: First-The law of eminent domain. Second-The power to grant fran-chises and the control of highways. Third-The law relating to bridges on navigable rivers wholly within a state.

Mr. Holman quoted numerous well-known authorities on eminent domain

"The right of eminent domain is not inherent in a municipal corporation, nor is it granted, nor can it be exer-cised merely by implication. It must be granted by the Legislature, unless

doing by the Constitution, or by the constitution of the state, by express ternis or by a necessary implication equivalent to express terms. Eminent addivation to express terms. Enfinent domain being an incident of sover-eignty, its exercise can; be granted by the states to municipal corporations and quasi-public corporations. Of course, the people of a state can deter-ming the people of a state can determine the exercise of this power by means of proper provisions in its con-stitution. There are no express provisions in the Oregon constitution giving this power and it therefore rests wholly in the Legislature, unless Sec-tion 2 of Article XI, as now existing. the right to exercise such grants power. The only power given is as

follows: The legal voters of every city and town are hereby granted power is smact and amend their charter, subject to the con-stitution and criminal laws of the State of Deeron.

Mr. Holman quoted Supreme Court de-cisions in the following cases: Dalles Lambering Co. vs. Urquhart, 16 Oregon, 67; Bridal Vell Lumber Co. vs. Johnson, 30 Oregon, 205; Huddeston vs. Rugene, 30 Oregon, 245; Grand Ronde Electric Co. vs. Drake, 44 Oregon, 246.

He added: "It will thus be seen that the Oregon

Supreme Court had established the doc-trine that under the constitution of the state the right of eminent domain 'can he exercised only by legislative authority," and thus made it a part of the Oregon constitution. It would seem that at the time of the adoption of the amendment of Section 2, Article XL of the Constitution, in June, 1906, that the power of the legal voters of a municipal corporation 'to enact or amend their municipal charter, subject to the constitution,' did not give the power of such voters to give a municipality the such voters to give a municipality the right to exercise the powers of eminent domain, and that such powers could be conferred only by the Legislature or an amendment to the Oregon Constitution, especially as the Oregon Supreme Court, in Straw vs. Harris. 54 Oregon 424, held that the Legislature, by a general law, ways of our time alter amend or even 'may at any time alter, amend or even repeal any or all bf the charters within it,' and can thus still give to municipal-

lities the right to exercise the power of eminent domain.

"Second - The people of the whole

"Third-The people of a municipality. "Fourth-The Common Council or Commissioners of a municipality. "The holding that the people and the Legislature may each 'enact any law

and may even repeal any act passed by the other,' shows to what a dangerous condition these initiative amendments of the constitution have brought the State of Oregon. It is a condition sim-liar to that which would occur if the sole legislative body of a state was composed of two houses which did not have to concur to enact a law, and each could enact laws to the exclusion of the other 'and even repeal any act passed by the other.'

"Suppose that in the State of Oregon two antagonistic acts were passed, one by the Legislature, the other by the people, and these two acts went into effect the same days, what would be the result? It would be like the celebrated case of an irresistible force meeting an immovable body. Will not the Legislature become as useless as a vermiform appendix is to a human being? It may have some functions but it is mostly a menace-but a source revenue to doctors political? Would not be well to cut it out before it becomes dangerous?'

The next question taken up was municipal Indebtedness, which the Su-preme Court has not yet passed on. "Section 5 of Article XI of the Con-

stitution of Oregon is as follows: 'Acts of legislative assembly incorporating towns and cities shall restrict, their powers of taxation, borrowing money, contracting debts, and loaning their credit.' Probably when provision is made allowing cities and towns to be incorporated which are not now in existence, this clause will not apply to them for the reason that they are not incorporated by an act of the Legislature

"But the question arises in cities which were incorporated by special charters by the Legislature and were in existence at the time of the adoption of the initiative amendments in 1906, whether this Section 5 of Article XI is repealed by implica-tion by the amendment of Section 3 of Article XI of the Constitution. It would seem as a matter of law that said Sec-tion 5 of Article XI is a limitation upon the power of a city to contract inde ness where such a provision was in its charter at the adoption of the initiative amendments in 1996.

"The legal voters of the City of Portland have acted on the assumption that this Section 5 of Article XI was repealed by these amondments. these amondments. It is but addi-al evidence showing the imprudence f initiative measures when such a question is left in doubt.

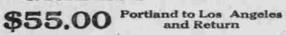
"If Portland should cause a bridge to be erected at each street or most of the streets abutting on the Willamette River it would practically confiscate all water front on the Willamette River as far south as the rapids at the mouth of the Clackamas River. But what will the Fortland people say if a city or town be-tween Portland and the mouth of the Willamette should erect enough bridges practically to interfere with or prevent ships coming to Fortland? It might bo desired by owners of properties along Columbia Slough to have this done and make all shipping use that slough when it is deepened by dredging, to the exclu-sion of the harbor at Pertland."

Mr. Holman took up the question of the granting of franchises, discussed conflict-ing decisions and concluded: "Such "It must not be forgotten that a city franchises when granted by a city and popular retreat. You can see this section at its best via the

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accepted by the grantee could not be individual members of the association revoked by the Legislature or the ple.

COAL-RATE CASE ENDED

Long and Short-Haul Settled, Colo-

rado Suit Dismissed.

nissed the complaint of the Colorado

which were dismissed, concerned the rates on bituminous coal from the Walsenburg district in Southern Colorado to Kansas and Nebraska. As to the long and short haul phase of the controversy, whatever the merit of the contention might be, the Commission declined to make any order at this time.

The greater charge to intermediate stations than to the more distant sta-tions over the same line in the same direction will become unlawful on the WASHINGTON, Nov. 19.-Declaring that except for a charge of deviation from the long and short-haul section, expiration of six months from August 17, last, unless the railroad in the meantime apply to the Commission for the case presented no question not previously disposed of in the Cedar Hill Coal & Coke Company case, the Inter-state Commerce Commission today disauthority to deviate from the prescrib-ed rule, which the Commission would promptly investigate.

Commercial Traffic Association against the Colorado & Southern Railroad and

thera. The complaint, like the ones of the lines in 1960 to \$5,552.052 list year

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S. B. Huston Tells Some Facts in Refutation of Palsehoods Used by the Bourne-Chamberlain Combination During the Campaign and Incidentally Touches Upon Statement No. 1.

THE RECENT PRIMARY AND ELECTION

OBSERVATIONS AND REFLECTIONS ON

DORTLAND, Nov. 18 .- (To the Editor.) wards elected delegates to the state con-A great many things were stated vention, told me that they voted for Dr. was not a representative body. Out of A great many things were stated the hundred, and ten selected by the on the stump and printed in news- Andrew C. Smith. committee, about 60 were favorable Second-It was printed repeatedly and the candidacy of Dr. Smith, but that

maners during the recent primary election i papers during the recent primary election is and prior to the election concerning the assembly, some of which were trues and some of which were utterly false. I do not know that it matters very much and yet it occurred to me that now wince election is over and the verdict of the people is adverse to an assembly, to which werdict we all how notwith-standing our judgment may be other-mines the fourth of them mattures much and not be fourth of them mattures and no man, corporation or otherwise, ever asked wise) the fruth of these matters ought than they were prior to the election.

First-It was repeatedly printed in the Portland Democratic organ and other newspapers and stated from the stump ubly speakers that typewriten lists of delegates which were desired to be selected from the various products to the assembly were prepared at Repubto be selected from the various precincts to the assembly were prepared at Repub-lican beadquarters and sent out to the various precincts. Sometimes it was stated that they were sent to all of the precincts and sometimes that they were sent to most all of the precincts; that these lists which were sent out were all for Mr. Bowerman, etc. Now, of course, I cannot say as to what hapall for Mr. Bowerman, etc. Now, of course, I cannot say as to what hap-pened in other precincis, but I know that the statement, so far as it applied to the precinct in which I vote, was abwithout any foundation whatwer. When the Republicans met at the poolsted time there were about 25 or 30 ell-known Republicans of the precinct. here was no sinte present. typewritten or otherwise. There was no discussion with reference to whom a certain man was no discussion uld favor for Governor or any other office if he was elected, but the question discussed was, who can attend if he is posed, but declined upon the ground that they could not attend and as no proxies know who the various members of our delegation favored for any office. I did not know up to the time we cast our ballot and do not know now except that some of these gentiemen, who were afterknow who the various members of our

candidates. The truth is that we were all, so far as I know, anxious not to advance the interests of any particular man but to make the assembly a success. We were anxious to get the strongest ticket possible. We did not man, corporation or otherwise, ever asked to be stated and the false statements mot allowed to go absolutely uncontradicted. There being no object now, real or sus-pected, in false statements about the matter, probably the people are more in a mood to know and believe the truth a mood to know and believe the truth than they were arise to the absolut. believe that under the free-for-all sys-tem advocated by the anti-assembly people Republicans could elect a Gov-ernor or a United States Senator in Oregon. We may have been mistaken but one thing is sure, they haven't been able to do it so far. It is, of sppoint certain men upon committees, or to do something of some kind that would in some way favor their interests, course, probable that there were men in that assembly, as there are in all

would in some way into her her eug-but I say that no living man ever sug-gested to me any course of action, any particular act or thing that I should de if elected chairman. What made it more ridiculous was the fact that it was as-ridiculous was the fact that it was as

Third-It was freely stated that there was a cut and dried slate not only in the county assembly but in the state DADY. assembly; that everything was all fixed and the delegates were marks branded, and so forth and so on. marked and and the delegates were marked and branded, and so forth and so on. Now, I took quite an active part in the coun-ty assembly as well as in the state assembly. In the county assembly I was the chairman of the Multhomah County delegation. At no time during the progress of either of these assem blies did I ever see any slate or have any knowledge of the existence of any slate, and I do not believe there was

for Governor or for any other office.

ters. Judge McGinn repeatedly stated that Mr. Stapleton and myself and oth-ers were there representing great corporate interests and public service corporations, etc. etc., and particularly the Portland Railway, Light & Power Com-This was afterwards repeated by Mr. West at various places throughout the state. I cannot speak for the others, but so far as I am concerned the statement was not only faise, but was absolutely without any justification whatever. In the past I have been concorned in litigation with the Northern Pacific Railway, the Southern Pacific Railway, the O. R. & N. Company, and the Portland Railway, Light & Power Company, always against them, never for them. At the very time when Judgo McGinn and Mr. West were making Company before the City Council over the adoption of the Nelson fenders, and this was known to everybody who read

can party.