

REHEARING ASKED IN ST. JOHN'S CASE

City Attorney Grant Files Petition and Replies to Decision of Supreme Court.

INJURY TO CITIES CITED

Letter of Law, but Not Spirit, Held to Have Been Observed—More Liberal Construction of Measure Asked.

Taking exception to the decision of the Oregon Supreme Court, in the case of R. W. McKean and others against the City of Portland, in which the consolidation of St. Johns and Portland as voted for by the people in 1910, is held illegal, City Attorney Grant has filed petition for a rehearing.

The petition is based on the opinion of Attorney Grant that in making the decision the Supreme Court dealt with the letter of the law and not the spirit. Reply is made to both of the propositions mentioned in the Supreme Court decision, the first that the power to repeal a municipal charter is not within the municipality itself and the second that the consolidation of St. Johns and Portland repeated the charter of St. Johns.

Decision For Rehearing.

"These propositions are of exceptional importance," says Attorney Grant in his petition. "They are far reaching in effect and fraught with disastrous consequences for a number of localities because of consolidations of municipalities attempted and supposedly effected by proceedings substantially the same as those here condemned. Besides, if it be the law that only by a vote of the people of the entire state can contiguous municipalities be consolidated, the situation is extremely unfortunate for many reasons. The people of Eastern and Southern Oregon, for instance, will take little or no interest in the question of consolidating the cities of Portland and St. Johns, and yet it is a matter of very great importance and concern to the inhabitants of these municipalities and it has been made manifest that a majority of both favor the proposition. It seems much to them in many matters of purely local concern. They understand every question and problem involved. The remainder of the state neither understands nor cares about any of them, and yet to those who do not understand, do not care and will not seek to be informed, must the question be submitted.

People's Wishes Not Carried Out.

"If, however, such is the constitution, this court can only so declare, but I respectfully submit that it is quite manifest the people did not intend so to frame the constitution and that instrument should not be given a construction so evidently at variance with the purpose of its framers and certain to lead to consequences vexatious and harmful, if not disastrous, in many localities. If it will admit of a construction that will render its provisions more in harmony with public sentiment and more adaptable to the constantly changing conditions of a rapidly growing commonwealth, I agree with the court that neither the voters of a municipality nor the Legislature can repeal a municipal charter. My contention is that the power to repeal which is denied to the Legislature and withheld from the voters of municipalities, is that repeal which would entirely deprive the people of a municipality of municipal government.

How Power is Limited.

"The power prohibited to the Legislature is the power to 'enact, amend or repeal' while the power reserved to the voters of municipalities is to 'enact and amend their municipal charter,' which, I submit, does not include the power to repeal one charter without substituting another.

"Clearly then, aside from an absolute repeal of their charter, every character of municipal legislation, every amendment, change or modification of their municipal government, may be made by the voters of a municipality. They can add to or restrict the municipal powers to be exercised; they may change their form of government and their municipal name, extend or circumscribe their municipal boundaries.

Court Asked to Reconsider.

"Why then, may not two contiguous municipalities consolidate? Would that be in effect the repeal of either charter? In a sense it would, I concede, but not in the sense that the power to repeal is withheld from municipalities. Therefore most earnestly urge that in the interest of the people of this state, in the interest of every

LENTS CHILDREN MAKE BEAUTIFUL PLAYGROUND OF DESERTED GRAVEL PIT APPROPRIATED BY COUNTY COURT



Enjoying Refreshments After A Half Day's Work



Playground Builders in Line For Lunch.

CHILDREN SHOW VIM

Lents Youngsters Work on Playgrounds All Day.

BRUSH IS CLEARED AWAY

Six Acres Surrounding Deserted Gravel Pit Will Be Made Into Place Where Young Persons Can Play Games.



County Commissioner Lightner, Playgrounds Advocate, Viewing Work

Rallying to the playgrounds cause in Lents, 200 children got out with shovels, axes and other kinds of tools yesterday and began active work on the improving of six acres of land surrounding a deserted gravel pit, which has been turned over to the children by the County Court through the action of County Commissioner Lightner. Working on a plan laid out by residents of Lents and vicinity, the children did a great deal toward shaping the playground out with an attractive park on one end and a good-sized baseball diamond and athletic field on the other. The work will be continued each Saturday until the project is complete.

The work yesterday was confined to clearing off underbrush and laying out walks. The boys wielded axes and shovels in cutting out the underbrush and the little girls carted the brush off to fires, which were set early in the morning and kept burning until night. Older people kept busy during most of the day arranging attractive walks and selecting places for benches and lunch tables and arranging the baseball diamond and athletic field.

Workers Partake of Luncheon.

The children began work with a vim. There were no drones in the crowd, everybody working with a will and as fast as possible. The only lull in the proceedings was at noon, when the women of the neighborhood prepared an excellent lunch for the workers. There was a wild scurrying for the trees under which the "handouts" were arranged, and there was an interesting

scene when the youngsters all sat together and feasted. As soon as the lunch was over everybody was back to work and there was no quitting until the day was gone.

As a result of the day's labor a vast amount of underbrush was taken out and small trees which were in the way of paths being the athletic field were cut down and the stumps grubbed out. There is still considerable work left before the entire tract will be free from brush.

Tract Once Gravel Pit.

The tract has belonged to Multnomah County for many years, having been secured for a gravel pit. For years gravel was taken from one end of the tract and used in road construction. When the county started to build macadam roads and discontinued the use of gravel, the pit was abandoned. Children have used the tract for play purposes more or less since, but no improvements have been made. Commissioner Lightner conceived the idea of turning the tract over to the children for a playground about two weeks ago, at which time he took the proposition up with other members of the County Court. The children were notified of the favorable action of the court and work was begun at once.

Commissioner Lightner is giving what assistance he can. He has arranged to put a fence around the hole where the gravel was taken when the pit was being used. This fence will prevent children and others from falling over from the playground into the pit. A county steam roller, which is working on the roads near Lents, will be sent to the playgrounds to roll down the athletic field, and the Road Supervisor of the Lents division will assist the children in removing stumps from the ground.

The new playground is situated a short distance from the Lents school. The athletic field will be used by the teams of the school for all kinds of sports and gymnasium work. Trapeze poles, rollers and swings will be installed and numerous benches and tables will be provided under the trees.

There is an increasing shortage in the amount of hardwoods produced in Canada, and the deficiency is being made up by importations from the United States, the value of which has now reached \$7,500,000 annually. The principal species are oak, hickory, tulip, chestnut, gum, walnut, cherry and hard pine.

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COLONIST RUSH NOW ON

GREAT NORTHERN HANDLES 6000 IN 25 DAYS.

Western Immigration Agent Declares Exhibition Cars Now in East Are Proving Big Advertisement.

Colonist movement to the Northwest continues at a satisfactory rate, says Fred W. Graham, Western Industrial Northern Railway agent, who was in Portland yesterday. His advice from Eastern offices of the Great Northern indicate that the movement will be heavier this year than last year.

Up to the present time it has been retarded by the cold weather in the East and Middle West, he says. Reports from Eastern immigration agents show that the traffic through the balance of the season will be heavier. There is a great demand for information and rates to the Northwest. During the first 23 days of the period the Great Northern handled 6000 persons to Northwestern points on colonist rates. There is an unusual demand for information regarding small farms adjacent to Portland. Inquiries continue to pour in heavily.

The two Oregon and Washington exhibition cars now touring the Middle Western States are attracting many people to Oregon. The car was at Lincoln, Ind., yesterday. Hundreds of people coming to Oregon in the last few

months have declared that they were influenced by the exhibition cars and the possibilities presented by them. Activity of the Western States, says Graham, also has caused the Eastern States to advertise their lands. As a rule land in the East is cheaper than it is in Oregon and Washington, he says. There is a noticeable increase in the number of poultry raisers coming to the state, according to the Great Northern's records.

PLEA MADE FOR YOUTHS

Sunday School Head Discusses Boys' Religious Training.

William I. Lawrence, of Boston, president of the Unitarian Sunday School Society, having charge of the Unitarian Sunday schools in the United States and Canada, was the guest of the Unitarian Men's Club at a luncheon Friday night at the Y. W. A. About 40 members of the club were in attendance. William F. Woodward, president, and speeches were made by Mr. Lawrence and Dr. T. L. Elliot, pastor of the Unitarian Church of Our Father. Mr. Lawrence spoke on the relation of the man to the problem of the moral and religious education of the boy.

Friday afternoon he had a conference with the Unitarian Sunday school teachers. Mr. Lawrence arrived in Portland Thursday evening from Salem, and was tendered a reception at the Unitarian Church that night. Speaking to those assembled, he urged that parents take more interest in Sunday schools, that teachers be more faithful in attendance, and that care be taken to have the children's de-

partment of the school in a properly lighted and ventilated room. Yesterday morning Mr. Lawrence left for Hood River, where he preaches this morning. In the afternoon he will return to Portland. At 8:20 this evening he will speak to the Young People's Fraternity at the Church of Our Father, and later he will preach at the evening services.

How to Clear Land is Topic.

Plans for a logged-off lands congress for discussion of methods of clearing and putting in preparation for settlement, logged-off lands in Oregon will be considered at a luncheon of business men called at the Commercial Club by President Piper, G. F. Johnson, of the executive committee, and C. C. Chapman, of the promotion bureau, for noon tomorrow. A committee will be appointed to make arrangements for the congress, which is expected to prove of great value in educating the people of Oregon on the resource at their disposal in the logged-off lands of the state.

Court to Convene at Pendleton.

Judge Bean will convene a term of the United States District Court at Pendleton Monday and it is expected to last not over two weeks. During his absence the court of this district will be presided over by Judge Wolverton, who has returned from sitting in the United States District Court of the Northern District of California. United States Circuit Judge Gilbert also has returned from California to his home in Portland.

VIEW OF PROMINENT FIGURES IN HICKS MURDER TRIAL, SPECIALLY POSED FOR THE OREGONIAN DURING A RECESS PERIOD.



Judge Gatens on Bench; to His Left, Seated, Bailiff Hulford; Standing Beside Hulford is the Defendant, Burt Hicks; back of the Defendant are His Attorneys, John F. Logan, Dan J. Maloney, John H. Stevenson and Chris A. Bell, the Last Named Standing Almost Alongside and on the Same Level as Hicks—W. M. Davis and John A. Jeffrey, Special Prosecutors, are Seated to the Left of Judge Gatens as the Picture is Viewed. Mr. Davis With His Arm Resting on the Judge's Desk and Mr. Jeffrey Standing at His Elbow—The Jurors are Seated in Two Rows of Six Each Immediately in Front and Below the Judge, and Deputy District Attorney Fitzgerald is Seated at an Attorney's Table on the Left With His Hand on the Back of a Chair and Facing Across the Room—Mrs. Hicks is Seated Next to the Man Underneath the Calendar, and the Defendant's Daughter, Miss Lillian Hicks, is Farthest in the Corner—The Older of the Two Men Seated at the Table in Front of the Jury is A. M. Butler, the Official Reporter—Taking of Evidence, Which Was Suspended Yesterday Because of Juvenile Court, Over Which Judge Gatens Presides, Will Be Resumed Monday Morning at 9:30.

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