

FAIL TO COMPLY WITH ELECTION LAW

Vacancy Caused by Resignation of Senator McGinn May Result in Unseating of Candidate to Be Chosen—Statutes Defective.

While reading over the election laws yesterday, County Clerk Frank S. Fields made the important discovery that, through an oversight, the law has not been complied with as regards the special election for state senator to fill the vacancy caused by the resignation of Attorney Henry E. McGinn. The error is of such a nature that in the event of a Democrat being elected to the office a Republican senate could make it the excuse for refusing to seat him.

The mistake is now irremediable, as the time limit in which notices should have been sent out to judges and clerks of election expired Friday evening. To all appearances the mistake was perfectly natural, and nothing points to design on the part of any official.

Petitions Are Filed.
Attorney McGinn resigned his office as state senator about three weeks ago. The respective state central committees selected Attorney Isaac Sweet as a candidate for the vacant seat on the Democratic ticket, and Dr. Henry Waldo Coe as the Republican candidate. Their petitions were filed within the time prescribed by law with County Clerk Fields. Governor Chamberlain sent written word to Sheriff Storey about 10 days ago, to the effect that under the law he would be required to notify each of the judges and clerks of election that a special election would be held June 6 to fill the vacancy caused by Attorney McGinn's resignation. The legal provision under which the governor acted is contained in section 3,544 of Bellingham and Cotton's annotated codes and reads as follows:

Wrong Section Applied.
"When any vacancy shall happen in the office of a member of the senate or house of representatives by death, resignation or otherwise, and a session of the legislature is to take place before the next biennial election, the governor shall issue a writ of election, directed to the sheriff of the county in which such vacancy shall occur, commanding him to notify the several judges of election in his county to hold a special election to fill such vacancy or vacancies at a time appointed by the governor."

Law Closely Studied.
On account of the wording of the section, Mr. Fields neglected it to close scrutiny, and arrived at the logical con-

clusion that as no session of the legislature precedes the next biennial election, the law does not apply in the present instance. He made a further investigation and discovered that the situation is covered by section 2,765 of the codes, which in a certain measure seems to conflict with the other section. The text of the pertinent part of the section follows:

"It shall be the duty of the county clerk, 30 days before any general or presidential election, and at least 10 days before any special election, to prepare printed notices of the election and mail two of said notices to each judge and each clerk of election in each precinct; and it shall be the duty of the several judges and clerks to immediately post said notices in public places in their respective precincts."

Letter Causes Error.
Had the special election for state senator not been concurrent with the general election, County Clerk Fields would doubtless have made a searching investigation into the matter. As it was, he was misled by the letter sent Sheriff Storey by Governor Chamberlain, and supposed that everything required by law had been complied with. If the notices had been sent out by the sheriff, however, the intent would have been clear to comply with the law, and no question could have been raised as to the eligibility of any candidate to take his seat if he received a majority of the electoral vote.

"I do not believe that any serious damage has been done," said Mr. Fields. "If a Democrat should be elected, it is doubtful if the senate would take advantage of such a technicality and make it an excuse to refuse him a seat. The senate, of course, is the sole judge in such matters, and might refuse a man his seat with no good reason at all, even of a technical nature, and it is doubtful if the elected nominee would have any recourse."

Time Limit Expires.
"If the special election had not been concurrent with the general election, I should have investigated the proposition long ago, and notices would have been sent out. As matters stood, the letter of Governor Chamberlain to Sheriff Storey, which I heard explained in court, caused me to think that everything would be complied with within the law limits. The governor probably ran across section 3,544 first and read it hastily, forming the conclusion that it covered the situation."

In order that no loophole could be taken advantage of as an excuse to refuse a seat to the nominee receiving the highest number of votes, it would be necessary that the notices should have been sent out Friday.

MAIL CLERKS HOPE TO WIN BATTLE LARGEST PRACTICE IN PORTLAND

PRESIDENT KIDWELL, OF NATIONAL ASSOCIATION, TELLS OF LONG STRUGGLE TO SECURE SAFE CARS AND PAYMENT OF \$5,000,000 EXPENSE CLAIMS.

Right royally did the members of the local branch of the National Association of Railway Postal Clerks entertain J. A. Kidwell, president of the association, yesterday. It was his first trip to the coast and everything was done to make it pleasant.

He arrived in Portland Friday night and was met by a committee from the



J. A. KIDWELL.

local branch who escorted him to the Portland Hotel. Yesterday he was given a trolley ride over the city in a special car.

The Women's Auxiliary of the association gave an elaborate open air luncheon at which Mr. Kidwell, after luncheon, addressed his brother clerks, telling them of the work and hopes of the association. There were 70 people at the lunch.

In an interview last night Mr. Kidwell said:

"Our organization is the only one absolutely necessary to the business interests of the country, and one that could not be replaced by other workers even after months of training. Postal clerks have to be tutored for months before they can assume their duties, and were the 10,000 clerks in the service or the 8,000 in our organization, to strike there would be a cessation of business and no one could take our places."

"But there is no danger of such a crisis. Though closely bound together, and though we have a powerful organization, we do not seek to secure our ends by force or by direct demands. A direct order from the chief executive forbids any government employee from seeking to secure an increased salary and we must work through our congressmen, through the press and through the various avenues left open to us. We do not even strive to secure new members through force, but treat the clerks who are not members of our organization as good fellows and comrades and in time they join our ranks."

"It took us 14 years to get the salaries of two of our offices raised back to the figure they were allowed before the cut in the 70's, and it will take many years more to accomplish all we wish, but slowly we will gain our just demands."

"What are we working for at present? Well, we have a suit before the national court of claims for our expense money and we are after that. Congress passed a law to the effect that certain government employees when absent from their headquarters should receive traveling and living expenses. All the classes included in the act have secured this except the railway clerks and we are trying to force our way through the act. If the claim is granted, the back payments will have to be made amounting to \$5,000,000 and the daily expense account of the clerks amounting to more than \$4,000 will have to be paid. One of our chief objects is to fix an age limit for the cars we daily risk, our lives in."

"Our organization last year paid out \$54,000 for dead clerks and \$57,000 to men so severely injured that they will not be able to work again. Fully a third of these cases were due to defective and rotten cars."

WILL TAKE RAISSULI

(Continued from Page One.)

Intrepid was sent in and when her brave crew blew her up all were lost. This act practically put an end to the piracy along the coast.

In 1866 William Eaton, American consul at Tunis, acting with the sanction of the government, allied himself with the right-bashaw of Tripoli and led an expedition a thousand miles against the reigning bashaw, who had murdered his father. Seventy American seamen were in the expedition and the government forces of Tripoli were scattered. This ended the four years' war.

After the war of 1812, and at various subsequent times, we had trouble with the Barbary powers, but their grip was thoroughly broken and they realized that they could no longer demand hostages of the American nation.

HIT FOES OF CITY

(Continued from Page One.)

L. Brewster, D. M. Donagh, E. R. Clary and J. E. Hedges instead of for the regular Republicans before referred to, and this committee assures the voters in all good faith that this, while safeguarding the city's interests, will not at all imperil Mr. Roosevelt's political interests. Respectfully,

HENRY HAHN, Chairman.

THOS. N. STRONG, Secretary.

**STAR ROUTE MEN TO
BE PAID EACH MONTH**

(Washington Bureau of The Journal.)

Washington, May 23.—An order was issued today by the postoffice department for the payment of salaries of star-route mailcarriers and mail messengers on a monthly basis instead of every three months as heretofore, effective August 1, paying the salary for July.

There are 350 star-route carriers in Oregon, and 53 mail messengers, who will be affected by this new ruling.



If you have trouble with your eyes or your glasses, we are confident we can overcome this difficulty. As a proof of this, 30,000 satisfied patients in Portland and vicinity are constantly sending us their relatives and friends. Examination free.

Oregon Optical Co.
EXCLUSIVE OPTICIANS
173 4th Street, Y. M. C. A. Bldg.

DALNY IS ATTACKED

(Continued from Page One.)

can be accomplished only at a heavy cost, the same authority says the Japanese think they see their way clear, if successful, to not only gain a strategic advantage, but possibly also to either capture or destroy the Russian fleet at Port Arthur.

HEAVY LOSS OF GUNS.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
St. Petersburg, May 23.—The loss of the fortified positions about Dalny is not regarded by the czar and his staff as of as great importance as the reported loss of 50 field pieces. The Russians in the opposition to the Japanese have been seriously handicapped on account of the lack of artillery, and the reported loss of 50 pieces is considered almost an irreparable loss.

RUSSIAN OPPOSITION ENDED.

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RUSSIAN ABANDON POSITION.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Tokyo, May 23.—The report here is that the Russians have abandoned Nan Kwan Ling.

DALNY CASUALTIES 2,000.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Washington, D. C., May 23.—The Japanese legation here has reports from Tokyo to the effect that the Japanese casualties at Dalny were 2,000.

CHINA ANXIOUS TO INTERVENE.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Berlin, May 23.—The report in military and court circles here is to the effect that the czar is especially anxious to accept the offer of King Edward to mediate in the oriental question although he expresses confidence in the ultimate outcome of the war.

JAPS DECLARE BLOCKADE.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Washington, May 23.—The Japanese have declared a blockade of the Liao Tung peninsula.

DOUBT JAPANESE REPORT.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
St. Petersburg, May 23.—The Russian officers do not consider seriously the report that the Japanese are to attempt to storm the fortifications at Port Arthur and maintain that 150,000 men would be necessary for such an operation.

MAN TO FIGHT.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Mensing, May 23.—The Japanese infantry saved the day for the Japanese during the first fight and some of the troops ran three miles to take part in the Chong Ju battle.

WILL STORM WORKS.

(Copyright, Hearst News Service, by Leased Wire to The Journal.)
Ninchowang, May 24.—The plans of the Japanese provide for a continuation of the action against Port Arthur and within a fortnight an attempt will be made to storm the works.

**BUTTE KIDNAPERS
FAIL TO MAKE ESCAPE**

(Special Dispatch by Leased Wire to The Journal.)

Butte, Mont., May 23.—Frank Bell, W. E. Evans and Joseph Lynch, the young men implicated in the mysterious disappearance of 16-year-old Edna Wiggins, one of the belles of the younger society of Butte, were captured by Deputy Sheriff Sipes of Roseburg early this morning at Logan, Mont., while they were attempting to beat their way out of town on a freight train.

The young men denied all knowledge of the girl's whereabouts, but acknowledged that she came to their room on the day she was last seen. Mrs. Wiggins declares her daughter has been kidnapped and made the victim of foul play, believing that the girl would not have left the city of her own accord, as all her good clothes are at home and she was clad in light raiment.

**DR. LINCOLN'S FOES
FILE THEIR DEMURRER**

Through their counsel, Mark Hayter and E. G. Clark, respectively president and secretary of the Oregon State Dental association, filed a demurrer in the circuit court yesterday to the answer of Dr. R. L. Lincoln to the suit to oust him from office as a member of the state board of dental examiners. It is stated in the demurrer that the answer, in which Dr. Lincoln claims to hold office by virtue of a commission issued by Governor Chamberlain, does not state facts sufficient to constitute defense to the cause of action set forth in the complaint, or to show that Dr. Lincoln is entitled to hold the office of member of the board.

GOV. YATES CAN'T BE ELIMINATED

CULLOM AND FOSS VISIT ROOMS—VET AND SEEK TO SECURE IMPORTANT APPOINTMENT FOR ILLINOIS FIGHTER—DEADLOCK STILL REMAINS THE SAME.

(Special Dispatch by Leased Wire to The Journal.)
Washington, May 23.—Senator Cullom of Illinois and Senator McComas of Maryland today called on the president and his advisers with relation to the general unsatisfactory situation, and especially in Illinois.

It was somewhat extraordinary that Cullom should take with him Senator McComas, but it happens that Senator McComas is the power for good or evil to the president in the state of Maryland.

The visit of Senator Cullom was, so far as can be learned, fruitless. The effort of Senator Cullom has been to eliminate Governor Yates. Cullom came here, it is understood, with a proposition that Governor Yates should be given something more than a mere ambassadorship to Mexico. Cullom will say nothing, but there is reason to believe that he did not succeed. The president is in the attitude of not wanting at this time to enter into any contests and especially as he does not know the relative strength of the opposition or has been given varying accounts of such strength. The president therefore has once at least refused to interfere and has told Cullom to go back and get the party in shape in Illinois.

Similar efforts of Representative Foss were equally fruitless. Foss did not call again at the White House today and has not called out for Illinois. Senator Cullom will leave here tomorrow night for Chicago to be ready to take up the fight precisely where he left it off. The timidity of the president has put him in the position of not advocating any of the factions which are at war in Illinois and is expecting to reap the result whatever happens.

**ASKS INCREASE FOR
RIVER IMPROVEMENTS**

(Washington Bureau of The Journal.)
Washington, May 23.—Major Langfitt, in charge of the river and harbor improvements in Oregon, has applied for permission to use \$50,000 from the river and harbor emergency fund for improvements as follows:
For the improvement of the Columbia river below Portland, \$30,000
For improvements in the Yamhill and Willamette rivers above Portland, 12,000
For improvement of the Upper Columbia and Snake rivers, 8,000
No action was taken by the secretary of war upon the request up to the present time.

W'LEOD IS SEATED.

(Special Dispatch by Leased Wire to The Journal.)
Nanaimo, B. C., May 23.—A local man quite unknown, named Bob Swanson, tonight defeated Dan McLeod in a catch-as-catch-can wrestling match for \$200 a side, in which the latter was to throw the former five times in an hour, but only succeeded three times.

Physician Patient and Prescription

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Your physician's skill, your own faith, rest finally upon the fidelity, exactness and care of the druggist who prepares your prescriptions—a great responsibility is this.

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Phone Exchange 11, direct to the prescription department. Free delivery all day, evenings and Sunday. Canadian money taken at face.

WILLIAMS' CASE WILL BE APPEALED

ATTORNEY MOORE WILL TRY TO HAVE CONVICTED MAN'S CASE TAKEN TO SUPREME COURT—NOTION TO BE GIVEN ON DAY SET FOR SENTENCE.

Notice of appeal to the state supreme court in the case of Norman Williams, convicted by a jury at The Dalles of murdering Mrs. J. J. Nesbitt and her daughter Alma, will be given when the prisoner appears before Judge Bradshaw for sentence next Wednesday. A number of grounds will be used on which to base the appeal, the most important being that on account of local prejudice the accused man did not receive a fair trial.

"I will give notice of appeal when Williams comes up before Judge Bradshaw for sentence next Wednesday," said Attorney Henry E. McGinn, his counsel. "Thirty days are allowed by law in which to perfect the appeal by filing a transcript. Some time will be required in which to extend the testimony."

"There will be several grounds. First, we shall state that the local prejudice was so strong the prisoner did not receive a fair trial, and cannot receive one at The Dalles. Otherwise we would file a motion for a new trial before taking an appeal, if it should be necessary. In the next place, we shall show that the corpus delicti was not proved, in other words, that no evidence was introduced showing that either Mrs. Nesbitt or her daughter are dead."

"The refusal of Judge Bradshaw to allow a change of venue, errors of the court in admitting certain testimony, and in refusing to admit other testimony, errors of law, and errors of the court in instructing the jury, will form the principal other grounds on which an appeal will be based."

Union silk umbrellas; all colors; with border, \$1.65. Merediths, Washington and Sixth and Morrison and Fifth.

21 words for 15 cents. Journal Want Ads. Don't forget it.

HERMANN "KNOCKS" ARE BUT "BOOSTS"

DEVOTES SPEECH TO JOURNAL BUT FAILS TO IMPRESS VOTERS WITH HIS INNOCENCE IN LAND SCANDALS—FOLK WANT FACTS, NOT FIREWORKS.

(Special Dispatch to The Journal.)
Dallas, Or., May 23.—Binger Hermann and Senator Fulton spoke in Dallas tonight. A free motor car from Independence and a connecting train from Falls City, also brought a crowd, as the management desired to bring a large number of persons and succeeded.

The meeting was held in the circuit court room. It was filled to overflowing, but fully one-half were women and children.

Hermann spoke about one hour and a half in his usual get-away-from-the-point style. Fulton spoke about one-half hour.

Hermann referred to the Portland Journal as a traducer, a liar and a mudslinger. He attempted to give an explanation of his Roseburg land office and also of the dismissal from the general land office. His speech was the same as the one he has made at Salem, and other places recently and which has been heretofore printed.

It is not thought the visit of Hermann and Fulton will help the Republican cause to any great extent, as there was too much fireworks and noise and too little real explanation. The people of Polk county are not easily influenced in this way.

The speakers held an informal reception before and after the speaking. Hermann remembers all the old timers and smoothly "jollies" them as of old. Hon. G. L. Hawkins presided at the meeting and introduced the speakers.

INJUNCTION IS DENIED.

(Journal Special Service.)

Ottawa, Kan., May 23.—Judge Smart today denied the application of the Atchison railway for a permanent injunction against the striking machinists here.

Our Wedding Rings
are made of
18-K SOLID GOLD

BACK ONE IS STAMPED WITH OUR GUARANTEE.

The intent of a wedding ring is that it should last a life-time. Therefore the quality must be equal to the emergency, with full weight of gold to attest its genuineness. We realize this. Consequently our stock is manufactured accordingly, and will meet the demands of all those who are particular.

A. & C. FELDENHEIMER
Manufacturing Jewellers, Third and Washington. Diamond Importers.

Here at The Big Store

With the little expense, every article you need, everything you buy is of FIRST QUALITY and will cost you

LESS MONEY

Outing Suits

You see one elsewhere marked \$15.00—ours is the same thing from the same tailorshop, but our price is different—it's

\$ 12.50

We have cheaper ones for \$8.50 and \$10.00. You must see the suits.

SPECIAL—TOMORROW ONLY

STRAW HATS \$2.40

The New Thing

"New York's Fifth Avenue" is the name—the style is perfect. Young men wear them. See display.

\$350 PIANO FREE

With each and every purchase of 50c we give away a ticket. The more 50-cent pieces you spend with us the more tickets. See the piano—it is exhibited at the ALLEN & GILBERT-RAKAKER STORE, cor. Morrison and Sixth Sts.

Famous Clothing Co.

MORRISON AND SECOND STS.