

ADAMS AND OREGON VACATION STANDS

Supreme Court Holds Mandamus Suit Not Applicable in Doubtful Case.

(Salem Bureau of The Journal.)
Salem, Or., June 7.—Judge John B. Cleland of Multnomah county, was sustained in his decision for the defendants in the mandamus case brought by M. O. Collins and Dan Kellaher against F. S. Grant, city attorney; George Taswell, police judge; Nicholas Deutgen, municipal clerk of Portland; to compel them to commence and prosecute proceedings against John Doe and Richard Roe for obstructing a street in violation of a city ordinance.

In the work of constructing the Willamette river bridge in Portland the O. W. R. & N. Railway company, by petition to the city council, got an ordinance passed vacating portions of Adams and Oregon streets to be occupied by the approach to the bridge. A referendum petition was filed against the ordinance vacating the streets. The city attorney was then requested to prosecute the railroad men who obstructed the street, contending that the vacating ordinance was of no effect during the time the referendum was pending.

City Attorney Grant contended that the ordinance took effect at once upon its adoption by the council and that it was not subject to the referendum, being an administrative and not a legislative act. The plaintiffs then brought this action to compel the city attorney to prosecute the railroad employees who obstructed the street. In ruling upon this issue Judge Eakin said:

"It is conceded by plaintiffs that no one except the city attorney is authorized to institute proceedings for the violation of a city ordinance, and he has presented to the police judge no complaint against defendants for obstructing streets, hence the writ contains no allegation of dereliction of duty on the part of the police judge or his clerk. The only question is whether the city attorney should be required to institute proceedings against the employees of the railroad company and prosecute them for obstructing the street.

Possession a Civil Right.
"Without determining whether this question in such a matter should be controlled by mandamus in any case, we conclude that the mandamus cannot be resorted to upon the facts herein disclosed. It is doubtful whether a quasi-criminal proceeding can be maintained against the laborers for obstructing a street which the city has attempted to vacate and of which it now concedes the possession to the railroad company. The possession of the street is purely a civil right.

The only question involved upon the writ is whether the ordinance vacating the street is suspended by the referendum petition. Mandamus will not issue in such a doubtful case. If the city attorney or the council is of the opinion that the vacation ordinance took effect at once upon its adoption and that there was no violation of the ordinance, the court should not by mandamus bring a quasi-criminal proceeding to determine whether the ordinance was suspended by the referendum petition. There are other and more appropriate remedies for that purpose."

Other decisions handed down yesterday afternoon were:
Oregon Timber & Cruising company vs. Waldemar Seton and W. F. Matthews, appealed from Coos county, decision for defendants affirmed. This was a suit to set aside a decree and deed and to subject certain property to the payment of claims against the Courtney Lumber company, insolvent debtor.
Schroeder Damages Upheld.
R. P. Schroeder vs. Brown and McCabe, appealed from Multnomah county, decision for plaintiff affirmed. This was an action for damages for personal injuries. The plaintiff was a longshoreman and was injured while helping to load the steamship Corydon with lumber in Portland.
Elizabeth Grover, executrix of the estate of Lafayette Grover, vs. Rachel L. Hawthorne, on motion to dismiss, motion denied.
Tyler Woodward vs. A. L. Barbur, decision for plaintiff reversed. This case involved the question of who was legally entitled to sign referendum and initiative petitions and was ruled upon orally by the supreme court in May.

NO DECISION REACHED ON CUNNINGHAM CLAIMS

(United Press Leased Wire.)
Washington, June 7.—Commissioner Dennett, of the general land office, declared today that no decision on the Cunningham coal claims in Alaska has yet been formulated, rumors that the claims have been declared fraudulent notwithstanding.

WAITRESS IS HEIR TO HALF-MILLION ESTATE

(United Press Leased Wire.)
New York, June 7.—Margaret Ingersoll, 19, former waitress in a Mariette (Ga.) restaurant, is in New York today to claim an inheritance of \$500,000. Joseph Choate, her guardian, found her after a two years' search.

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STATE BOARD WINS THE POTATO BUG CASE

Presiding Judge Gantenbein of the circuit court dissolved the restraining order yesterday afternoon against the state board of horticulture in the potato case, and the members of the board are now free to destroy the carload of Texas potatoes. The board held the car for six days in view of finding a large number of bugs, which, if allowed to escape, would soon have infested the state.

One potato bug is capable of reproducing enough eggs to grow 3000 bugs. This was the basis upon which several members of the board figured in making their argument before the judge to allow the horticulture board to destroy the car of potatoes. Upon an investigation by E. J. Stansbury and W. T. Williamson, members of the board, five bugs were found under the first sack they removed. The men were soon satisfied that there were enough bugs in the car to soon supply Oregon and this section of the country with bugs, should they escape. The railroad company was ordered not to move the car or allow the owners of the potatoes to remove any. The board then set about to destroy all the potatoes. The owners, the W. J. Swank company, secured a restraining order, which was argued yesterday. Attorney C. A. Bell, for the potato firm, contended that the board of horticulture only had two ways to handle the matter, and that was to destroy the goods summarily, or order them destroyed. He contended there was not sufficient danger to warrant the first course. J. J. Johnson, master of the Evening Star grange; E. J. Spooner, and J. G. Kelley, prominent in the State grange, declared there was great danger if the car's contents were not destroyed. The grange throughout the state has become so aroused over the matter that almost every chapter has adopted resolutions calling for the destruction of the potatoes. Judge Gantenbein held that there appeared to be considerable danger, and the board would not be obstructed by the court in carrying out what appeared to be a good act.

TOWNS OF BAKER WILL HELP HAINES CELEBRATE
(Special Dispatch to The Journal.)
Baker, Or., June 7.—Haines is the only town of Baker county that will hold a Fourth of July celebration this year, as all other towns and communities having such intentions gave up preparation to cooperate with Haines in making its effort a success. The newly organized Commercial club is working hard for the event and several hundred dollars has been subscribed. Aside from the usual features of such a celebration, one event is being arranged which may draw entrants from every place in the county. Haines is one of the most important hay shipping points along the O. W. R. & N. and the hay loading contest being arranged is most appropriate. There are many engaged in the industry who are experts, many being able to load single-handed a car of baled hay in a couple of hours. Some can do it in even less. Many entrances have been made, and in all probability much money will be wagered, as crack loaders will be entered.

ARRESTED 1000 TIMES EVANS FINALLY DIES

(United Press Leased Wire.)
Warsaw, N. Y., June 7.—Peter Evans, 63, and whom the police records show was arrested more than 1000 times for intoxication or disorderly conduct, is dead. He was once wealthy. For many years he has lived alone in a small shack on Pike lake. His body was found at the foot of the stairs and the police began an investigation upon the theory of murder.
Evans, according to the police, spent more than half of the last 25 years in jail.

Wisconsin Medical Society.

(Special Dispatch to The Journal.)
Waukesha, Wis., June 7.—Several hundred of the leading physicians and surgeons of Wisconsin are attending the annual meeting of the State Medical society, which met in this city today for a three days' session. Dr. Byron M. Caples is presiding over the session. The annual address on medicine is to be delivered by Dr. R. C. Cabot of Boston and the address on surgery by Dr. Joel C. Goldthwait, also of Boston.

TAFT HINDERING TARIFF REVISION

Underwood and Committee Criticize President and the Republican Board.

(United Press Leased Wire.)
Washington, June 7.—A criticism of President Taft and denunciation of the Republican tariff board plan was contained in the report submitted by Chairman Underwood on behalf of the ways and means committee majority supporting the bill for revision of the wool schedule. The statement refers to the fact that information was asked from the tariff board, but was refused because the board had not completed its investigation.

"The board's position appears to be that its members, under the sole control of the president," Underwood says, "shall be the sole judges of what part of the data they have collected is likely to be useful for purposes of legislation. This situation must be considered with reference to the president's viewpoint concerning tariff legislation."

Underwood defends the departure from the Democratic free raw materials principle, declaring it was demanded in order to replenish revenues depleted by a "long course of Republican extravagance."

30 HOURS' WORK OF ONE MAN AT HIGGINS STRIKE PRODUCES \$703 IN GOLD

(Special Dispatch to The Journal.)
Grants Pass, Or., June 7.—J. T. Logan has brought in a gold bar worth \$703.10, the work of one miner 30 hours in the Higgins mine. This statement can be supported by affidavits. Logan has an option on the mine. The bar is now on exhibition at the Josephine County bank.

TOO MUCH LEGISLATION; CAPITALISTS ARE TIMID

That there is too much legislation and the conditions of the country too unsettled for financiers to make investments, is the opinion of James H. Morris, in charge of Morris Brothers' bond brokerage establishment in Philadelphia, who is visiting Portland for a few days.

"Capital is not hunting investments to any extent now," said Mr. Morris. "Many wealthy men are depositing their money in reliable trust companies where they will leave it for perhaps two years—until after the election in 1912. Factories are not running to full capacity, and the coal and iron mines in Pennsylvania have cut down their payrolls to a great extent."

"The recent trust decisions tended to improve conditions, but not so much as was anticipated. There will be but little improvement seen for at least two years. As a matter of fact, there seems to be too much agitation, too much legislation, and capital is too wary to take a chance. These conditions must be settled before there will be any great changes for the better."

Mr. Morris is accompanied on his trip to Portland by H. P. Brown attorney for the firm of Morris Brothers at Philadelphia. They will probably remain here until next Sunday.

REV. MARRACK WAS WELL KNOWN IN PORTLAND

Rev. Cecil L. Marrack, pastor of St. Stephen's church, San Francisco, who was killed at Ross, Cal., Monday evening when a fire automobile on which he was riding crashed into a tree, was well known in Portland.

He attended many conventions here and was known as a forceful speaker and active worker in the church. "Rev. Marrack was one of our most progressive workers," said Bishop Scadding this morning. "He was a fine gentleman and was known to many people in Portland. Contrary to the story, in the papers, Rev. Marrack was married and had three children. He was a very fine young man," he repeated.

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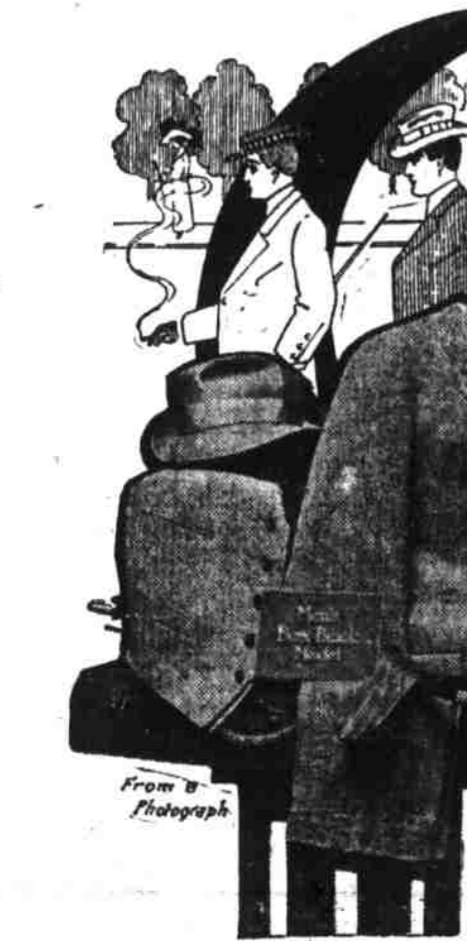
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