

DECLARES COURT RULING IN FAVOR OF DAVIS' CASE

Persons Could Be Made to Testify How They Cast Ballot; Enough Good Votes Anyway, Says A. E. Clark.

Two decisions by the Oregon supreme court, with an important bearing on the legal point as to whether the discovery that 96 illegal ballots were cast at the last election could cause the entire vote of the 28 precincts in which they were cast to be thrown out, have been found by Attorney A. E. Clark.

The question is one of unusual interest because if the votes of these 28 precincts, aggregating nearly 9000 votes, were thrown out Municipal Judge George Taswell would have a plurality of 128 votes over George N. Davis for circuit judge. If they were not thrown out Davis' present plurality of 128 votes on the official count, except as it might be changed if a recount is allowed, would stand.

The decisions cited by Mr. Clark, who is representing Davis in the controversy over the vote, establish the principle that where ballots have been cast by persons not legally entitled to vote these voters can be required under oath to tell how they voted. Their votes, it is held by the decisions, can then be deducted from the totals of the candidates affected.

Case Is Pointed Out.
In the present case, however, Mr. Clark takes the ground that even this would not be necessary inasmuch as if every one of the 96 illegal voters had voted for Davis, the official count after they had been deducted would still show him 32 votes in the lead. In other words, he holds that there are not enough votes in question to affect the election, and that the casting of illegal votes never becomes material unless they influence the result.

The two cases cited by Mr. Clark appear in the Oregon reports, as State vs Kraft and as Van Winkle vs Crabtree.

In the first case, which was decided in 1889, Kraft was a candidate for councilman in the old city of Albina, now part of Portland. It was found that illegal votes had been cast, and the lower court directed that the voters in question be required to tell how they had voted.

The supreme court, in which the case was carried, upheld this view, ruling that the rights of a qualified voter to secrecy in his ballot did not hold in the case of a voter not qualified, and this procedure as a means of determining the correct vote when illegal ballots were involved, was formally established.

In the other case there was a contest between two candidates for county clerk of Linn county in 1889. It was alleged that four illegal votes were cast. In settling the case the lower court had the voters tell how they had voted. The result changed the election, putting in the man who was first defeated.

In upholding this course, the supreme court referred back to and quoted from its decision of 1889.

In the present situation, there is the fact further to be considered, as pointed out by Attorney A. E. Clark, that all the votes in question were cast by voters undoubtedly entitled to vote, but illegally qualified.

Illegality of Votes.
The illegality of each of the ballots lies in the fact that the voter had not been registered, and was sworn in by six freeholders. The oath was administered, however, not by one or all the election judges of his precinct, as the Oregon law provides must be done in cities of more than 5000 population, but by a notary public or one of the election clerks. In Multnomah county, outside of Portland, this procedure when followed was entirely legal.

Attorney Clark in his petition to annul Judge Taswell's application for a recount, makes the additional interesting point that the Oregon statutes do not make any provision for a recount of the vote for circuit judge, or for any state official.

Mr. Clark declares that the law, which was passed many years ago, provides only for recounts for county, district, township and precinct officials. There was no circuit judge at that time, and as the circuit judge is a state official, and no provision is made for contest in the election of a state official, he maintains that no recount can be ordered.

BATTELL CHANGES HIS PLEA TO NOT GUILTY
(United Press Leased Wire.)
Oakland, Cal., Nov. 27.—Charles Battell, former steamship agent of Seattle, who is charged by his wife with failure to provide, was allowed by Judge Ellsworth to change his plea of

guilty to not guilty. Battell, after spending all morning explaining to the court the situation in which he pleaded guilty without the advice of counsel, asked for probation. He said he would provide and that he had given his wife ample means for her support and had paid her board at a San Francisco hotel up to the present time. Battell's trial before a jury was set for January 21.

OREGON CITY COUNCIL DEMANDS FREIGHT YARD

(Special to The Journal.)
Oregon City, O., Nov. 27.—City fathers waxed warm Tuesday at their regular meeting, in discussing the proposed freight franchise for the Portland Railway, Light & Power company. A heated discussion in which Councilmen Holman, Albright, Tooz, Beard and Horton took an active part, finally resulted in passing an amendment to section 7 of the charter, requiring the corporation to maintain a freight yard in the city. The matter of location, which was largely the cause of the evening's argument, was not agreed upon by the council.

MISSSES LIBERTY BY 3 MINUTES

Telegram Arrives Just in Time to Keep J. E. Hudson From Being Released.

Three minutes before John E. Hudson, alias Ringling, who was arrested 14 days ago by Detectives Hyde and Vaughn on a charge of attempting to swindle, was to be released from the city jail at 4 o'clock Monday afternoon, because there was no charge here that the police could further hold him on, Detective Hyde received a telegraphic communication from Denver that a warrant had been issued for his arrest on a charge of obtaining money

under false pretenses. He then re-arrested Hudson in his cell in the jail, again thwarting his attempt to gain his liberty. He is now being held as a fugitive from justice.

When the case came up for trial Monday morning in the municipal court on a charge of vagrancy Judge Taswell gave the police until 4 o'clock in the afternoon, and if a further charge were not obtained by that time Hudson would be released from custody.

Immediately after hearing this order Hyde, who expected an officer from Baltimore, Md., to appear and take charge of Hudson, decided to get him on a charge from Denver. For over an hour and a half the wires between here and that point were kept hot, Hyde telling them that he could only have Hudson held until 4 o'clock.

Three minutes of 4 o'clock Hyde rushed into the police station with the telegraphic warrant and re-arrested him on the complaint of the Chief of Police of Denver.

In the police court yesterday morning Hudson's attorney was slightly taken back when he heard that the Denver authorities had issued a warrant for his client. Judge Taswell gave the

police until Friday to hold Hudson on the fugitive from justice charge, and if the Denver officer is not here by that time Hudson will be released for good.

BURY WEEM'S BODY IN POTTER'S FIELD

(United Press Leased Wire.)
Reno, Nev., Nov. 27.—Although of wealthy parents, the remains of H. S. Weems, who shot and killed Mrs. Estelle Baggot at Moana Springs here last week and then committed suicide, were buried yesterday in Potter's field without ceremony. The body was placed in a plain pine box and the only persons at the burial were the coroner and an undertaker. Weems' father is a furni-

ture manufacturer in Baltimore. The body of Mrs. Baggot was shipped to St. Louis.

TWO EXECUTIONS IN CALIFORNIA, DEC. 6

(United Press Leased Wire.)
Sacramento, Cal., Nov. 27.—Two executions are scheduled for December 6—those of Edward Delahante, a negro murderer, who killed "St. Louis" Pat Kaufman, a fellow prisoner, to be hanged at Folsom, and Willis Luis, a Chinese, to be hanged at San Quentin for the murder of his father's wife. Luis was relieved a few days ago, the stay expiring December 6.

SUBMIT FINAL BILL FOR TROUTDALE BRIDGE

The final bill in connection with the construction of the Sandy river bridge was received by the county commissioners yesterday and turned over to County Road Supervisor H. H. Chapman for approval. It calls for the payment of \$448.94. The bridge cost the county approximately \$20,000, and was completed recently.

Permission was granted Ben Riedland to lay a two inch water main on the north side of the county road between Buckingham and Clinton streets.

Journal Want Ads bring results.

Golf Park

Its Country Club Spirit

What is a modern city without a Country Club?

Every pretentious city has one, enjoys one, uses one for special social functions and most cities, without a Country Club, fall in the estimation of those who most highly appreciate their worth.

Portland has a Country Club, the Waverly Country Club.

It is a recent development of the Waverly Golf Club, which, now assumes the splendid proportions of a genuine Country Club, about to occupy a magnificent new home and patronized by the leaders of social and commercial affairs in the Pacific Northwest.

Golf Park, until recently, a part of the celebrated Waverly Golf Links, stands to the residential dignity of the city of Portland in the same position as the Waverly Country Club stands to the other clubs.

Golf Park is owned by the members of the Waverly Golf Club.

When this beautiful tract was purchased by the club members, it was definitely and finally decided to develop a residential district that would, in all respects, reflect the same general spirit that the Waverly Golf Club has always stood for.

The improvements were installed with that idea in mind; the property was platted with that idea, is being sold with the same idea and, to the greatest degree possible, purchasers are being selected, rather than otherwise.

The proximity of the links, the Country Club and the Waverly Polo Club, surrounding Golf Park on two sides, carries the spirit of the Country Club right into the heart of Golf Park. The fact that many members of the Golf Club are preparing to build homes in Golf Park lends additional color to the idea.

To those who are fond of residing in the midst of such an atmosphere, Golf Park is exceptionally inviting.

Price \$5000
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