

# McFarland Bill Converting Malheur Lake to Bird Reserve Is Passed

## WARREN PATENTS FOUND INVALID; COURT IS PROOF

Attorney General Brown Declares State Need Not Respect Aged Rights of Paving Corporation.

## DEATH KNELL IS SOUNDED

Payment on Royalties Cannot Be Collected, Is Opinion Sent at Request of House Resolution.

Salem, Fe. 21.—Warren Brothers company has no patent on bituthylic pavement which the state highway department is required to respect, according to an opinion sent to the house of representatives Thursday afternoon by Attorney General Brown.

The opinion was written in response to a resolution of the house and a request sent by the roads and highways committee of that body, in which the attorney general was asked whether the company possessed a patent which the state's road makers were obliged to respect in letting contracts for the construction of paved highways.

The request was the outgrowth of the action taken by the house a couple of days ago, when it passed a bill directing the attorney general to determine whether the Warren Brothers company possessed a patent and directing the highway committee, if it were to be found that the patent claimed by the company was invalid or of doubtful validity, to proceed to lay bituthylic pavement without regard to the company, at the same time providing that the attorney general should prosecute or defend for suits that might arise with the company, take them to the United States supreme court if necessary, or pay the costs of the litigation out of the state highway fund.

Death Knell Sounded  
The opinion of the attorney general would seem to sound the death knell of the Warren Construction company in this state, so far as its ability to compel the payment of royalties, or control the use of bituthylic mixture is concerned.

That portion of the attorney general's opinion which deals with the main question at issue, is as follows:

"An examination of the patent shows that it is dated June 4, 1901, and application therefor was filed January 9, 1901."

The opinion quotes a section from the United States patent law and continues:

"From the foregoing provision of the United States patent law it is seen that any patent continues only for the term of 17 years. This provision has received the consideration of the United States supreme court in a number of cases. Referring to the date of the patent, it is self evident that more than 17 years have elapsed since its issuance, and we cannot escape the conclusion that it has expired."

Quotes Supreme Court  
"Referring to the second part of your question, I quote from the opinion of the United States supreme court in the case of Singer Manufacturing company against June Manufacturing company, as follows:

"It is self-evident that on the expiration of a patent the monopoly created by it ceases to exist, and the right to make the thing formerly covered by the patent become public property. It is upon this condition that the patent is granted. It follows, as a matter of course, that

on the termination of the patent there passes to the public the right to make the machine in the form in which it was constructed during the patent."

## COUNTY JUDGES TO KEEP THEIR POWER

House Puts Skids Under Attempt to Have Probate Work Given to Circuit Court.

Salem, Feb. 21.—The house Thursday afternoon by an overwhelming vote refused to strip the county judges of the state of their jurisdiction over probate work and other matters of law as provided in a bill fathered by Representatives Dennis and Hare. According to this bill the county judge would have been made simply a member of the board of county judges to act in matters of road work and other business coming under the jurisdiction of the commission. Delegates from the smaller counties raised strenuous objections to the provisions of the bill, which would have transferred probate and other matters of law to the circuit court.

Under suspension of the rules the house rushed through a bill appropriating \$67,500 to cover salaries, per diem and traveling expenses of the legislators, clerks and stenographers' hire and contingent expenses of the session. An appropriation of \$25,000 for legislative expenses had been passed earlier in the session.

Other bills passed by the house Thursday were:

H. B. 225, by joint horticultural committee—Appropriating \$15,000 a year for investigation of crop pests.

H. B. 226, by Hughes and Bean—Providing for fish hatcheries on Santiam, Deschutes and fish ladder on Deschutes river and appropriating \$15,000.

H. B. 225, by Hare—Appropriating \$40,813.18 for vocational training in Oregon, to be matched by a like amount by the federal government, under the provisions of the Smith-Hughes act.

H. B. 227, by Gallagher—Appropriating \$1000 for Malheur County Fair association.

H. B. 228, by Woodson—Amending statutes relating to roads reaching lands not already on public road.

H. B. 229, by Dennis—Providing for regulation of professional engineers.

H. B. 230, by Clatsop county delegation—Appropriating \$10,000 to reconstruct and maintain fish hatchery on Klaskanine river.

H. B. 231, by Thrift—Relating to hunting deer with dogs in Coos and Curry counties and providing penalty therefor.

H. B. 438, by Gallagher—Appropriating \$10,000 for eradication of predatory animals and injurious rodents in cooperation with federal biological survey.

## U. S. S. Oregon Asked For Use of Militia

Salem, Feb. 21.—The senate passed a memorial Thursday afternoon petitioning the navy department to loan the United States steamship Oregon to the Oregon naval militia for a training ship. The memorial was introduced by Senator Moses.

Miners Bar I. W. W.  
Knoxville, Tenn., Feb. 21.—(I. N. S.)—The United Mineworkers of America, district 19, comprising Kentucky, Tennessee, Georgia and Alabama have provided for immediate dismissal of any miner who joins the I. W. W.

## NEGRO EQUALITY BILL RESURRECTED AND THEN SLAIN

Woman Legislator, Who Admits She's Southerner, Twits the Republican Members of House.

## LEWIS GOES INTO HIDING

Multnomah Solon Brought Back by Joe Singer and Casts 'Nay' Vote With 30 Other Members.

By A. L. Lindbeck  
Salem, Feb. 21.—After having narrowly missed sudden death by the unceremonious indefinite postponement route at the hands of members of the house Thursday afternoon, the negro equality bill was resurrected by Representative Smith of Multnomah county, to provide an hour and a half of excitement for a considerable amount of levity, before being finally killed by a vote of 31 to 24, with four members absent.

The bill, which would have extended equal privileges in hotels, theatres and other public places regardless of race, was introduced February 2 by Representative Coffey by request of the Afro-American league. It was then referred to the Multnomah delegation, where it rested for a week and was reported back with the recommendation that it be referred to the committee on health and public morals. There it was allowed to rest for another week before being reported back to the house without recommendations. In the meantime, however, the original bill had been stolen from the desks of Representative Moore, secretary of the health and public morals committee, and it was necessary to recopy the measure from the printed bill in order to get it on the desk.

Appeals to Republicans  
When it came up for third reading in its regular order yesterday some members immediately moved its indefinite postponement. Evidently it had been expected that this treatment would be sufficiently harsh to banish the question from further consideration at this session of the legislature. At least the motion met with a resounding chorus of ayes and Speaker Jones was just on the point of announcing that the measure had been killed when Smith of Multnomah jumped to his feet and insisted on being heard.

The Multnomah representative strenuously objected to the railroading tactics of his colleagues and called upon the "Lincoln Republicans" in the house to at least give some consideration to this measure of the colored citizens of the state whom they were wont to laud so highly about election time.

Representative Mrs. Thompson followed with a protest against the treatment accorded the colored delegation which had brought the bill to the legislature by the members of the house.

Seek to Shift Responsibility  
"This bill came from the colored people of Multnomah county," she declared, "and yet several members of that delegation refused to introduce the measure which requested to do so by the colored delegation."

Several members of the Multnomah delegation jumped to their feet with a denial of the charge. They had never been approached with the bill, they declared, in fact, they did not even know that there was such a bill in the house until it had just been called to their attention.

"That's strange," countered Mrs. Thompson, "when the bill was referred to the Multnomah delegation and was in the hands of what you're going with it all that time?" Then she reviewed the stormy path over which the bill had been compelled to travel before coming into the house to be manhandled as a final end of its career.

"The members of both the Multnomah delegation and the committee on health and public morals had all tried to evade their responsibilities in the matter by sending it back to the house without recommendations," she declared, adding that it had been a laughing matter among the members for the past two weeks.

Twits Republican Members  
"I am going to vote against this bill because I am a Southern Democrat and still harbor the prejudices of the south toward the colored race," she concluded, "but not one Republican member of the house can vote against it and be consistent. We have heard you boast for years that you belonged to the party of Lincoln, Lincoln the emancipator, Lincoln who struck the shackles of slavery from the negroes of the South. You cannot vote against this bill and be consistent."

she challenged, in chiding the members for their attempt to avoid responsibility in the issues by trying to bury the measure under an avalanche of recordless votes.

A rollcall was demanded on the question of indefinite postponement, and what had been an emphatic defeat of the bill under the acclamation process was now turned to victory with the vote of the members recorded, 25 members ayes.

H. B. 232, by Wright—Providing for licensing of real estate brokers.

H. B. 233, by Ferriman—Relating to irrigation ditches.

H. B. 207, by Smith of Multnomah—Relating to electric wiring.

H. B. 442, by Jackson county delegation—Regulating the rights of cattlegrowers and sheep and goat growers to trespass on Jackson county, and providing for a penalty to be recovered by cattlegrowers infringing upon the rights of cattlegrowers.

H. B. 425, by Dennis—Amending the law relating to the bureau of mines.

H. B. 132, by Martin—Requiring a license for all insurance agents.

H. B. 221, by committee on salaries of public officials—Providing that county courts shall designate salaries of deputy county officials.

H. B. 430, by Lafferty—Providing for voting on question of dogs running at large.

H. B. 285, by committee on assessment and taxation—Relating to time for paying taxes.

H. B. 127, by Edwards—Increasing the salaries of county officials of Tillamook county.

voicing against the postponement and 23 supporting it.

But the victory was only temporary. The indefinite postponement was defeated and the bill was placed upon third reading and final passage. Several members were absent and all of the house was demanded. Representative Smith of Multnomah insisted that his colleague, Representative Lewis, be brought in and compelled to express himself on the measure.

Lewis Blames the Democrats  
After an absence of several minutes Sergeant-at-Arms Joe Singer returned to report that the missing Multnomah delegate had locked himself in a committee room on the third floor.

"Take the door-keeper back with you and bring him in dead or alive," ordered the speaker, with a twinkle on the "dead."

The searching party was so long in returning that the house turned to other business in order to conserve time, but the door-keeper returned with Lewis in their custody the roll call on the bill was ordered.

He had been found locked in a committee room and only came out after Singer had threatened to break in and get him.

"I don't want you to think I was trying to dodge a vote on this question," pleaded Lewis when the house gave him a chance to explain his absence.

"Of course not," chorused the house. The responsibility for the negro question was one for the federal administration, to shoulder, he determined by this legislature. The democrats in power at Washington, he insisted, should act on this problem.

Joe Singer Makes Capture  
"When the democrats at Washington get into office," Lewis said, "the Republicans overlooked in their 50 years of power then they will come out and clean up Oregon," countered Smith of Baker.

Mrs. Thompson took a turn at grilling Lewis, declaring that two years ago he had introduced a bill permitting intermarriage between negroes and whites which was a much more radical measure than the one under consideration at this time.

The intermarriage bill, Lewis declared was a frame-up on him, but he had been a good sport, he insisted, and had stayed "put."

The roll call proceeded. Suddenly someone shouted, "There goes Lewis," and there he was edging through the door to freedom. But Joe Singer was on the job and recaptured him and brought him back to face the music.

When it came his turn to vote he proceeded to pick the bill to pieces technically and voted against it because, he declared, it was unconstitutional and of no effect.

How They Lined Up  
The final vote on the bill was as follows:

Yes—Coffey, Gross, Dedman, Dodd, Edwards, Fuller, Godes, Graham, Griggs, Horne, Hoesford, Idelman, Jones, of Lincoln and Polk, Kubli, Lafferty, Richardson, Schuebel, Sheldon, Woodson, Wright, Speaker Jones.

Noes—Ballagh, Bean, Bolton, Brand, Brownell, Burdick, Burnhugh, Childs, Elmore, Gore, Graham of Lane, Graham of Washington, Haines, Hughes, Hunter, Hurd, Lewis, Looney, Martin, McFarland, Merriman, Moore, Richards, Roman, Sider, Slinger, Smith of Baker, Thompson, Thoma, Thrift, Westerlund, Wheeler.

Absent—Crawford, Dennis, Hare and Lofgren.

## SENATE APPROVES MARKET ROAD TAX

One Mill to Be Assessed in State for Improvement of Rural Highways for Farmers.

Salem, Feb. 21.—After passing the big \$10,000,000 road bond bill for the improvement of the primary roads of the state, it was an easy matter for the senate Thursday afternoon to pass S. B. 283, by Pierce, which provides for a one-mill state tax for the improvement of market roads.

This tax is in addition to the present quarter mill state road tax. The bill provides that the state market road fund shall be expended by the highway commission in its discretion, and that before any portion is spent in any county the county must match it dollar for dollar.

There was but little discussion and no opposition to the bill.

Other bills passed by the senate Thursday afternoon included the following:

H. B. 283, by Wright—Providing for licensing of real estate brokers.

H. B. 233, by Ferriman—Relating to irrigation ditches.

## BIRD PRESERVE BILL WINS AFTER MUCH CRITICISM

State Biologist and Gun Clubbers Scathingly Grilled in House for Favoring McFarland Measure.

## 'STEAL' HELD 'COLD BLOODED'

House Approves Plan to Retain Malheur Lake as Natural Home for Wild Birds.

By A. L. Lindbeck  
Salem, Feb. 21.—State Biologist William L. Finley and members of the Portland Rod and Gun club came in for a scathing grilling during the debate which preceded the passage of the McFarland bill, converting Malheur lake into a game preserve by the house last night. The bill, it was charged, was an attempt to rob the school funds of the state of Oregon of 57,000 acres of land in order to create a hunting preserve for Oregon sportsmen and incidentally create a few fat jobs for Finley and his friends. The school children of the state had been "buncoed" into petitioning the legislature to lend its aid to this "steal," it was further charged.

Thirty-three members of the house voted for the bill, 22 were opposed to the measure and four were absent. Representative Moore of Multnomah county arose to declare that the people of the entire state were interested in the passage of the bill and flourished a handful of letters to prove his assertion. Representative Moore of Multnomah county arose to declare that the people of the entire state were interested in the passage of the bill and flourished a handful of letters to prove his assertion.

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One-fourth of the state was already in reserves, and if this policy was to continue the state would soon be stripped of all taxable lands, he declared.

Smith of Baker voiced his suspicion of anyone who sought to build up game preserves. Mr. Finley and the Portland

bill was favored by the people of that district. He was followed by Representatives Lewis and Kubli, also of the Multnomah delegation, with appeals for the protection of the birds by the creation of a bird reserve and the perpetuation of the memory of Theodore Roosevelt through this reserve.

Representative Gallagher, in opposing the bill, denied that the people of Harney county favored the bill.

A few people had signed such a petition, he admitted, but he declared, it was done under a misapprehension of the facts and Mr. Finley had admitted this when faced with the charge.

"The people of Harney county, he declared, were just as much interested in the preservation of the birds that inhabit Malheur lake as anyone else and for that reason did not want to make it possible for members of the Portland Rod and Gun club to slip in there during the nesting season and kill them, as they sought to do through this bill."

"Steal" Too "Cold Blooded"  
The proponents of the bill had first sought to take \$7,000 acres from the school lands of the state, but finding this "steal" too "cold blooded" had changed their tactics. Worst of all, he charged, the school children of Oregon had been "buncoed" into petitioning the legislature to take this land away from the school fund.

Finley's published statement to the effect that Gallagher represented capitalist interests was emphatically denied by Gallagher, who intimated that somebody was either a liar or ignorant and "hoped that Finley heard that statement."

The charge that the people of Harney county wanted to drain Malheur lake was ridiculous, he declared. "There is no more danger of draining Malheur lake than there is of draining the mouth of the Columbia river," he stated.

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Rod and Gun club, he charged, had exhausted the game resources of Western Oregon, and now wanted to come over to Eastern Oregon and build a fence around Malheur lake to create a game reserve for a few sportsmen at the expense of future residents of that section of the state.

"This is the most outrageous thing perpetrated on this legislature," he declared, "not excepting the insidious paving lobby."

Smith of Multnomah announced his suspicions of the motives underlying the bill.

Representative Stewart told the house that the state land board and the attorney general had characterized the bill as ill-advised legislation, and the fish and game commission had declared themselves neutral in the matter. "It's just a scheme to build up a nice little machine," he declared, "and he couldn't blame Finley for trying to pull down a nice, fat job, although he objected to his method of procedure."

Favors Bird Reserve  
Representative Bean declared that he would never consent to ceding another foot of Oregon soil to the federal government, but that he was heartily in accord with the principles of this bill. Time may come, he declared, when the birds would have to give way to the settlers in Harney county, but he did not believe that such a time had arrived just yet. He admitted that he was not familiar with the conditions surrounding Malheur lake, but hoped that the legislature would make it impossible to drain the lake and maintain it as a breeding-ground for wild birds.

On roll-call the vote on the measure stood as follows:

Yes—Ballagh, Bean, Brand, Childs, Coffey, Cross, Dedman, Dennis, Edwards, Fuller, Gallagher, Gordon, Gore, Griggs, Hurd, Idelman, Hoesford, Kubli, Lewis, Looney, Martin, McFarland, Moore, Richards, Richardson, Roman, Schuebel, Sheldon, Sider, Thompson, Westerlund, Wheeler, Speaker Jones.

No—Bolton, Brownell, Burnhugh, Dodd, Elmore, Graham of Lane, Graham of Washington, Haines, Hare, Hughes, Hunter, Jones of Lincoln and Polk, Lafferty, Merriman, Smith of Baker, Smith of Multnomah, Stewart, Thoma, Thrift, Weeks, Woodson, Wright.

Absent—Burdick, Crawford, Horne, Lofgren.

Seasoned slabwood and inside wood, green stamps for cash. Holman Fuel Co. Main 353. A-3533—Adv.

## Sidelights On Legislature

"Perhaps if I had had the privilege of securing a high school education," declared Representative Mrs. Thompson on the floor of the house in defense of Senator Patterson's tuition fund bill, "I would now be sitting in the senate of the United States instead of in the lower house of the Oregon legislature."

And although she smiled when she said it, back of the smile there was a seriousness that seemed to indicate that she might get to Washington yet in spite of her educational handicap.

Senator Eberhard told his colleagues of the ways and means committee, in an effort to check a flow of personalities between two of the members from the lower house, that he "understood that the house sometimes indulged in such encounters, but that the senate never stooped to petty personalities."

And the very next day it happened. Hereafter when the senator from Union county attempts to pass any bouquets to his side of the legislature he should "knock wood."

Inasmuch as the only flaw to be found in the entire Oregon country lies in the unequal distribution of its sunshine and its rain a move is now on foot in the legislature to arrange for an exchange of a considerable quantity of Williamette valley wetness for a few glimpses of Central Oregon sunshine. A call of the house is demanded.


The Minnesota legislature enacted only eight laws in a six months' session, according to an advocate of a longer term for the Oregon legislature, whereas the Oregon solons were expected to pass several hundred laws in only 40 days. Which, it must be admitted, is an unanswerable argument in favor of a much longer session.

Lebanon Boy to Stay in East  
Lebanon, Feb. 21.—Mr. and Mrs. Z. I. Brown of this city have received word from their son, Loren, that he has been discharged from the navy. Brown has been serving as electrician, stationed at Norfolk, Va. He writes that he will not return home as wages are much higher east than on the Pacific coast. He graduated from the Lebanon high school four years ago.

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Did You See Edith at the Danzant Saturday Evening?  
She looked so spiffy. Her new dress is a dear so different and so suited to her particular style. She told me she had seen her in the window of a store, but there were so many on it, though, that she couldn't pick from it. It was at Cherry's, where she always buys her clothes, that she saw it. It was so nice, which one to take. I'm going down there just as soon as I can, and the best is, she only had to pay on liberal credit terms, and that does help so much. 259-31 Washington Street, Pittcock Block—Adv.

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