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TUESDAY, - - - APRIL 16, 1895

COUNTY INDEBTEDNESS.

Recently Joseph Simon brought suit against County Judge Northrup of Multnomah county to compel the county to take charge of the free bridges across the Willamette, and also those acquired by the bridge commission. The suit was brought before Judge Hurley, of the circuit court, who yesterday rendered a decision, the matter being on a demurrer. We give the closing part of the judge's opinion, sustaining the demurrer, the opinion being based on the constitutional provisions concerning county indebtednesi, which is fixed therein at the limit of $5,000. Judge Hurley, on this branch of the subject, says:

"The next and last question to be considered is as to the power of the legislature to create a debt of the county exceeding $5,000.

"This act creates a debt against the county, or rather obligates the county for the entire bonded debt and interest, and requires the current expenses of operation, repairs and renewals of these bridges and ferries to be borne by the county without its consent. Aside from the statue being local and special, I am of the opinion that it is clearly in violation of section 10, article 11, constitution.

"It seems to me that this constitutional limitation is a restriction upon the power of the legislature, as well as the power of the county, and this is so especially where the liability had already existed prior to this act, and where it is not created or to be created by operation of general laws.

"In the case of Buchanan vs. Litchfield, 102 U. S., 287, Harlan J., says: 'No legislation could could confer upon a municipal corporation authority to contract indebtedness, which the constitution expressly declared it ought not to be allowed to incur.'

"Nor do I think there is anything inconsistent in this view with the decisions of the supreme court of this state. The case of Grant county against Lake county, 17, Oregon, 453, was decided April 15, 1889, and first construed this section. It is there said, 'Debts and liabilities and liabilities arising out of such matters (salaries of officers, expenses of holding courts, etc.), whatever sum they may amount to, cannot in reason be said to have been created in violation of the provision of the constitution referred to, as they are really created by the general laws of the state in the administration of its governmental affairs.'

"This decision, even to that extent, is in conflict with the People vs. May 9 Colo., 404, supra, construing a similar and almost equivalent constitutional provision. It is also distinctly in conflict with the decision of the supreme court of the United States in the case of Lake county vs. Rollins, 130 U. S., 662, construing this same provision of the Colorado constitution, decided May 13, 1889, a short time after the decision announced in 17 Oregon. Brewer, J., then on the circuit, had decided in 34 Fed. Rep., 845, holding that this provision of the Colorado constitution only applied to voluntary indebtedness, and not to compulsory obligations cast upon the county by operation of general laws. In this view he was not sustained by the supreme court of the United States in the decision of 130 U. S., 662, announced without dissent.

"In Worningham against Pierce, 22 Oregon, 610, the opinion of the court quotes with approval the case of the People against Wall, 88 Ill, 75, and the People against May, 9 Colo., 91, and mentions the exception that is made as to certein debts, in 17 Oregon, 453, classifying them as such that would arise by operation of law in the ordinary course of business in the county, and therefore do not include extraordinary cases like this.

"In Burnett vs. Markly, 23 Oregon, 439, there is nothing inconsistent with the view which we maintain that these debts thrust upon the county by operation of law are such only as arise under general laws, and relate only to such debts as may be created by operation of law after the passage of the act, and not debts which the act itself creates.

"The demurrer must be sustained and the petition dismissed."

WASHINGTON LETTER.

From our regular correspondent.

WASHINGTON, April 12, 1895.

It has been difficult to collect money from the government ever since the Cleveland administration came into power, and it is going to be more difficult than ever. It has been the policy of the treasury to raise all sorts of obstacles to defer payment on government vouchers of all sorts. It was this policy that caused Senator Gorman to say on the floor of the senate that if all proper demands on the government were paid there would be a deficit of not less than $100,000,000. At a cabinet meeting held after the decision of the supreme court, in the income tax cases, was fully digested it was decided that the calling of an extra session of congress should be avoided, if possible; and the possibility of keeping money in the treasury by delaying payments upon appropriations made by congress was considered. It is not certain even then that congress will not have to be called together.

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That the exemptions of incomes from rents and state and municipal bonds will cut off at least one-half of the amount that would have been received from the income tax is admitted by everybody who knows anything about the subject. And not a few believe that the advice of eminent lawyers, based upon the failure of the supreme court to declare the law either constitutional or unconstitutional, will result in the failure of thousands to pay the tax. Men who were loud in their praises of the income tax now bitterly opposed to it, because of the exemptions made by the court. They say that these exemptions will defeat the principal object of those who advocated an income tax—the compelling of alien landlords to bear a fair share in supporting the government—and throw the principal burden of the tax upon business men, manufacturers and other large employers of labor, and their argument appears to be a good one.

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The charge, openly made in Washington, that two of the four justices of the supreme court who voted to sustain the constitutionality of the income tax did so on a legal technicality and that in the absence of that technicality the vote would have stood 6 to 2 against the constitutionality of the entire law, instead of the clauses exempted, is not calculated to add to the popularity of the law, nor to the willingness of anybody to pay the tax.

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Friends of Senator Blackburn in Washington say that Mr. Cleveland's action in appointing a man named Joplin to succeed Mrs. Helm as postmaster at Elizabethtown, Kentucky, after the senate had refused to act upon the nomination of Joplin to that office, will greatly aid Senator Blackburn in his campaign for re-election to the senate. Mrs. Helm is the youngest sister of Mrs. Abraham Lincoln and the widow of a confederate brigadier who died in battle, and it was at the request of ex-Confederate soldiers in Kentucky that Senator Blackburn exposed Mrs. Helm's cause and succeeded in preventing action upon Joplin's nomination. Mr. Cleveland is opposed to the re-election of Senator Blackburn, on account of his views on the silver question.

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Mr. Cleveland now regrets that his friends arranged to have him invited to Chicago to make a gold speech in order to counteract the silver element, which seems to be in a fair way to get control of the democratic party in that state. The principal cause of his regret is that it has been represented to him that if he makes that gold speech it will result in an open rupture between himself and Vice-President Stevenson, who is stated to be the beneficiary of the democratic silver convention, which has been called to meet in that state in June. The official relations between Mr. Cleveland and Mr. Stevenson have been strained for a long time, but the former is not yet ready for an entire break in those relations. It is regarded as certain that the Illinois democrats will at that convention declare in favor of free silver, regardless of anything that Mr. Cleveland may say; hence his regret that anything should have been said about his making a gold speech in the state. He is just human enough not to wish to put himself in a position to get knocked down by the Illinois democrats.

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Senator Dubois of Idaho, who is now in Washington, has, as all the world knows, some very positive views on the subject of the restoration of silver as a money metal. He says: "In my judgment the outlook for silver is bright. A great majority of the voters want it restored, and they will find a way to secure what they want. They will not be fooled any more with meaningless resolutions in national platforms or by politicians who talk one way and vote another." Senator Dubois believes the restoration of silver will be the work of the republican party.

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Notice.

TO THE GENERAL PUBLIC:

The undersighed has thoroughly remodeled what is known as the Farmers' Feed Yard, corner of Third and Madison, adjoining J. L. Thompson's blacksmith shop, and is now ready to accommodate all who wish their horses well fed and properly cared for, at Prices to Suit the Times.

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