

BEAN-BARRETT ACT LIMITED IN AUTHORITY

Law Passed by Recent Legislature Saves Power to Meet Federal Aid

SUPREME COURT RULES

Discretionary Clause Makes Tribunal Unable to Compel Action

The state board of control does not have legal authority under the Bean-Barrett act of 1917 to sell bonds in excess of \$1,820,386 to match federal appropriations for post and forest roads. This amount is the sum apportioned to Oregon under the original act of 1916. An act of the special session of the Oregon legislature this year, however, extends to the board of control authority to exercise its discretion in selling bonds to meet further federal

appropriations under an amendment to the Shackleford act adopted in February, 1919, for an additional appropriation of \$3,789,731. This is the holding of the supreme court in an opinion in the case of the state highway commission against the state board of control, known as the case of Benson vs. Olcott, a mandamus action in which the commission sued for the board to sell bonds in excess of the amount authorized in the Bean-Barrett act, the purpose being to test the elasticity of that act.

Recent Act Saves Power.

Under the opinion the board could not, were it not for the act of 1919, sell bonds to meet further federal appropriations for post and forest roads except about \$600,000 remaining under the Bean-Barrett act.

Justice Harris wrote the opinion. Of the \$1,820,386 available to Oregon under the original Shackleford act, the board of control has sold \$1,200,000 worth of bonds. Because of a need for further funds, and to test the act, the highway commission instituted action to compel the board to sell an additional \$1,000,000 in bonds, so that the state might not lose the further federal appropriations under the amended Shackleford act. The board replied that it and authority to sell bonds for only \$620,286 more and that this amount must be distributed over a period of five years.

Later Act Doubtful.

The highway commission countered with the contention that the board had authority to issue the bonds under the \$10,000,000 act of 1919. The opinion finds it doubtful if the board has authority under the \$10,000,000 act to sell bonds to meet federal aid. In holding that the Bean-Barrett act does not allow the board to issue bonds under the amended federal act the opinion says the title of the Oregon measure is not broad enough.

Were it not for the act of the special session of this year, the opinion

points out, Oregon would be limited in matching federal money to the original Shackleford act.

The opinion finds a weakness in the act of 1920, however, which is house bill No. 74. As originally drawn the bill directed the board of control to issue bonds. As passed it merely authorizes the board to use its discretion. The result is that the court cannot by peremptory writ of mandamus compel the board to sell the bonds. Further, the act of 1920 withdraws any authority the highway commission may have had under the \$10,000,000 act of 1919 to meet federal aid by bond issues.

Board to Act at Will.

"Even though it be assumed," says Justice Harris, "that chapter 173, laws of 1919, authorized the state highway commission to sell bonds to meet federal aid, never theless it is plain that the act of 1920 withdraws that authority and that the legislature intended that all bonds to meet

federal aid should be sold pursuant to the act of 1920."

Other opinions were handed down as follows:

H. L. White appellant, vs. city of Ashland, appeal from Jackson county, suit to avoid liability for expense of street improvement. Opinion by Justice Bean. Judge F. M. Calkins affirmed.

Sarah E. Patterson appellant, vs. city of Ashland, appeal from Jackson county, suit to annul street assessment. Opinion by Justice Bean. Judge Calkins affirmed.

Lorenzo Malpica vs. The Cannary Supply company, appellant; appeal from Multnomah county; suit to collect damages for personal injury. Opinion by Justice John. Judge C. U. Gantenbein affirmed.

Bellah Hodler vs. Louis Hodler et al, appeal from Multnomah county; petition for rehearing; rehearing denied but decree modified as to costs in opinion by Justice John.

L. G. Riggs et al vs. Elizabeth Ad-

et al, appellant; appeal from Clackamas county; suit to require administrator and heir to hold land in trust for plaintiffs pursuant to an alleged agreement. Opinion by Justice Barnett. Judge J. U. Campbell reversed and case dismissed.

Utah-Idaho Sugar Company vs. George W. Lewis et al, appellant; appeal from Josephine county; action in replevin charging wrongful taking and detention of property. Opinion by Justice Benson. Judge F. M. Calkins affirmed.

Petitions for rehearing denied in Boehmer vs. Silestone; Wilcox vs. Warren Construction company; Thomas vs. Giebisch; Crow vs. Abraham; Ukase Investment company vs. Portland.

Eccles Corporation to Boom Logs Is Formed

The Nehalem Boom company has been organized with a capitalization of \$500,000 and will have headquarters in Portland. The incorporators are David C. Eccles, Roy H. Hurley and W. F. Turner.

Other firms filing articles of incorporation yesterday were: Harris Oil & Gas company, Condon; incorporators, A. S. Hollen, H. H. Wilburn, W. A. Graves; capitalization, \$16,000.

United Lumber company, Stasael, Ore.; incorporators, Thorp Johnson, Sigurd Larsen, Fred Johnson; capitalization, \$10,000.

Sharp Warehouse company, Portland; incorporators, F. E. Myer, L. A. Recken, G. A. Mercer; capitalization, \$2500.

Sprouse, Reitz company, Portland, incorporators, J. A. Sprouse, R. A. Sprouse, J. M. Keister; capitalization, \$250,000.

Permit to sell \$1,500,000 worth of preferred stock in Oregon was issued to The Foster, Kleiser company of Portland.

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BEND, Ore., Feb. 10.—Jay H. Upton of Prineville, a well known central Oregon attorney, today announced his candidacy for the office of state senator from the district

comprising Deschutes, Jefferson, Crook, Lake and Klamath counties. Upton is retiring president of the Oregon Irrigation congress. He announces that he will make his campaign for office on the platform of Americanism, irrigation, better roads and better rural school facilities.

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MEN'S FLORSHEIM SHOES

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MEN'S FLORSHEIM SHOES

English, dark brown last, the latest young men's model, regular \$13 grade, now go at \$10.95

MEN'S FLORSHEIM SHOES

English, black, a very stylish new last, regular \$13 guaranteed quality, now go at \$10.95

50 PAIRS BERGMAN 6-INCH WORK SHOES
Brown and Black, the highest grade Work Shoe made, \$13 grade. \$10.95

50 PAIRS DAYTON 6-INCH WORK SHOES
The very best \$10 grade, now go to close out quick at \$7.95

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A good value at \$4, to close out. \$2.65

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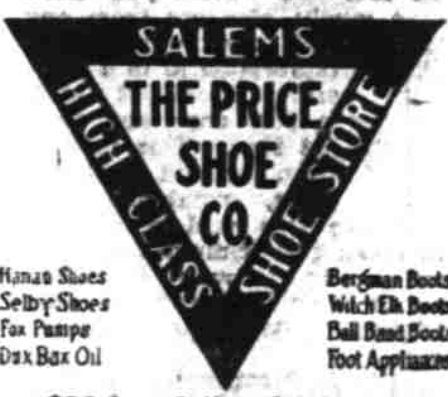
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