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"With or without offense to friends or foes I sketch your world exactly as it goes." -Byron

Citys' Health at Stake

The decision of Judge Hill invalidating the city bond issue voted for the purpose of purchasing the city water plant, emphasizes the folly of haste in such projects and the necessity of adopting a well thought out plan in advance. The election carried on a wave of municipal ownership sentiment, the result of poor service rendered and tactless over-charges by the shifting managements of the new owners.

The amount of the bond issue was set by guess in ad-vance without having secured authoritative estimates to ascertain how much money was needed. The enabling acts were feverishly drafted in a midnight session in a race against time limitations and the petitions as carelessly cir-culated. With so many technicalities involved, there was bound to be a slip, though of course the supreme court may find the the circuit court erred.

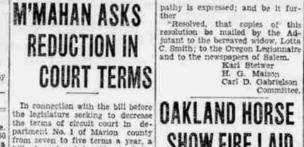
Another mistake was made in not accepting the offer of the water company to complete the new filtration plant un-der city supervision, providing only that the city agree, in event of purchase to refund the actual cost. Instead, the city accepted the advice of experts and rejected the proposal, which while it was a good thing for engineers and lawyers was injurious to the community, which would have been in-sured pure water, pending the taking over of the plant. As long as the city follows only the advice of engineers

and lawyers, for whom new plans and specifications and pro-tracted litigation mean fancy fees, the securing of the water system by the city will be indefinitely delayed, for no two engineers can agree among themselves. Condemnation is a long and costly proceeding for the city, though a fat thing for experts, for it must be followed through state and federal courts, and in the end the courts will insist upon a fair price and prevent confiscation.

As the city is definitely committed to municipal owner-ship, the commonsense thing to do is to secure a round-table conference between the best business minds of the city and the water company officials and amicably agree if possible, upon a purchase price that can be submitted to the people for acceptance or rejection. It would be far cheaper than prolonged and profitless litigation in an effort to secure something for nothing. It is the only feasible short cut to city ownership.

In the meantime, the company's offer for completion of the filtration plant should be accepted. It will be needed, no matter from what source we eventually secure water, for there is no such thing nowadays as pure mountain or other water. And the health of the community should be the con-

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Th connection with the bill before the legislature serking to decrease the terms of circuit court in de-pariment No. 1 of Marion county from seven to five terms a year, a bill champloned by Circuit Judge McMahan who holds that the sev-en terms are an imposition on the taxpayors of the county, a resume has been made of cases tried during the last eight terms of court ance **TO INCENDIARIES**

THE CAPITAL JOURNAL, SALEM, OREGON

pathy is expressed; and be it fur-

SHOW FIRE LAID

POLICE CHIEF and the houses are now entirely and the houses are now entirely planted to various soris of plants, Barker has had charge of the same greenhouses for Breithaupt and has operated them for over 15 years, seaport, which is the Japan tr-Olson was formerly in the florist business here with Clancy and later Breithaupt and the past six years has been a member of Salem fire tematrust. **OF CORVALLIS IS INDICTED**

Sulphur Heals Up Ugly Blemishes

Almost Overnight Many Doctors Use It



BAUME BENGUE (pronounced Ben-Gay) is a safe and sure remedy for that throbbing, splitting pain in the head. Applied freely to the forehead and back of the neck, rubbing in thor-oughly, it brings prompt and blessed relief without the depressing effect of most internal remedies. It is more effective than other external agenta and will not burn or blister.

Bêh-Gay

TUESDAY, FEBRUARY 10, 1931

HOW I RID MYSELF OF Tsuruga, Japan, 69 - Tsuruga's PSORIASIS Write and I will tell you my own story as to how I rid myself of this disease without medical treatment,

salves or injections. F.O.B. 207. Box 117. Woodalds, Long Island

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Banking service customers appreciate

The United States National solicits your banking business with a pledge that it will be handled with accuracy, promptness, courtesy, and a friendliness born of many years' acquaintance with the peo-ple and concerns of this commun-

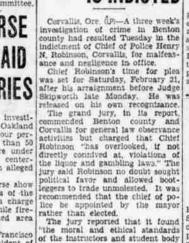
This bank has made friends because of the constructive helpfulness of its co-operation in all undertakings designed to bring prosperity to the community and its people. It has a personality and a high standard which appeal to the public as shown by steadily in-creasing deposits and business.

> The **United States** National Bank Salem Oregon

> > 4

E WILL Not show to harmonize with your smart spring attire. Slender-

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Here's that wonderful compound o Suphur and other valuable medi-cinal agents so many doctors now prescribe for the quick relief of eruptions, rash, itch or blotches on

A Oregon Sale conset this and bigh." Judge Skipworth ordered the in-vestigation following revelations made during the murder trial of W. L. Henderson, who was convict-ed of manslaughter and sent to prison for shooting E. B. Mills here November 29. CAPITAL FLORISTS TAKE GREENHOUSES TAKE GREENHOUSES face, neck, arms or body. Clears the

government, separate from the rest of the state. The federal Constitution delegates to Congress the gen-

eral power, absolutely and without limitations, to dispose of and make all needful rules and regulations concerning the public domain independent of the locality of the land, whether situated in a state or territory, the exercises of which power cannot be restricted in any degree by state regulation.

Owners of land patented prior to 1877 enjoyed all those rights and privileges growing out of the old common law doc-trine of riparian rights, for that year Congress, recognizing the necessity of a modification of this old common law doc-trine, in effect, separated the water from the land and patentees thereafter took their lands divested of the old claim to riparian rights. The right of the states to control and regulate the use of the waters of their lakes and streams was for the first time duly recognized.

The waters, however, are held only by the states in trust for the people and their police powers stop where they deprive the government (or those holding under patents issued prior to 1877) of some right or benefit in the lands. However, congressional enactments, providing or recog-

nizing that rights to the use of water in streams running through the public lands may be acquired in accordance with local laws, have no application to a controversy over the right to use the public lands as sites for works employed in generating and distributing electric power.

Since 1877 and in such western states as have adopted the "Colorado doctrine" which rejects the common law as to riparian rights, the ownership of the waters of natural atreams is in the state, in trust for the public, and individual rights can be acquired only by appropriation and application to a beneficial use.

While the government appears to have recognized the right of the several states to control the use of the waters of their lakes and streams, so-called "state ownership" is large-Havin

ly a legal fiction for while the water b an incident to the match and nothing to light.

land the land is not an appurtenance to the water right. Without the ownership of the land upon, or through, which it can be applied to a beneficial use the water has little or no value.

. . . .

Congress is vested with the exclusive right and power to dispose of, and make all needful rules and regulations respecting, the public domain of the United States.

By conditions embodied in the enabling act, under which bregon was admitted into the Union as a state, the right of longress to control and dispose of all public lands within the state is expressly recognized. The state further bound itself never to tax any of the land or properties of the United States. Nor can the states acquire title to such lands through the exercise of the power of eminent domain for they are already held for the public purposes of the nation. The pow-er of eminent domain cannot be exercised by any state without a suit at law or equity. The government of the United States is not suable in any court without its express

consent. There is no distinction between suits against the government directly and suits against its property.

The Constitution vests in Congress the power of dispo-sition of, and for making all needful and regulations govern-ing, the public lands, and that power is subject to no limita-tions. Congress has the absolute right to prescribe the times, the conditions and the mode of transferring such property, or any part of it, and to disignate the person to whom the transfer shall be made. No state legislature can

interfere with this right or embarrass its exercise. Under the situation today the state appears to control water, and the federal government the land, necessary for hydro-power development. As no water right can vest unless the appropriator has lawfully acquired the right to use the land necessary to its utilization, it would appear that the

Governor's hydro-electric commission bill, "as is", is doomed

Having the water without the land is like having a

