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THE ROAD TAXES IN CITY LIMITS Are They Revertible to the City After Collection by the County.

OPINION OF CITY ATTORNEY Question to Be Considered at the Adjourned Meeting of the Council Friday Night.

At the meeting of the city council to be held Friday night the most important question to be considered is that of the city tax levy for the ensuing year. The ways and means committee have been of the opinion that the city was entitled to the road taxes collected within the city limits, about \$7,000 to the credit of the city, and if the opinion of the committee is correct, it will also make a considerable difference favorable to the city in the amount of the levy to be imposed. The matter was referred to City Attorney Curtis for an opinion, which follows in detail: Astoria, Jan. 27, 1897. Hon. Jas. W. Welch, Chairman Committee on Ways and Means:—

Your request for an opinion as to whether the City of Astoria is entitled to the road taxes collected within the city limits, I beg leave to submit the following report. Section 141 of the charter of the City of Astoria provides: "All road taxes on property and polls within the city limits of the City of Astoria shall be turned over to the city in the same manner as other taxes collected for it, and shall be expended exclusively upon roads, highways and street crossings within said city."

The question is, do the provisions of the charter conflict with the constitution of the state, Article 4, Sec. 23, subdivisions 7, 19, which inhibits the legislature from passing special local laws "for laying, opening and working highways, etc." The question was first raised in the case of East Portland vs. Multnomah county, reported in 6th Oregon, Page 62, wherein the supreme court held, "The paramount and primary control of highways in a state, and of streets in cities is vested in the legislature."

In other words, that the legislature had power to delegate to a city the control of the roads and highways within the city limits and such delegation of power does not conflict with the constitutional inhibition. This was reaffirmed in the case of Multnomah vs. Siker, 19 Oregon, Page 55, and City of Astoria vs. Clatsop county, not reported. A test case was made a short time ago in the case of the City of Oregon City vs. Moore. In this case the city of Oregon City made a demand upon the county treasurer to pay over to the city the money collected within the limits of the city for road taxes, etc. Two propositions were submitted to the supreme court. One, that the provision in the charter of Oregon City was in conflict with the constitutional inhibition. Second, that the tax had not been apportioned when the demand was made.

On the first proposition the supreme court says: "If the legislature may by special law incorporating a city, constitutionally vest in the municipality exclusive jurisdiction over the county roads within its boundaries, it seems to us that no valid objections can be made, on constitutional grounds, to a provision in such an act merely conferring upon the municipal authorities the right to control the expenditure of funds applicable to the improvement of roads and streets within the municipality, collected under general laws." In other words, the supreme court holds that the act incorporating Oregon City, relative to this provision is constitutional, and does not conflict with the constitutional inhibition. But where the supreme court affirmed the decision of the lower court was in the demand made by Oregon City upon the county treasurer for the funds collected, before the apportionment had been made.

It follows, then, that the provision in the charter of the City of Astoria is constitutional and does not conflict with the constitutional inhibition cited. In my opinion the City of Astoria is entitled to all the road and poll taxes collected within the limits of the City of Astoria, and as soon as the apportionment is made, the city can demand of the county that they turn over all such money collected, such money to be expended by the city in the manner provided by its charter. If the county court refuse, mandamus proceedings should be brought to compel them to do so. Respectfully submitted, C. J. CURTIS, City Attorney.

The special committee on the construction of the seawall reported that they had under consideration several methods which had been suggested with regard to the ways and means of meeting the costs of such an undertaking. The committee asked for further time, which was granted. The president called attention to the fact that in compliance with a memorial sent from the Astoria Chamber of Commerce the United States senate had passed a bill appropriating \$10,000 for a quarantine station at or near Astoria. On motion the secretary was instructed to convey to Oregon's congressional representatives the thanks of the Chamber for the interest they had taken in the matter. Advice had been received that today General Freight Agent W. H. Hill, of the Great Northern Railway, would visit Astoria in company with General Agent Harder, of the same line, the reception committee was requested to meet the visitors at the incoming boat and see that they were properly entertained during the day. Several matters of general interest on the subjects of needed harbor improvements, a drainage system to prevent the sliding of city lots on the hill sides, etc., were discussed with a view to future action. The meeting adjourned.

COLD AND SNOW. Washington, January 25.—Reports received by the weather bureau show the intense cold wave to be general over the entire United States and there are no indications of relief within the next twenty-four hours. The temperature has fallen decidedly in the Southern and Middle Atlantic states, and it has risen slowly in the Missouri and upper Mississippi Valley, and over a greater portion of the Lake region. It continues below zero as far south as the Ohio Valley and is below freezing on the Texas coast, and generally in the interior of the Gulf states. The weather is generally clear tonight, except in the St. Lawrence Valley, the Gulf states and the Central Rocky Mountain districts, where local snow storms are reported. The indications are general that fair weather will prevail tomorrow in the central valleys and on the Atlantic coast north of Florida. It will be much colder on the south Atlantic and east Gulf coast, with freezing weather in northern Florida.

Throughout the Ohio Valley and the Lake region the prevailing cold wave has been accompanied by lower temperature than any previously recorded by the weather bureau for this season of the year. Following are some of the minimum temperatures reported of the 25th, with their relation to the lowest previously recorded during the last ten days of January: Chicago, 20; 3 degrees below. Indianapolis, 11; 4 degrees below. Cincinnati, 10; 2 degrees below. Pittsburg, 8; 3 degrees below. Detroit, 14; 6 degrees below. Sault Ste. Marie, 18; 6 degrees below.

CORN AND WHEAT. Washington, January 25.—The estimates by state and territory of the area, product and value of the corn and wheat crops of the United States for 1894, made by the statistician of the department of agriculture, are as follows: Corn—Area, 81,627,990 acres; product, 2,283,875,000 bushels; value, \$491,007,000; yield per acre, 28.2 bushels; farm price per bushel, 21.5. Wheat—Total area, 34,619,000 acres; product, 427,687,000 bushels; value, \$310,602,000; yield per acre, 12.4 bushels; farm price per bushel, 72.6 cents.

The minister to Argentina, Hon. Wm. I. Bushanan, reports to the state department under December 9: "I have followed the news from the wheat districts very carefully for the past three months and have traveled through one of the wheat provinces. Observations lead me to believe that the quantity for export will be between 480,000 and 540,000 tons, probably nearer the first than the second figure. The amount exported during this year was 564,459 tons."

BIG FIRE IN NEBRASKA. Omaha, January 25.—A Bee special from Plattsmouth, Neb., says: Fire started in the Burlington and Missouri River coach shop tonight and burned for fifteen minutes before an alarm was turned in. The coach shop and paint shops were entirely destroyed, and much damage was done to other buildings. The loss is placed at \$150,000. George Sietzner, an employe of the shops, was assisting in fighting the fire and fell from the roof of a burning building, breaking his neck. He died twenty minutes after.

INDIANS GET THEIR MONEY. Lewiston, Idaho, January 25.—Agent Fisher began the issue of checks to the Indians of the Lapwai agency, on the Nez Perce reservation this morning. Owing to the cold weather the Kahlans and other Indians from outside districts did not appear. About 200 received their checks. About \$150,000 will be disbursed in this installment. Business men are preparing for a rush tomorrow, particularly the gamblers. The only bird that sings while flying is the lark.

NOT RECOGNIZED BY THE SENATE "Rump" House Got No Hearing Before President Simon.

KING MAKES A SENSATION But His Motion Lost on a Tie Vote—Matters at Salem Still in a State of Doubt.

Special to the Astorian. Salem, January 25.—The lobby of the senate chamber was crowded this afternoon in anticipation of action on the house concurrent resolution to notify the governor of the organization of the Oregon legislature. The resolution failed to put in an appearance; but the matter came up in another form, on a resolution by Senator King, which was lost on a tie vote, and subsequently by a decisive ruling by President Simon, which was against the recognition of the Benson house. Immediately after the senate was called to order, President Simon announced that he had in his possession a communication from the temporary house. It was signed by Chief Clerk Moody and stated that the Benson house was not a legally organized body. The senate took no action on the communication and the regular order of business was resumed.

After several bills had been introduced King, Populist, of Baker and Malheur, introduced a resolution providing for a committee of three members of the senate to ascertain whether or not either of the two pretended organizations in the house of representatives are legally organized branches of the assembly, and, if so, which of the two are so organized, and report the condition thereof to the senate at as early a date as may be deemed practicable. This brought up the matter of the house recognition in an unexpected form. Patterson, of Marion, at once saw the effect of the resolution, and he moved to lay on the table, thus shutting off debate. President Simon immediately put the motion to lay on the table, and it was lost on a viva voce vote. A call of the ayes and noes being demanded, the roll call showed a tie vote, as follows: Ayes—Bates, Daly, Dawson, Holt, King, MacKay, Mitchell, Mulkey, Patterson, of Washington; Reed, Swing, Smith, Wade, President Simon—14. Noes—Calbreath, Driver, Dufur, Gesner, Gowen, Harmon, Haseltine, Hughes, Johnson, McClung, Patterson, of Marion; Price, Taylor—14.

Absent—Brownell, Carter—2. So the senate failed to adopt the resolution. The senate proceeded with the second reading of bills, but had not gone far when Representative Crawford, of Douglas, appeared in the lobby with a message which was delivered to President Simon, who read it, and then said: "The chair is in receipt of a communication, purporting to be a message from the house, stating that the house has effected permanent organization by the election of Hon. H. L. Benson as speaker, and R. R. Hays as chief clerk, and other officers, and is ready for the transaction of business. The chair has already submitted to the senate a message from the temporary organization of the house, advising the senate that such permanent organization was effected in an irregular and unconstitutional manner, and without the presence of a quorum, and that such action was illegal and void. The chair is of the opinion that the pretended permanent organization, without a quorum, mentioned in this communication, is not valid or binding, and that the senate cannot recognize such alleged permanent organization of the house; the chair therefore declines to entertain or receive this communication, and rules that the same cannot be entered upon the journal. This decision will stand as the judgment of the senate, unless the senate will overrule the decision of the chair."

This settled the matter of recognizing the house, at least for today. CAUCUS HELD. Salem, January 25.—A caucus of senators was held tonight at the hotel parlors adjacent to the Mitchell headquarters. The principal subject under discussion was the senatorial election. Senator Patterson, of Marion, offered a resolution, in effect binding the senate to proceed to vote for senator on February 2. There was considerable discussion and Senator Mitchell was called in to expound the law on senatorial elections. In the course of his remarks he said: "If forty-six members held a joint convention and elected a senator, by a majority vote, he was satisfied their nominee would be seated by the United States senate."

The Patterson resolution did not reach a vote, inasmuch as several senators objected on the ground that a majority of the senate was not present at the caucus. It is said to be the purpose to introduce the Patterson resolution in the senate this week. The caucus did nothing about the house organization muddle.

CONTEST IN WASHINGTON. Speaker Cline Gets Near the Winning Mark.

Olympia, January 25.—The fusion members of the legislature evidently were not in fighting condition after the Sunday recess. When the fourteenth joint ballot for United States senator was called at noon today, and after two ballots were taken, adjournment was effected without opposition. Speaker Cline, on the first ballot of the day, fell one short of the 37 votes he received Saturday, but on the second ballot jumped to 35. Judge Turner, his main opponent, got 27 votes on the first ballot, which is the same number he received Saturday, and on the second ballot moved up to 28. Squire received seven votes, one more than at any previous time. The remaining votes were scattered as usual, and there was practically no change from Saturday's situation. If any unusual interest was manifested it was the beginning of each roll call, when Ames, whose name heads the call, cast his vote. Ames is one of the 26 Republicans and it has been whispered about that the Republicans were going to vote for Cline. When Ames voted for Denny as usual, however, the painful anxiety of many candidates and friends was relieved. Cline would have received two more votes, making 41 in all, but for the absence of two of his supporters.

CLEVELAND MEETS QUEEN LIL. Washington, January 25.—President Cleveland received ex-Queen Liliuokalani at the White House this afternoon. Palmer, her spokesman, called upon Private Secretary Thurber with one of the ex-queen's Hawaiian attendants, and delivered a pretty little autographic note from her asking the favor of a personal unofficial interview with the president. The note was couched in dignified and appropriate language and in support of her application it was stated delicately by the ex-queen that in her native land it was the custom to receive visits from persons visiting the country for recreation. The president promptly sent word that he should be pleased to receive an unofficial and personal visit from the ex-queen and set the hour of 3 o'clock for the reception. This is the first time the president has met Liliuokalani.

DON'T LIKE OUR FLOUR. London, January 25.—The Mark Lane Express today, in its crop review, estimates the shortage of the Indian wheat crop at upwards of one million quarters, and says: "The increased pressure of American flour in the British market is causing some anxiety to millers, who flattered themselves at this time in 1896 that American competition had been collared."

LATE ARREST. About midnight last night Officer Oberg arrested a man who was intoxicated and begging on the streets, and placed him in the city bastille. The man's name was Herman G. Fink, and he is supposed to have come from Portland recently.

THE COLD IN CHICAGO. Chicago, January 25.—Mayor Swift today issued an appeal to the citizens of Chicago for contributions for people suffering from cold and want of food and clothing.

IDAHO STILL IN DOUBT. Boise, Idaho, January 25.—The senatorial ballot today resulted: Frank, Walton, Populist, 29; Dubois, 26; T. F. Nelson, Populist, 13; others, scattering. Great Britain's territory in Africa amounts to 2,615,000 square miles.

UTAH DEADLOCK. Salt Lake, January 25.—The senatorial situation shows a strong indication of a deadlock. Seventeen ballots have been taken with but little change in the result. The last ballot was as follows: Thatcher, 20; Henderson, 15; Rawlins, 19; Lawrence, 4; Dooty, 3; Powers, 1.

BANK FAILS. Potsdam, N. Y., January 25.—The Potsdam National Bank, with a capital of \$250,000, was closed by the National bank examiner today. The failure of the Percepsed Falls Pulp and Paper Company about a week ago is said to have caused the bank failure.

SUICIDED IN A CHICAGO HOTEL Theodore Benham, Well Known Spokane Business Man.

HE WAS MENTALLY UNSOUND Started East to Engage in Business—Wife and Friends Prostrated by the Sad News.

Chicago, January 25.—Theodore Benham, traveling salesman, 60 years old, was found in a room of the Hotel Grace today. His muffer was tied around his throat and he leaned forward in such a way as to cause strangulation. Benham lived at Spokane, Wash., and traveled for a Minneapolis house. It is understood he had trouble with his wife. Spokane, January 25.—The news of the suicide of Theodore Benham, in Chicago, came as a terrible surprise to his friends in this city, where he was well known among the old time residents. His widow is prostrated with grief. Benham came to Spokane in 1882 and for years carried on a successful business as a builder and contractor. He left Spokane two weeks ago last Friday with plans to meet his brother at Mendon, Michigan, to engage with him as traveling salesman. On his way he visited relatives in Minneapolis and from that city wrote a cheerful letter to his wife. From there he went to Chicago to buy a stock of goods. It is thought here he must have been taken ill and in a moment of mental aberration ended his life. In 1861 he went to Jacksonville, Southern Oregon, where he engaged extensively in mining and contracting, and made a great deal of money. In 1867 he went to Nevada and remained there until he came to this city.

IN NEVADA. Will Legalize Prize Fighting—Senatorial Fight Over.

Carson City, Nev., January 25.—A bill was introduced in the assembly today to permit glove contests upon the payment of a license of \$250. The bill was read the second time and referred to the committee on public morals. There is a strong public sentiment in favor of passing the bill. Several prominent citizens are interested in the matter, and if it becomes a law will endeavor to induce Dan Stuart to bring off the Corbett-Fitzsimmons match here in March. The election of a United States senator was made a special order for tomorrow afternoon. So sure are John E. Jones' friends of the result that they have prepared a banquet to follow on Wednesday. It is surmised that he will get every vote save six Republicans' signatures.

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