

Polk County Observer

SEMI-WEEKLY

VOL. 25

DALLAS, OREGON, TUESDAY, JULY 1, 1913

NO. 35

THIRD SALOON IS NOW OPEN FOR BUSINESS

Matter Hinged on Granting of License by City

LICENSE ISSUED WHEN COUNCIL VOTED IT; HENCE INJUNCTION DOESN'T APPLY, IS OPINION.

CIVIL COURTS POWERLESS

Council Entirely Within Its Rights Declares Attorney-General Crawford; Only Body to Pass Upon Population Question; May Adopt Any Means Desirable.

Following the receipt by Mayor VanOrsdel, of an opinion from Attorney-General Crawford, in which it was held that the municipal authorities are alone responsible for the control of the liquor traffic, and that the city council, as the city law-making body, is solely the judge of whether or not the city has sufficient population, under the ordinance, to permit the issuance of more than two saloon licenses, and holding, further, that the action of the council in granting the Chitty saloon license was final, and the mere filling out, by the city auditor, of the Chitty saloon license for business last Friday morning, notwithstanding the injunction granted by Judge Galloway restraining City Auditor Gregory from issuing said license.

License Was Granted.
As stated in the foregoing, the attorney-general says: "As a matter of law I beg to say that, in my opinion, the license was already granted when the city council voted to issue the same and entered it upon their records and minutes." Here he cites several authorities to prove his position. "Nothing remained for the applicant or the city to do. The application was made in due form, the money paid, the city council passed upon it, granted the license, approved the bond, and it was duly entered in the records. That, under the foregoing decision constitutes a license."

Council Sole Judge.
Referring to the question of the number of inhabitants within the corporate limits of the city, the attorney-general further says: "There is no doubt but the city council must determine whether there is a sufficient number of inhabitants to permit the extra license to issue, and that matter can be determined in any manner the council deems wise. I do not think the last census governs as a matter of law, and that the action of the council in determining that the city contains at the present time a sufficient number of inhabitants to permit of the extra license is final, as far as the applicant is concerned, at least, and that he would be protected and fully authorized to proceed under his license."

Home Rule Law Governs.
That the provisions of the Home Rule amendment governs in this case is the opinion of District Attorney D. H. Upjohn, who declared that the matter was entirely up to the city authorities and that his office would take no part in the matter in any way, whatever.

"At the general election in 1910 the people of the state of Oregon passed the so-called 'home rule' amendment which provided among other things that cities and towns are given 'the exclusive power to license, regulate, control or to suppress or prohibit the sale of intoxicating liquors' this being subject only to the provisions of the local option law," stated District Attorney Upjohn.

"This amendment to the organic law of the state, voted upon by the sovereign people, in my opinion is absolutely final. It repeals by implication statutory provisions relative to liquor licenses which may be still lingering in the Oregon code. The state has no jurisdiction over the sale of liquors within the limits of incorporated cities and towns save only where the police power of the state is being intruded upon."

Position Upheld.
"The Attorney General in his opinion, in a general way, entirely upheld the position which I originally took in filing a motion for a non suit in the case of Walter J. Coy and the State of Oregon, ex rel. Gale S. Hill, District Attorney. As I stated at the time the state of Oregon has no right to direct a prosecution against James Chitty, even though it might be assumed that he is without a liquor license. I am inclined to agree with the opinion of the Attorney General that the license has in fact been issued, even though the paper, which is pure evidence of the li-

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John E. Lamb, Slated as New Ambassador to Mexico



IMPORTANCE attaches to the report from Washington that John E. Lamb of Indiana has been selected by President Wilson to be ambassador to Mexico to succeed Henry Lane Wilson. It was said at the time the selection was made public that Mr. Lamb's name might not be sent to the senate until October, when the presidential election is held in Mexico. The Wilson administration has not formally recognized the Huerta regime, and this was given as the reason why the appointment was withheld at this time. Mr. Lamb is a close friend of Secretary of State Bryan, whose wishes were paramount in filling this post because of the peculiar relations existing between the two countries. If Mr. Lamb goes to Mexico City he will find the task awaiting him no easy one, for it is said the feeling against the Americans is more bitter than ever before, and the country is still in turmoil.

Fair Organization Completed

Directors Elected and Officers Chosen At Well Attended Meeting Held Here on Saturday.

Organization of the Polk County Fair association was completed at a well attended meeting of representative citizens from various portions of the county held in this city Saturday. The stockholders met at 11 o'clock with temporary President W. A. Ayres presiding. W. V. Fuller reported that more than \$800 in stock had been subscribed and that he believed there would be no trouble in securing enough more to provide suitable buildings for exhibits, etc., on the fair grounds. The committee on bylaws, appointed in November, 1912, reported, and the bylaws were regularly adopted. The following directors were elected: J. F. Ulrich, Airline; C. C. Gardner, Bridgeport; H. L. Fenton and W. A. Ayres, Dallas; C. L. Hawley, McCoy; P. O. Powell, Monmouth;

John Simkins, Spring Valley; Henry Voth, Salt Creek; E. V. D. Paul, Buell.

Officers Elected.

After adjourning for lunch, the directors met at 1 o'clock and elected the following officers: H. L. Fenton, president; John Simkins, vice-president; H. H. Belt, secretary; Eugene Hayter, treasurer. After talking over several matters in connection with the fall exhibition, the directors adjourned, subject to the call of the president, and in a body went out to the proposed fair grounds on the Rowell tract. Each and everyone expressed himself as very much pleased with the site and thought it ideal for the purposes intended.

Mr. Belt, when informed of his selection as secretary, declared that he could not accept the position. While regretting the necessity of refusing the honor, Mr. Belt says that his private interests compel him to decline the post. It is probable that an early meeting of the directors will be called to select a secretary to fill the vacancy.

WILL IMPROVE CORNER REFER NEW ORDINANCE

R. L. Chapman Plans Razing of Building on Corner of Main and Oak Streets.

Arrangements have been completed by R. L. Chapman for the razing of the old building corner of Main and Oak streets, which he purchased some months since, and the removal of that location of his present establishment used as his undertaking parlors and mortuary chapel. In the new location his present building will be raised sufficiently to permit of the building of a basement under the greater part of the entire structure, thus giving him more room. Work on this improvement will begin at once and be rushed to completion. The removal of the old, dilapidated structure on the corner, which has been an eyesore for years, will be hailed with delight by every citizen of Dallas.

Will Sing at Conference.
Sunday's Oregonian contained a picture of Mrs. Laura Poling-Goode who is one of the singers at the World's Christian Citizenship Conference now in session in Portland.

Referendum Petition on Ordinance No. 200 Regulating Number of Saloons Appears in Auditor's Office.

Containing exactly 80 names, a petition referring ordinance No. 200, was filed with City Auditor Chas. E. Gregory yesterday by Walter L. Toole, Jr., as attorney for the petitioners. This ordinance is the one recently passed by the council eliminating the word "major" from the model license law, thus making it read "one saloon for each 1,000 population or fraction thereof." In the petition it is asked that the question be submitted to a vote of the people of the city at the municipal election to be held on Monday, April 6, 1914.

The council has not been officially informed of the filing of the petition and hence has taken no action in the matter.

Visits in This City.
Miss Esther Miles, of Eugene, spent Saturday and Sunday at the home of L. E. Adams, on her way to Monmouth where she will attend the summer school.

FINAL TOUCHES TO FOURTH PROGRAM ARE MADE

COMMITTEES MEET, COMPARE NOTES AND LISTEN TO SUGGESTIONS FOR SUCCESS OF BIG AFFAIR.

SPORTS PROGRAM IS READY

Plenty of Money For Prizes; Baby Carriage Parade to be Feature; Streets to be in Condition For Use; Route of Morning Parade and Complete Program.

Final touches were given to the arrangements for Dallas' big celebration at a meeting of the committees last night. At this session all matters bearing on the celebration were discussed and the program as reported by the various sub-committees and the committee on sports was adopted. It was definitely reported by Chairman Fuller, that the paving contractors had assured him that Main street would be in condition for use on the Fourth, for the morning parade, and Secretary Toole has been busy mailing notices of that effect to the many who have signified their intention of entering the parade with their decorated automobiles. A feature of the display will be several decorated floats, some of the business men preparing to spring a surprise in this connection. The Dallas Woman's club will also have a float, it is stated.

Route of Parade.
Although there may be some changes in the final routing of the parade on the morning of the Fourth, the present intention is to have the line of march as follows: Form at the public school building on South Main street, move north on Main to Oak, west on Oak to Levens, south to Court, east to Main, south to Clay, east to Shelton, north to Washington, west to Main, north to Court, west to Levens, north to City Park.

The baby carriage parade will be held promptly at 10 o'clock around the court house plaza starting at the New Scott hotel corner. That this will be a success is evidenced by the statement of Chairman Belt that there are now more than 30 entries. In connection with this parade will be a display of doll baby carriages by little girls for which prizes of \$3, \$2, and \$1 have been offered. Winners in the baby carriage competition will be awarded prizes as follows: First, \$7; second \$5; third \$3.

Program of the Day.
The entire program for the day (which is subject to slight variation owing to conditions) will be as follows:

10:00 a. m.—Baby Carriage Parade. Around Court House. \$21.00 in prizes.
10:30 a. m.—Automobile parade;

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DALLAS SELECTED AS FAIR SITE

COUNTY FAIR BOARD REACHES DECISION.

Hears Arguments For Independence and Dallas and Vote Results in 2 to 1 For the County Seat.

Dallas was designated as the point for the holding of the annual exhibition of the Polk County Fair association at a meeting of the County Fair board held in this city on Monday morning. The meeting was called primarily to give all portions or communities of the county, that desired to be heard, an opportunity to express their preference or press their own claims as a site for the fair, but the only cities represented were Dallas and Independence. Oscar Hayter had been selected by the Dallas Commercial club to present the claims of this city, while N. L. Butler appeared for Independence. The meeting attracted quite a crowd of interested spectators to the county court room, and the arguments of Mr. Hayter and Mr. Butler were listened to with interest.

"Railway Facilities."
In his contention for Independence as the proper location for the fair, Mr. Butler dwelt at length upon the "superior railway facilities" which the town possessed, but it was the

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Family Trouble Leads to Murder of Ballston Woman By Outcast Son In Law

Louis W. Davis Sends Bullet Crashing Into Brain of Mrs. Eliza J. Stewart In Presence of Her Husband and Daughter; Ben Agee, a Neighbor, Dangerously Wounded In Monday Tragedy.

Murderer Formerly an Inmate of Insane Asylum, Said to Have Made Threats "to Get" Woman He Killed; Stewart Has Furious Struggle With Slayer; Davis Seized by Neighbors and Now Awaits Action of Polk County Grand Jury.

Making good on various threats which he is said to have uttered, Louis W. Davis, recently an inmate of the Oregon State Insane asylum shot and instantly killed Mrs. Eliza J. Stewart at her home in Ballston, shortly before 7 o'clock on Monday morning, and dangerously wounded Ben Agee, a resident of that place. G. M. Stewart, husband of the dead woman, and father of Davis' wife, gapped with the murderer and held him until help arrived, and he was later turned over to Sheriff Grant and now occupies a cell in the city jail, awaiting the action of the Polk county grand jury at the next term of the circuit court which opens on Monday, August 4, in this city.

Davis was committed to the asylum May 4, 1912 and dismissed as cured in October of last year.

Story of the Shooting.
Louis W. Davis was first seen in Ballston, on the occasion of his last visit, on Sunday night, and it is said that he spent the night in an old barn or hovel in that place. About 6 o'clock Monday morning he appeared at the Stewart home which is located in the outskirts of the place, on the Ballston-McMinville road.

His wife, from whom he was separated, and who is a daughter of the Stewart's, was living with her parents, and Davis says he called there to see her and to endeavor to effect a reconciliation. He met her in the yard outside the house and followed her to the back door. Here he encountered her father, G. M. Stewart, who ordered him to keep away from the house and not to enter. Unheeding this command, Davis entered the kitchen, following his wife. At that time Mrs. Stewart, mother of Mrs. Davis was also in the kitchen. Thinking to secure assistance, Stewart left the house and went to the home of Ben Agee, a neighbor, and the two men returned to the house entering by the front door. They passed through the front room and the dining room and into the kitchen where Mrs. Stewart and her daughter were pleading with the enraged man to put away his gun which he had carried in his hand since approaching the house.

Mrs. Stewart is Killed.
The moment that Agee, followed by Stewart, entered the kitchen, Davis who stood nearly opposite with his back to the wall, raised his revolver and began shooting at Agee. The latter did not falter, however, but rushed toward his assailant closely followed by Stewart. The testimony of witnesses at the inquest indicated that Davis shot at least four times at Agee during the time that he was crossing the floor and, even then he turned the gun upon Mrs. Stewart and fired one shot at her which took effect in her right cheek the bullet ranging upward into her brain. She dropped to the floor, instantly killed. Stewart by this time had reached Davis who was struggling with Agee and, using the revolver which he had carried since the head inflicting a painful wound and laying the scalp open for some inches. By this time help had arrived and the murderer was quickly disarmed and taken to a store up town where he was securely tied and information of the affair telephoned to Dallas.

In response to the summons Sheriff John M. Grant, Coroner R. L. Chapman, District Attorney D. H. Upjohn, Deputy Sheriff Henry Savery, Dr. A. B. Starbuck and an Observer representative left by automobile for Ballston where an inquest was held at the Stewart dwelling under the direction of Coroner Chapman, and, with a jury composed of George H. Ball, Wm. Fudge, Herbert Poynter, Henry Butler, William Carroll and N. E. Barnett heard the testimony of witnesses examined by District Attorney Upjohn. Following this the jury brought in a verdict to the effect that Eliza J. Stewart came to her death as the result of a gunshot wound inflicted by Louis W. Davis.

Bound Over to Grand Jury.
Davis was arraigned before Justice Hardy Holman at 1 o'clock yesterday afternoon charged with murder in the first degree and waived preliminary examination. Attorney Walter

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FORCE CONNECTION WITH SEWERS IS AIM

PROPERTY OWNERS MAY BE COMPELLED TO USE SEWER PRIVILEGES IN ALL SEWER DISTRICTS.

COMPLAINTS ARE NUMEROUS

Saloon Case Again Holds Limelight at Council Session; Macadam Improvement for Hayter and Washington; Want Hard Surface on Oak From Main to Jefferson.

Hereafter all parties living within a sewer district will be compelled to connect with the sewer if an ordinance, which the ordinance committee of the city council, was instructed to prepare, at the meeting of the council last night, is passed. The necessity for such a measure was emphasized at the meeting by complaints received from many sources regarding unsanitary conditions of certain premises within the sewer districts. The ordinance committee was also instructed to prepare an ordinance regulating the height of awnings.

Several complaints regarding obstruction of sewers in different parts of town alleging unsanitary conditions, were referred to the fire and water committee with power to act.

Saloon Case Bobs Up.
The council indulged in considerable discussion over the celebrated "third saloon case," which was started when Fenton wanted information as to why the Chitty saloon was permitted to operate without a license. Attention was called to the provision of sections 12 and 13 of the model liquor law, which requires that all liquor dealers must keep their licenses on display in their places of business. It was stated that, in the Chitty saloon, a certified copy of the council proceedings, showing the action of the council in granting the license, was displayed. No definite action was taken in the matter.

New Macadam is Ordered.
A resolution for the improvement of certain portions of Washington and Hayter streets by the laying of macadam was passed. Relative to objection to the proposed improvement of Academy street, between Church and Levens, J. H. Shepherd and C. M. Westover, property owners, objected to the further improvement unless the council would provide a grade sufficiently low to permit of the hard surfacing of the street, at some future date, without the necessity of removing the macadam base. The same question was brought up with reference to Washington street. It was the general opinion that the matter could be arranged in this manner and that the curbing already in place could be lowered without materially injuring it, to meet all requirements. On motion the entire matter was referred to the street commissioner and the street committee with power to act.

Want Hard Surface.
Petition for the hard surface of (Continued on Page Six.)

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COURT TO INSPECT TWO BRIDGES

TWO NEAR BALLSTON MAY NEED REPAIR.

May Order New Ones; Court Also Will Confer With Contractor MacVeigh at Rock Crusher.

For the purpose of investigating the condition of two bridges in the northern portion of the county near Ballston to determine whether or not new ones are needed the county court, consisting of County Judge John B. Teal and Commissioners H. S. Petre and George A. Wells, left this afternoon for that section. They will also meet Contractor MacVeigh, of Newberg, who has the rock crushing job at the Williamson quarry and assist that individual in starting up the crusher.

Of the bridges which the court will investigate one is located near the Conners' place and the other at J. A. Baxter's.

Nothing of great importance, except a few road matters is expected to come up for consideration at the regular session of the county court which begins tomorrow.