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THE NEW WATER LAW

It Is Said to Contain a Few Weak Features.

OTHERWISE IS A GOOD BILL.

Draft for Proposed Water Code Needs Certain Corrections—Provisions Are Being Kept Secret.

There are some objections being raised to the work of the committee which recently met in Portland and drew up a draft for a law to define water rights in Oregon. This bill has not yet been published and consequently cannot be discussed intelligently, but an article in Saturday's Portland Telegram condemns quite severely certain features of the new bill. On the other hand, other writers state that it is a commendable measure. In view of the fact that the prosperity of the whole of Oregon, and particularly of this section, depends so largely on the enactment of a just and efficient water law, any measure tending to that end should be thoroughly understood and discussed by the people before its passage. Consequently The Bulletin publishes the Telegram's article:

A scheme on the part of the committee appointed by the State Water Laws Convention at Salem, which met in Portland recently and drafted a water code to be introduced in the next legislature, to keep the proposed bill from the public and to rush it through the legislature with an emergency clause attached, has just come to light.

A copy of the proposed bill has been examined by experienced lawyers, outside the committee, and has by them been pronounced weak and even dangerous in several places. That it would not meet the approval of the people, if made public, is generally believed by those who have looked into the measure drafted by the committee.

The fact that the draft of the bill contains an emergency clause, by which it evidently is intended to take it out of the hands of the people, in the event it got through the legislature, by denying them the right to invoke the referendum, is regarded as a suspicious circumstance.

Among the objections found to the proposed draft are:

That it vests almost autocratic power in the hands of the state engineer.

That it affords unlimited opportunities to build up a political machine, through the placing of large patronage in the hands of the state engineer and the board of water commissioners.

That it provides for the practically unlimited employment of men in cases of "emergency."

That it leaves the bars down for schemes whereby corporations or cliques of individuals may effect an unlimited monopoly of the water powers of the state by a system of filings and relinquishments.

Powers of Board.

The powers vested in the state engineer and the water board are set forth in few words and unlimited extent, as follows, in section 12:

"The state engineer shall make all necessary rules and regulations to carry into effect the duties devolved upon his office, and may change the same from time to time in his discretion. All such rules and regulations relating to applications for permits to appropriate water, for the inspection of works, for the issuance of license, and for the determination of rights to the use of water, shall be modified by the state engineer if required by a vote of the board of water commissioners, hereinafter established, at least three of the four water commissioners voting in favor of such modification."

As an indication of the comity of interest that may possibly exist between the state engineer and the water commissioners, it is only necessary to note that the placing of patronage by the several commissioners in the several divisions is made contingent upon the approval of the engineer.

The several commissioners are

vested with power to appoint water masters for as many districts as lie in their respective divisions, and these water masters have the power to appoint assistants "in cases of emergency." Water masters are to be paid \$4 a day, the money to be raised by the taxpayers of the county.

Liberal Filing Privileges.

According to this bill, anybody can go anywhere and file upon water rights "for beneficial uses," the latter phrase not being defined in the bill. All that is necessary is to file a map of the right claimed, along with the surveys. Five years are allowed in which to complete work upon the plant, flume, ditch or whatever the work may be. At the end of half this time, if one-fifth the work is done (this is to be determined by the state engineer), an extension of the time may be allowed to complete the work.

There is no provision that any bond shall be deposited by the applicant for a water right or any forfeiture imposed as a penalty for bad faith. All he has to do is to file, and the right is bottled up for at least two and half years.

Right here is where the law is said to be defective and to leave a loophole of which a corporation might avail itself to gobble up invaluable rights without the cost of a dollar more than is necessary to make surveys.

A corporation might, under this bill, file on every valuable right along a whole stream, and thus obtain the vested right of priority of filing. At the end of every two and a half years those who had filed could go before the state engineer and relinquish and as last as the rights were relinquished others could file upon them, and so on ad infinitum, without the cost of a dollar and without violating a single provision of the proposed law. In this way rights by filings could be perpetuated by endless filings without improving the rights, as contemplated by the law.

The law does not make any provision for such monopoly, but it fails to make ample provision to prevent it.

Little Work Necessary.

Another weak spot is where the bill enables a claimant to file upon water right "for beneficial uses," to irrigate, for instance, 50,000 acres. He may proceed to develop his plant to distribute this water, under the protection of the law, for several years, and at the expiration of the time allowed in which to complete the project, he may have completed an equipment capable of watering only 10,000 acres. Nevertheless, he may then go ahead and enjoy a vested right to water only that many acres, although having, for the time allowed, bottled up a right to water the difference, or 40,000 acres.

The bill is intended to supercede the code adopted at the last session of the legislature. In so doing it recreates the office of state engineer, but neglects to include the provision contained in the law sought to be repealed, whereby the governor may remove the state engineer from office in case of malfeasance or for other good and sufficient cause. Inasmuch as the office is appointive and so important in point of power, it is claimed that some provision should be made to protect the people against an officer who might turn out to be unsatisfactory.

Has Its Good Points.

Aside from these various features, the bill proposed is said to be a good law. It proposes to reduce the chaotic water laws to a system and give some fixed and settled rules of title. Among the provisions approved is that water employed in irrigation shall pass in fee simple as appurtenant to the land.

With considerable fixing, it is asserted that the proposed water code for Oregon would probably be all right. Owing to its importance, the committee will more than likely be asked to print the bill, and, among other things, to erase the emergency clause, because the people might want to have something to say about it later on.

DECISION RENDERED

Miss Carrie Olson Wins in Celebrated Contest.

INVOLVES WATER POWER SITE

Land Office Officials Decide that Miss Olson Has Prior Right over Northern Pacific and L. Dillon.

A decision has been reached by the officials of The Dalles land office in the contest case of Miss Carrie Olson vs. the Northern Pacific Railway Company, et al. The decision is in favor of Miss Olson and declares that she enjoys priority of right over any and all other parties to the contest. Thus Miss Olson has won the first battle in the fight for title to the valuable water power site on the Deschutes river eight miles south of Bend, familiarly known as Dillon Falls. Whether an appeal from this decision will be taken to the interior department by the Northern Pacific people is not now known.

This case, it will be remembered, is the one in which Miss Olson built a cabin and established residence on certain land and then endeavored to file on it as a homestead. The filing was refused because the land was unsurveyed. A few weeks later the Northern Pacific placed Mount Rainier scrip on the land, the law allowing such procedure with Mount Rainier scrip. Miss Olson then brought contest to oust the Northern Pacific from what she claimed, through a squatter's right, was lawfully her land.

During the contest a third party was brought into the case when Leander Dillon, a pioneer settler in this region, laid claim to the land on the grounds that he had homesteaded it during 1886-91, but had been refused patent to it because it was unsurveyed land, claiming, however, that the land office officials had declared—when he made final proof on an adjoining 80 acres—that he had homesteaded in good faith 80 acres of the land that is now in controversy (the 80 acres on which the power site is situated), and that patent would be issued to him as soon as the land was surveyed. Attorney Myers, counsel for Miss Olson, thereupon introduced evidence to prove that Dillon in reality was appearing in the interests of the Northern Pacific, that he had abandoned residence on the land in 1890, and that he had failed to comply with the law in other respects.

The contest aroused considerable interest at the time, an interest that subsequently spread, to no small extent, throughout the adjoining country. Attorney Myers of Laidlaw has handled the case throughout for Miss Olson, and Attorney Scoley, of the Northern Pacific land department at Portland, appeared for the railroad. Attorneys Wickham of Bend and W. E. Guerin, Jr., of Cleveland, Ohio, appeared in behalf of Mr. Dillon.

SEES BRIGHT FUTURE.

John Trisler of Redmond Writes Interesting Letter to an Iowa Paper.

John Trisler, father of Mrs. E. C. Park of Redmond, who recently came from Iowa to spend the winter with his daughter, writes a letter to the Ottumwa (Ia.) Courier concerning conditions in this region. After speaking of other sections of the West, he says:

"Leaving Ogden on the Oregon Short Line, we passed through a country that I had never before seen, but everything showed thrift and prosperity. We saw fine farming country as far as Pendleton, Or., but from there to Biggs, Or., the route was along the Columbia river and I saw nothing but shifting sand. Leaving Biggs on the Columbia Southern for Shenko, we passed through about 60 miles of fine farming country as I ever looked at. From Shenko for about 60 miles south and west the country does not look to be good for anything but stock grazing and does not look good for that, but I saw some very fine cattle and sheep along the way that were being

driven in from the range. We are now at Redmond, Crook county, Or., in the Deschutes valley, a desert that is being reclaimed by the Deschutes Irrigation and Power Company, the land being placed on the market as fast as reclaimed. The soil is light and what is known as volcanic ash, but is very productive of alfalfa, clover, timothy, wheat, oats, barley, sugar beets, carrots and almost all kinds of vegetables, and I believe will be a great fruit country. The country being new the fruit has not been fully tested yet, but some have had the second crop of strawberries this season. The valley is watered from the Deschutes river and has an abundance of pure, soft water. The valley has more or less juniper scattered over it that makes the best of fire wood and fence posts, the undergrowth being principally sage brush. Some parts of the valley have scattered rock on the surface, but the greater portion of the land can be used for cultivation. The price of the land varies from \$100 to \$600 for 40 acres according to the number of irrigable acres on the 40 acres.

"The climate is fine and unusually beautiful. I believe there is a bright future ahead of this country. What it needs most at present are railroads, which they will have in the near future. It is 70 miles to the nearest railroad station and all supplies that have to be freighted in come high.

"In conclusion I would say to anyone thinking of coming to this country that they should not come expecting to go out with a bushel basket and pick dollars off the trees and the sage brush, but men and women who have the courage to face the hardships and privations of a frontier life and stay with it, will surely be successful. JOHN TRISLER."

THIS LOOKS WELL.

A Little More Evidence Favoring Early Construction of Oregon Eastern.

In view of the news contained in the following article, it is safe to count that a little additional evidence has been adduced favoring early construction on the Oregon Eastern across the state east and west. A crew of surveyors are suddenly recalled from running a desired survey and put onto an old line run by them, with orders to make permanent locations. That looks as though the powers behind the throne are anxious to get the surveying rapidly completed on a line from Natron to Ontario. The story is told by the Lakeview Herald as follows:

The crew of railroad surveyors under George W. Back, which was working on the preliminary survey through Lakeview, was recalled and returned to Wagontire Mountain. They went back to run over other work on the main line. Two or three different routes, running east and west across the state from Vale, had been run out, and it seems that one, run by Mr. Back, was found to be about 45 miles shorter than the others, and his crew has gone back to do closer work than a preliminary survey renders possible, and to make permanent locations.

His mail came here marked "Oregon Short Line," and that line is identified with the Harriman people. It is generally understood among those people that a branch line of that system from some point north, that will pass through this valley and connect with the main line at some point south, such as Reno, is an assured fact.

NEW SAGEBRUSH RAKE.

Madras Man Invents One That Does Good Work.

Fred Fisher of Madras states that he has made, after his own idea, a heavy rake for the purpose of raking sagebrush and that the implement is giving excellent results. It is mounted on two wagon wheels, the teeth being made of heavy steel bars, shaped like ordinary hayrake teeth, set about 3 1/2 inches apart, and the rake covers about eight feet in width. It is dumped by a hand lever. Mr. Fisher plows the land first with a heavy breaking plow and follows with this rake and dumps the brush in winrows like hay is harvested. The brush is then piled and burned. Four horses pull the machine, and besides picking up the brush it turns up loose rocks and tears the sod apart, going a long way toward preparing the seed bed for the first crop on the land.—Pioneer.

Cougars Are Numerous.

If a bounty were placed on cougar skins it would do more to protect the deer than any measure that has heretofore been taken. Timber cruisers coming into Silver Lake report that the cougars are in such large numbers that in many places they found beaten paths in the snow, and it is a well known fact that the cougar is the deer's most deadly enemy.—Silver Lake Oregonian.

STEIDL TELLS STORY

Portland Men Would Buy Drake Interests.

OPPOSITION FROM THE EAST

John Steidl Returns to Bend and Tells Inside Story of the Deal for Sale of P. B. D. Co. Holdings.

John Steidl arrived in Bend last Wednesday evening from Portland, where he, in company with W. E. Guerin, Jr., had gone to dispose of an option which they had secured on the Pilot Butte Development Co. and Drake holdings in this section. The reasons for the failure to dispose of the option in the 30-day limit are now told by Mr. Steidl, and in view of the keen interest the public has taken in this transaction, it is proper that the story be told.

Messrs. Steidl and Guerin met with a very favorable reception from the Portland men with whom they opened negotiations, namely F. S. Stanley, Jesse I. Stearns and E. A. Baldwin. They were perfectly satisfied with the price stated in the option and Mr. Steidl says the deal could have been closed within eight hours after negotiations were opened as far as these men were personally concerned. A good indication of how they regarded the deal is shown by the fact that they took an itemized list of the P. B. D. Co. and Drake holdings, placed a price on each item and then computed the total. The sum total of their figures was one-third higher than the option price.

Difficulties, however, were encountered when Mr. Guerin went East and attempted to deal with the Eastern members of the company. He held a conference with H. D. Turney and others of the company, but was unable to see J. O. Johnston during his stay East. These men were not inclined to accept the offer made by Mr. Guerin. They were satisfied with the price but for personal reasons did not care to take over the holdings.

Hence the failure of Messrs. Steidl and Guerin to dispose of the option. Mr. Steidl implies very strongly, however, that something favorable may yet develop in regard to this transaction.

ANOTHER PRIVATE DITCH.

Will Water Many Acres in Cline Falls Country.

J. B. Reynolds, a prosperous farmer near Cline Falls, is constructing a private irrigating ditch from the Deschutes river onto his land. The intake of this ditch is about two miles below the headgate of the White Rock ditch.

Mr. Reynolds has 300 acres of land of his own that will be watered by this enterprise, but it is stated that the ditch is being built with a capacity sufficient to water much more than his own land. A rough estimate by men living in the neighborhood states that this ditch will ultimately irrigate considerably more than 2,000 acres of fertile land.

Dorrance Holdings Will Be Sold.

J. G. Dorrance of the firm of Dorrance Bros., brother of the murdered man, has announced that he will dispose of the sawmill and other holdings on the Tumalo, and will move elsewhere, taking with him his brother's two children. Appraisers were at the mill the first of the week investigating the plant.

Trouble for the C. S. I. Co.

The action of W. D. Clark vs. Columbia Southern Irrigating Company was tried before Justice Nichols and a jury on last Saturday and resulted in a verdict for \$200 in favor of Mr. Clark. Says the Laidlaw Chronicle. Mr. Clark sued for damages because of failure of the company to furnish him water during 1905 and 1906. The company claimed it was not compelled to furnish water until all back main-

tenance fees had been paid. The case was fought very stubbornly and will probably be appealed.

Settlers living on the company's segregation report that there will probably be many similar cases brought against the company in the near future.

A NEW POSTAL RULING.

Postoffice Box Rent Must Now Be Paid in Advance.

Postmaster Grant has received instructions from the postal department notifying him that all box rent must be paid in advance—on or before the last day of each quarter. The instructions state emphatically that if the rent is not thus paid, the box must be considered unoccupied and the person's mail put in the general delivery. The ruling is as follows:

Box rents must be collected at the beginning of each quarter for the entire quarter, but no longer. Ten days before the last day of each quarter postmasters are required to place a bill bearing the date of the last day of the quarter in each rented box. If a boxholder fails to renew his right to his box on or before the last day of a quarter the box shall then be closed and offered for rent and the mail will be placed in the general delivery. F. H. HAZENCOCK, Acting Postmaster-General.

TRAPPING COYOTES.

Redmond Man Catches Eleven of the Wary Animals—Other Notes.

REDMOND, Dec. 10.—Lyle Perry is very busy trapping coyotes these days. He has trapped eleven when last heard from and still was after them.

I have nothing new in regard to the well except that they are still at work.

J. G. Dorrance passed through Redmond on Sunday. He says he expects to sell off everything at the mill and locate elsewhere.

Work begins this morning on the road between Redmond and O'Neill. The road was petitioned for and is to follow lateral D down as asked for in the petition.

Mr. Park writes me from McLellan's camp that they rested most of Thanksgiving week on account of so much frost in the ground, but were able to work all of last week.

Mr. Whited of Laidlaw is out on his ranch near Redmond, working with a force of men and a tree puller. He expects to change the appearance of his farm considerably by spring.

Rev. Tavenor, a Methodist minister of Bend, preached at Redmond Sunday afternoon. We understand he is to hold services regularly every second and fourth Sunday of each month.

Active preparations are being made for an entertainment and Christmas tree for the Sunday school at Redmond Christmas eve. The committee report very liberal contributions for the tree. They had about \$14 on Saturday. MRS. E. C. PARK.

Tumalo Items.

TUMALO, Dec. 11.—A light snow fell here today, which makes a very wintry scene.

The snow is reported to be about three feet deep on the Santiam road over the mountains.

William Fryer passed through here today on his way up the Deschutes river after cattle.

Mr. Spinks of Culver, was in Tumalo last night. He reports grain high in that vicinity.

Mr. Puett of Bend was in Tumalo today after hay which seems to be a scarce article, as most everyone is holding for the spring.

Geo. W. Wimer & Sons received a shipment of fruit trees last week from The Dalles nursery, which they will set out in the spring.

A petition will soon be forwarded to the postal department asking an extension of the Bend-Tumalo mail route to C. L. Gist's ranch seven miles north of here. The petition bears about 100 names of parties who will be directly benefited by such an extension and it is hoped that the department will gratify their wishes.

We are very sorry to hear that the Deschutes Telephone company have abandoned the project of building a line to Tumalo. There seems to be some difficulty in getting subscriptions for phones, which every farmer needs. As the company offered such liberal terms, it seems very strange our thrifty farmers would let such a needed improvement slide by.

Chicks for Sale.

I have for sale some pure-bred Barred Plymouth Rock hens, also some spring chickens, fine for table use. Can deliver at Bend if desired. MRS. C. B. ALLEN, Bend, Oregon.

There's NEWS in The Bulletin.