

BRYAN HANDS HOT ONE TO HARMON

Redhot Denunciation of Governor of Ohio Is Published in the Commoner—Says Claims of Executive Are Unfounded.

LINCOLN, Neb., Jan. 25.—Redhot denunciation of Governor Judson Harmon of Ohio, one of the candidates for the democratic political nomination, is made by William J. Bryan today in the current issue of the Commoner. The article says:

"Fifty measures, many of them distinctly of a progressive nature, failed to become laws in Ohio because the governor did not sign them within the period required by the constitution. Now the managers of the Harmon campaign are endeavoring, through the medium of circulars and pamphlets, to induce the people to accept him as a progressive democrat.

"The pamphlets are intended to show that Governor Harmon's strong personality and leadership is responsible for the enactment of splendid laws by the 1911 session of the Ohio legislature.

"A number of the claims urged in the governor's behalf have been proved, by the record of the session, to be unfounded."

HEAVIEST RAIN OF YEAR FALLS

During Present Storm Over an Inch Falls—Prediction for Friday Is for Clear Weather—To Be Colder Soon.

With 1.11 inches of rainfall recorded at noon today the present storm has proved the heaviest of the season.

Colder weather is predicted for tonight and clear weather Friday.

NEW BUILDING AND LOAN ASSOCIATION

The Pacific Building and Loan association of Tacoma has organized a branch association in Medford with the following gentlemen as the local advisory board and managers: W. L. Vawter, president of the Jackson County bank; G. L. Davis, president of the Farmers and Fruitgrowers' bank; H. C. Garnett of the Garnett-Corey Hardware company; J. H. Cooley, president of the Medford Lumber company; H. A. Thierolf, vice president and manager of the Big Pines Lumber company; the W. T. York & Co., real estate dealers, and the Builders' Specialties company.

J. P. Butler of 726 West Fourth street has been appointed solicitor for the company in Medford. The association guarantees 7 per cent to investors, but it has never paid less than 11 per cent. The association will furnish outside money for loans on Medford property.

MISS RUTH M'ARDLE TO BE MARRIED SOON

Cards are out announcing the coming marriage of Miss Ruth McArdle, the beautiful and accomplished daughter of Mr. and Mrs. John De Sales McArdle, well and favorably known people of Medford and Los Angeles, and who have extensive orchard interests near Medford, to James Ralph Canterbury, a prominent young attorney of Los Angeles.

The ceremony is to take place at Christ's church, in Los Angeles, on February 7, to be followed by a reception to the young couple.

Mr. and Mrs. Canterbury will reside at 427 Alvarado street, Los Angeles, where the groom has prepared an elegant new home for his bride.

Thought Suffrage a Joke. PORTLAND, Ore., Jan. 25.—Woman suffrage carried in Washington state two years ago because the men "voted for it as a joke," declared Mrs. Mary Stevens of Puget sound, addressing Oregon suffragettes here. She wants Oregon voters to play the same joke.

Haskins for health.

Attractions at the Medford Theatre

SCENE FROM "THE ROSARY," OPERA HOUSE, TUESDAY, JAN. 30.



"The Rosary," as presented by Rowland & Clifford, is repeating with as much success as the play had in its debut last season. It will be seen at the Medford theater Tuesday, January 30, with a cast including Harrison J. Terry as Father Kelly.

The theme of the play concerns a man and a woman happily married. They are surrounded with every luxury of wealth and happiness. But the husband is an unbeliever, an atheist without faith of any kind.

DECISION OF THE SUPREME COURT WHICH KNOCKED OUT ROAD BONDS

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a question can be worked out in that manner.

As stated by Judge Bean in State ex rel vs. Sion, 20 Or. 365, "an election, in order to be valid, must be held in pursuance of the provision of some law authorizing it, in force at the time. There is no inherent reserve power in the people to hold an election." In that case the act incorporating the city of Portland provided that the governor should appoint a board of three police commissioners who should hold office for one, two and three years, respectively from the first Monday in July, 1886, their respective terms to be determined by lot and, commencing with the general election to be held in the city on the third Monday in June, 1887, there should be elected annually one commissioner who should hold his office for three years and until his successor should be elected and qualify. All vacancies were to be filled by appointment made by the mayor with the consent of a majority of the council. The commissioners were to take the oath of office required of the other city officers and enter upon their duties within 10 days after their appointment by the governor or on the first Monday in July succeeding their election when elected by the people. Joseph Simon was appointed by the governor one of the commissioners and secured the three-year term in the allotment; before his term had expired the legislature amended the act creating the commission. In substance the amendment was the same as the former act except that all provisions concerning appointment by the governor, term of office, time and place of election of these officers were omitted and the following inserted in lieu thereof: "The police commissioners now in office shall hold their respective offices until their successors are elected and qualified."

The mayor's power of appointment was also limited to vacancies caused by death or resignation. At the city election following this amendment, Richard Everding was a candidate for the office of police commissioner and received all the votes cast for the office. Having duly qualified, he demanded from Simon the possession of the office which was refused, hence the proceeding in that case. Although the act provided that the police commissioners should hold office until their successors were elected and qualified; although there was a provision in the charter for a general election at which other officers should be elected, yet inasmuch as the act did not provide for an election for the particular office in question, the court, after mature consideration, in a carefully reasoned opinion by Justice Bean, held that the election at which Everding was a candidate and received all the votes was a nullity and conferred no right upon him to the office in question.

We apply the principles announced,

in that case in this way to the matter in hand. The legislative power of the state has prescribed with great detail a manner of electing public officers and by the initiative and referendum system and legislation in pursuance thereof it has provided a manner of voting upon legislative questions by the people, but it has not in any manner established a method of taking a vote upon the question of incurring indebtedness by counties in excess of the original constitutional limit. For the reason that the authority to declare the time and manner of conducting such elections upon such a question is vested in the law making power of the state, either in the legislative assembly or in the people at large, and that no such action has been taken, * * *

We conclude, then, that notwithstanding the principle has been an-

nounced by the amendment that debts for permanent roads shall be incurred only on approval of the majority of those voting on the question, yet because the amendment did not provide a means of ascertaining the will of the majority of those voting on the question, and none has been otherwise authorized by legislation, the constitutional amendment alluded to is not in that respect self-executing and the will of the majority was not legally ascertained by the proceedings of the county court in respect to the election mentioned in the answer. The restriction upon the creation of debts for the purpose named was not legitimately removed and hence the election did not amount to any authority for the county court in its attempt to issue and negotiate bonds.

Under the legislation as thus far adopted in this state, no county is authorized to borrow money or to issue bonds. The legislative power has prescribed the form of the obligation of the county for its indebtedness to be in the shape of county orders or warrants. This being the rule for evidencing indebtedness of the county it must be held to exclude every other method in the absence of further legislation. Upon good reason, there is a very material difference between borrowing money and incurring an indebtedness. As very fittingly said by Justice Selden in Getchum vs. City of Buffalo, 14 N. Y. 356, 366, "a critical examination will show that there is a very material difference between the two. If the power of the corporation to use its credit is limited to contracting directly for the accomplishment of the object authorized by law then the avails or consideration of the object authorized by law cannot be diverted to any illegitimate purpose. The contract not only creates the fund but secures its just appropriation. On the contrary, if the money may be borrowed, the corporation will be liable to repay it, although not a cent may ever be applied to the object for which it was avowedly obtained. It may be borrowed to build a market and appropriated to build a theater, and yet the corporation would be responsible for the debt. The lender is in no way accountable for the use made of the money."

It is not necessary to decide here whether counties have the authority to legislate under the provisions of section 1 (a) article IV of the constitution, for it is not pretended that Jackson county attempted to engage in legislation according to the plan delineated by the enabling act of 1907, L. O. L. paragraph 3470 et seq. or otherwise. The procedure was purely administrative in its nature and not legislative. (These defendants seem to have assumed that it was lawful to issue interest bearing, negotiable bonds without reference to the present statute evidencing county indebtedness by means of county orders.) The thing which appears to have been done by the county court was to call an election for the single purpose of ascertaining whether the majority of those voting at that election upon the question submitted would approve the creation of a million and a half dollars of indebtedness to be secured by bonds issued for the purpose of borrowing that amount of money or so much thereof as might be necessary for the purpose of constructing permanent roads in the county. No initiative petition inaugurating any legislative process appears in the record. In deed it does not seem to be intended for the defendants that they observed any of the rules prescribed by legislation for the manner of exercising the initiative and referendum powers reserved to the people

of the several municipalities and districts mentioned in section 1 (a) of article IV of the constitution. In our judgment the distinction between incurring indebtedness and borrowing money for any specific purpose is well founded in reason, that in the absence of further legislation upon the subject no county is authorized to depart from the rule already established in respect to evidences of county indebtedness, and that the issue of negotiable interest bearing bonds is not authorized by the law in its present condition. For these reasons the decree of the circuit court is reversed and a decree here entered in accordance with the prayer of the complaint.

BEAN, J. (Concurring)—I concur in the result of this opinion but do not give my assent to the following expressions, namely: "It is clear, however, that until the legislative power of the state has declared that an election shall be held on a particular kind of question no decision of such a question can be worked out in that manner."

This would appear that no enabling act has been passed. And further: "The legislative power of the state has prescribed with great detail a manner of electing public officers and by the initiative and referendum system and legislation in pursuance thereof it has provided a manner of voting upon legislative questions by the people, but it has not in any manner established a method of taking a vote upon the question of incurring indebtedness by counties in excess of the original constitutional limit. For the reason that the authority to declare the time and manner of conducting such elections upon such a question is vested in the law making power of the state, either in the legislative assembly or in the people at large, and that no such action has been taken, * * *

CHARLIE GAY IS INJURED

Falls and Hurts His Leg So Seriously That He Cannot Walk—Is Being Brought in Today From Westville.

Charles Gay, who is in charge of the commissary at Westville, Honor Camp No. 1, had the misfortune to fall Wednesday and so seriously injured his leg that he is unable to walk. He is today being brought in from the camp for medical treatment.

Particulars regarding the accident were not stated.

HUNDREDS OF DESERTED CHURCHES ARE IN OHIO

COLUMBUS, Ohio, Jan. 24.—Statistics show that there are over 300 deserted and unused churches in the state. Fifty-five townships report no church members under 21 years of age, and 130 townships report no members under 15 years of age.

"What is the reason?" asks A. P. Sandles, secretary of the state board of agriculture, in a general letter to ministers of Ohio.

"Country church attendance has decreased. In many places there is only a 'meeting house' instead of a church. Ministers are talking to too many empty benches. Social farm life is disappearing. Drift toward the city has decreased the population in four-fifths of our rural townships," Sandles continues.

"Weeds instead of flowers and shrubs disfigure churchyards. Too many young people are without instead of within the folds of the Sunday school and church."

Sandles has also stirred up the people on the subject of country schools.

"There are too many frills in the schools," says Sandles. "Teachers tell me that their pupils know very little about the history of their own country and their own state. They are taught too much about Africa and

ITALY MAINTAINS SHE WAS RIGHT

Still Holds the 29 Turkish Red Cross Nurses Captured Aboard the French Merchantman Manouba—Will Submit Matter to Arbitration.

ROME, Jan. 25.—Maintaining her right, under the international code, of capturing and searching vessels of neutral nations when they are suspected of carrying contraband of war, Italy has today presented to Franco her views on the controversy, and expressed her willingness to arbitrate the matter. She still holds, however, the 29 Turkish red cross nurses captured aboard the French merchantman Manouba.

Premier Giolitti, Foreign Minister Marquis di San Gulliano and the French ambassador to Italy, Camille Barrere, conducted the negotiations.

Italy has signified her willingness to submit the case to The Hague tribunal and to pay indemnity if found guilty of a breach of the international laws of war.

PORTLAND, Ore.—According to a list of (maybe) roadsters, compiled by Manager Williams, there probably will be 35 prospective diamond stars in his squad when the Portland Northwestern league team goes into spring practice. Of these, 27 will be regulars and the remainder aspirants who will try out for the team at their own expense.

Asia and not enough about the United States.

"Reports received from 2000 school districts indicate that schools are not doing as good work as 15 years ago, and that there is not enough of good old three R's—reading, 'riting and 'rithmetic—taught," Sandles concludes.

Haskins for health.

A Man Who Has Something to Say

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MALTED MILK
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RICH MILK, MALT GRAIN EXTRACT, IN POWDER
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DR. WM. PARSONS, D. D.
OF PORTLAND

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