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THE EVENING HERALD

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W. O. SMITH, Editor

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KLAMATH FALLS, TUESDAY, JULY 20, 1909.

NEW ELECTION MUST BE HELD.

(Concluded From First Page.)

been taken the board has been offered a site free of charge, and a petition that the offer be accepted has been signed and presented to the board, containing the names of 140 taxpayers and legal voters of the district.

Sixth—There is nothing in the letter showing that the notice calling for the election presented the facts and conditions to the people.

No. 9 having received the highest number of votes, no price was attached, and, therefore, the vote of 22 for block No. 9 cannot be considered as creating a contract with the owner of said block and the district. The only way that a vote of that nature could be considered as a contract would be for a definite offer made to the board for the sale of a certain site, and then the terms and conditions of the offer placed in the notice calling the election, so that the people would know for what it was called, what kind of a contract they were voting to ratify or disallow, etc. Nothing of that kind, it seems, was done in this case. Therefore, no contract was entered into by virtue of said vote with the owners of block 9, and even if the price had been stated in the notice, I do not think it would create a contract unless a majority of all the votes cast in the election had been in favor of block No. 9, which is not the case.

As to block 88, it received only 9 votes, and could not be considered as creating a contract.

For the reasons above stated, no contract can be considered as created between the board and the owners of block No. 7. You say in your letter that block No. 7 had been offered to the board at \$1,250. You do not say, however, that that offer was made a part of the notice calling the election. If it was not, the voters were not voting upon that proposi-

tion. They were simply expressing a choice as to a site, and if the offer on block No. 7 was put in the notice, then it failed to receive a majority of all the votes cast, only 17 out of 48 being for block No. 7. Therefore, in my opinion, no contract was entered into whatever between the district and the owners of any of the blocks at said election, and all the effect that said election can have, in my opinion, is advisory to the board.

If you wish to select a site under section 79, page 29 of the school laws of 1909, in my opinion, you must have a definite contract for a site, and put the substance of that contract in the notice calling the election, and vote upon that one particular proposition. Then the board would be authorized to expend the money for the site, but in no case has the board authority, under the law, to ask the people to vote upon a certain site as to whether they shall purchase it, and then the board be bound to take that site, no matter what price the owner may attach to it after the vote. The directors might be authorized to purchase any site so voted upon, proper notice being given and only one site being voted for what it considered to be a reasonable price for the same, provided they could make a contract with the owner therefor. In my opinion, the district is in just about the same position it would be in if no vote whatever had been taken and no election called, and I would advise that the board enter into some agreement, and then call an election to vote upon the agreement. If it is desirable to take what is termed in your letter as the Moore site, which is offered as a gift and recommended by 140 voters, let a deed be made and delivered to the trustees for said site. The transaction then would be ratified at an election properly called for that purpose, and I think you will secure a site in a manner which the law will hold valid, and the title be held good, and the officers of the

district will not be laying themselves liable in any manner by such proceedings. To give \$6,000 for block No. 9, if that is much more than the property is worth, would, in my opinion, be ultra vires and void. The board would have no legal right to enter into such a contract and claim justification by reason of the election just held.

Very respectfully yours,
A. M. CRAWFORD,
Attorney-General.

BRIEF MENTION.

Watch for the yellow tickets. When?

Furnished rooms and apartments at the Baldwin. 13

Miss Lin Auger of San Francisco is visiting Mrs. J. Scott Taylor.

Examine the work now being turned out by the Steam Laundry. 7-9-14

J. T. Maguire of Mt. Hebron is in the city on business and also to consult with local physicians.

Prof. J. T. Butcher returned yesterday from Seattle, where he has been attending the exposition.

Wanted—A girl for general household work; no children, small family, good pay. Address P. O. box 59.

Cement—Imported cement just received; carload Alisen cement in iron barrels. Baldwin Hardware Company.

Mrs. W. S. Moore is visiting with her daughter, Mrs. R. I. Hammond, having arrived from Portland last evening.

Mrs. J. B. Elliott and Miss A. Elliott of Santa Rosa, friends of J. Scott Taylor, left this morning for a visit to Crater Lake.

C. C. Curren, who has been spending the past few days with relatives in this city, left this morning for St. Johns, where he is engaged in the drug business.

Dr. J. M. Best arrived here yesterday from Pendleton. It is understood that the doctor comes to remain permanently and will probably enter the practice of his profession in this city.

Mr. and Mrs. Campbell, registered at the Livermore, left this morning for their home in Scotland, after visiting the Upper Lake country.

THE DON TON GROCERY.

A little store with the best in the grocery line—clean, new, fresh, and prices reasonable. One trial will convince you that it is the place to trade. 7-10-14

Wanted—Position by experienced steam engineer. Inquire at Herald office. 14-61

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Klamath County Abstract Co. Surveyors and Irrigation Engineers

BERT E. WITHROW, Secretary Klamath Falls, Oregon

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