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## COUNTY COURT TO BEGIN WORK ON COURT HOUSE

### PLAINTIFFS MAY APPEAL THE DECISION

Dr. Kendall & Ferguson Make No Statement Until They Are Served With a Copy of the Opinion—County Judge Worden Says the Decision is a Legal Enactment of the Acts of the County Court in Connection With Court House

The decision proves what we have always supposed—that we have a right to build the court house," said County Judge Will Worden this afternoon in the presence of County Commissioner Merritt.

It is an endorsement of our acts in regard to the court house, as far as the legal aspect is concerned. We shall now go ahead and erect the court house, as we said we would.

No Statement  
We have not as yet been served with a copy of Judge Benson's decision," said Kuykendall & Ferguson, attorneys for Obenchain and Graves. We are not in a position to make a statement. We will be unable to say what action we will take until we see the decision.

Regular Service  
The Rev. Dr. Collins will conduct the usual morning services in the Episcopal church on Sunday. It was incidentally stated that Dr. Collins would preach in the Methodist church on Sunday morning. He will, however, preach there in the evening.

Dr. Hamilton, J. E. Hodge and H. Akeley went to Bly today in the motor to try the fishing in the Rogue River.

Misses Freda and Margaret Nitsch, Frank Bryant and Everett Harbrook left today for Spencer on a fishing trip.

Project Engineer W. W. Patch will be here this evening for Washington, C., to attend the consideration of complaints against the reclamation service.

Miss Elsie Orem, who is teaching Worden, is spending the week end with her parents, Mr. and Mrs. Hornum Orem of this city.

Circuit Judge Henry L. Benson and Court Reporter Dick Richardson returned Friday evening from a business trip to Portland and Salem.

Engineer William Sargeant, who is in charge of operations in Poe Valley in the reclamation service, came today to attend to business matters.

## MINING ACTIVE AROUND YREKA

### TEN WHO BONDED OVER TWO MILES OF FLACER GROUND HAVE COMMENCED THE WORK OF SINKING SHAFTS

YREKA, April 26.—Messrs. Moyes and Stephens, two foreign capitalists who bonded over two miles of placer ground in the Greenhorn Creek district, commencing where the creek crosses the Fort Jones and Yreka roads, and up as far as including the city of Yreka submerged dam, a distance of about two miles, have commenced work in sinking shafts.

## He Must Enforce Pure Food Law



Francis G. Caffey, the new solicitor of the department of agriculture, is heir to all the trouble left by his predecessor, George P. McCabe, whose efforts, with those of Dr. Frederick L. Dunlap, caused the resignation of Dr. Harvey W. Wiley. It will become his work to enforce the law which Dr. Wiley failed to have carried into the courts.

Solicitor McCabe, with Dr. Dunlap, constitutes two-thirds of the food inspection board of the department of agriculture. Both resigned shortly after President Wilson was inaugurated. When in a given case Dr. Wiley, the third member of the board, announced a decision Dr. Dunlap and McCabe usually voted against him, and the case was not prosecuted. The board of chemistry, of which Dr. Wiley was the head, spent \$1,190,784 in preparing evidence of food law violations, or about \$515 per case for some 6,206 cases.

McCabe's charges against Dr. Wiley resulted in the recommendation of Attorney General Wickersham that "condign punishment" be meted out to the doctor. After a congressional investigation the recommendation was not carried out.

## MANY VISITING THE FAIR SITE

### PROGRESS ON PALACE OF MACHINERY AND OTHER ACTIVITIES ATTRACTS HUNDREDS TO THE GROUNDS DAILY

Special to The Herald  
SAN FRANCISCO, April 26.—Hundreds of visitors journey to the Panama Pacific International Exposition site daily to watch the progress on the Palace of Machinery and other activities. The construction of the immense exhibit palace is not only remarkable, but unique. From points of eminence for miles around the great brown framework, surrounded by millions of feet of lumber awaiting its placement may be seen. At closer view the gigantic structure looks alive. On workdays it is dotted with tiny forms of men. Three hundred and seventy men are at work on the building, which is being constructed with surprising rapidity. In the center of the columns are chords for single beams of great thickness. In the center of the columns are chords. The chords are 110 feet high. To the summit of them are attached the arches, also fitted together on the ground and hoisted in structural completeness to their lofty eminence. They are received at the top by scores of men, who immediately rivet them to the chords, and then connect the whole to the next column by stanchions 25 feet in length. Machinery Hall is being built in three naves. This means four lines of columns running the length of the building.

## WOMEN PLEAD FOR SUFFRAGE

### MRS. LA FOLLETTE, MRS. KENT AND OTHER NATIONAL WORKERS BRING UP VITAL FACTS FOR CONSIDERATION

United Press Service  
WASHINGTON, D. C., April 26.—"If the prices of the most staples are fixed by monopoly the tariff which affects the cost of our children's food and clothes is the only way to right the wrong is through national legislation," said Mrs. Robert La Follette, speaking for women's suffrage before the senate committee today.

"Women spend 90 per cent of the \$10,000,000,000 paid annually for food and clothes in this country. Why shouldn't they vote?"

Mrs. Kent of California and other prominent workers spoke at the meeting.

## CAFE OWNERS TO BE EXAMINED TOO

### PROBING OF BUNCO AND GRAFT CHARGES WILL BE RESUMED MONDAY BY GRAND JURY IN SAN FRANCISCO

United Press Service  
SAN FRANCISCO, April 26.—The grand jury will resume its investigation of the graft charges against local detectives. Strict confidence is being maintained as to the identity of detectives indicted.

Cesare Ronchi, the famous cafe owner of the Barbary Coast district, will testify Monday. It is alleged that the bunco men and detectives plotted there together.

Frank Sargent has returned to Klamath Falls from Portland and vicinity, where he spent the winter.

## CALIFORNIANS AWAIT BRYAN

### ANTI-ALIEN DISCUSSION HELD IN ABEYANCE UNTIL THE STAND OF GOVERNMENT IS FULLY OUTLINED

United Press Service  
SACRAMENTO, April 26.—All anti-alien land law work is held in abeyance pending the arrival of Bryan, and the discussion between him and the legislature.

The coming of Bryan is the topic of discussion at the Capitol.

Good Act Coming  
A musical act of quality opens at the Star theater tomorrow evening, with Stross and Becker featuring the trumpet, cello, double voiced cornet, saxophone, viola, De-Gambis and other instruments. There is also a good bill of pictures.

## Frank L. Polk to Enforce Tariff



Fifty per cent of the talk about the tariff, which is now troubling the house, the senate and the president, will in a few months simmer down to just one man—Frank L. Polk—who, it has been announced from Washington, will be named collector of customs at the port of New York by President Wilson. Fifty per cent of the importations into the United States during the last fiscal year went through New York. In other words, the total value of imports were \$1,653,364,924, and the value of those coming through New York was \$817,945,302.

If he names Polk, the president will have slapped Tammany Hall, the democratic organization of New York city, and Charles F. Murphy, its leader and leader of the state democracy. When Mayor George E. McChesney and Murphy fell out several years ago, the mayor named Polk as an anti-Tammany president of the Civil Service Commission. Polk is a lawyer, who has not lately shown violent anti-Tammany feeling. But when he was told that the Tammany leader of the assembly district in which he lives claimed him as a member of his organization, the prospective collector or repudiated it.

## SHERIFF'S WIFE TO GET PENSION

### WIDOW OF OFFICER KILLED NEAR MEDFORD WILL BE BENEFITED BY THE RECENTLY ENACTED STATE LAW

ASHLAND, April 26.—The widow and children of the late Sheriff Singler, killed near Medford by an outlaw, will not be left entirely destitute, as was feared by many when the news of his death first reached Ashland. They will draw a pension from the state, or rather from the county, under the widow's pension act passed by the last legislature, of \$62.50 per month.

In addition to this Mr. Singler has \$1,000 insurance in the Woodmen of the World, and also a home valued at \$2,500, which is clear.

There are said to be practically no debts. This, with the aid promised by the brother, William Singler, will relieve the family of danger of destitution.

Mrs. Hiram F. Murdock was the guest of local friends Friday, coming in from the Murdock ranch.

## JUDGE LABORS MANY DAYS ON LEGAL TANGLES

### MADE TRIP TO SALEM IN CONNECTION WITH CASES

In addition to facing late and early over authorities in his own library, Circuit Judge Benson made a special trip to Salem in order to delve in volumes contained in the State Library.

It is doubtful if any decision ever rendered in Southern Oregon have ever caused such an expenditure of "midnight oil," so many hours of studious work, and such a consultation of authorities as the two opinions concerning the legality of the court house (tax levy and work rendered today by Circuit Judge Henry L. Benson.

After he had exhausted all the authorities touching upon the case in his own library, and in other local libraries, Judge Benson, accompanied by Court Reporter Richardson, went to Salem to further study the case and the authorities in the State Law Library. Several days were spent diligently in the capital, and the Judge and his reporter returned home last night.

J. T. Roberts, a well known Poe Valley farmer, visited Klamath Falls Friday.

Have a Good Act  
Henry and Miller, in their black-face eccentricity, "Long and Short," are giving patrons of the Star theater the best bill that has been produced in the show house since vaudeville was introduced there. The pair are clever dancers, and their eccentric gestures, poses, etc., in connection have called for repeated encores. The voices of the team blend nicely, too, especially when they sing "Dixie Moon." Tonight is their last appearance.

Subscription Group  
The following subscriptions have been received for the relief of Mrs. Rose Goddard, who with four small children, is in need of assistance:  
Herald ..... \$5  
B. S. Grigby ..... 1  
J. C. Smith ..... 1  
Cash ..... 1  
Mrs. Joe Moore ..... Provisions  
W. F. Arant ..... Provisions  
Miss Florida Lee ..... 2.00  
Miss Ruby Davis ..... 1.00  
The Herald will receive contributions of money and provisions for the stricken little family.

## MILKING PLANT ON ADAMS RANCH

### MERRILL FORMER IN LEADING KLAMATH COUNTY MAY BE STALL MECHANICAL AID TO DAIRYING

MERRILL, April 26.—An agent for the Sharpless Separator company installed a mechanical milking apparatus at the Will Adams dairy. This is the first contrivance of the kind to be put into use in this valley, and the success will be watched with much interest.

The machine is operated by electric power, and with man standing is said to be able to milk two ordinary cows per minute—without tiring at the same time.

The machine also separates butter, so that the whole creamery dairy of Adams can be done in one person in an hour, and with no danger of spoilage.

## Benson Refuses Alternative Writ Asked by Obenchain

### Circuit Judge Holds That Dagggett Would be Liable to a Fine and Imprisonment Should He Divert Money From Special Levy for General Fund Use

Holding that the county officials, should they divert money raised by a special tax into the general fund, would be liable to fine and imprisonment, Circuit Judge Benson today rendered an opinion adverse to the plaintiff in the action of M. M. Obenchain against County Treasurer Dagggett for the payment of certain warrants, holding that this should be done on account of the money in the court house fund, the legality of which levy is questioned.

In the same opinion Benson overrules the demurrer to the complaint in the action of Charles Graves against Treasurer Dagggett, the opinion being as follows:

"The attorney for both plaintiffs and defendant in the above entitled suit have apparently conceded that both suits involve the same questions, and should be argued together. At the outset, however, it should be borne in mind that in the case of Obenchain vs. Dagggett the basis of proceeding is a prayer for writ of mandamus, to compel the defendant, county treasurer, to use the fund which has been set apart as a fund for the construction of the new court house, for the redemption of county warrants, drawn upon the general fund of the county; while the case in which Charles Graves is plaintiff is a suit for an injunction to restrain the defendant county treasurer from segregating and keeping as separate or different funds any or all of the moneys received from the tax levies set out in paragraph 7 of the complaint as follows:

"For salary purposes, 2 mills on the dollar;  
"For circuit court purposes, 1 mill on the dollar;  
"For jail purposes, 1-10 of a mill on the dollar;  
"For county poor purposes, 4-10 of a mill on the dollar;  
"For court house purposes, 3 1/2 mills on the dollar;

"And enjoining and restraining the said defendant from paying out any of the funds received from said levies in payment of any warrants, except general fund warrants, in order of presentation and protest to date.

"A careful consideration will convince a candid investigator that the two proceedings are really wide apart in their logic, and in the conclusions to be arrived at therefrom.

"With reference to the case of Graves vs. Dagggett we may dismiss the consideration of this cause very briefly, for it is my opinion that the nature of a tax, as to whether it be a general or a special tax, is not to be determined by the language of the county court in levying the same, or

by the label which they may put on it, but rather upon the purpose for which the tax is levied.

"The distinction between a general tax and a special tax is one that is so plain and clear that I have been unable to find more than one adjudication of the thing by any supreme court in the United States, and this is the case of Sullivan vs. Walton, 20 Florida, 556, in which the court very clearly and logically disposes of the question of the difference between a special tax and a general fund, and their holding is fairly well expressed in substance thus: 'A special tax is a sum not embraced in the usual annual expense incurred by the municipality under its general powers, but is a tax which does not apply to the usual annual budget of a municipality.'

"We therefore conclude that since the levy for salary purposes, for circuit court purposes, for jail purposes and for county poor purposes are items of the usual, regular and annual budget of the county, that they are therefore necessarily portions of the general fund, and the county court has no power, under the statutes of our state, to segregate these funds, and differentiate them from the general fund of the county; but the construction of the court house is clearly not an item of the customary, usual and necessary annual budget of county expenses, and therefore must be in its nature a special tax. It follows, of course, that the demurrer must be overruled, since the complaint is good as to all, except the court house levy. The court, is therefore, compelled to overrule the demurrer in the case of Graves vs. Dagggett, and an order may be entered in accordance therewith.

"The question raised upon the stipulation of facts, in the case of Obenchain vs. Dagggett, is not free from difficulty. A careful examination of the authorities disclosed the fact that this question has never yet been presented to the supreme court of our own state.

"There have been many Oregon decisions cited by the able counsel on both sides, which are supposed to throw some light upon the vital question at this case. I have examined them all, with great care, but since the questions considered and decided therein are totally unlike the case at bar, they render very slight aid in the solution of the problem.

"I have also examined carefully every citation from other states, submitted by counsel, but I find that they are based upon constitutional and statutory provisions so widely different from our own as to be of small practical value in the case."

Here follow extracts from the laws of Oregon on the subject, among them the following:

"In Section 927, L. O. L.: 'To provide for the erection and repairing of court houses, jails, and other necessary public buildings, for the use of the county, and . . . .'

"Section 2675: 'When any moneys shall have been collected or received by any officer for any distinct and specified object, no portion of them shall be paid or applied to any other object or purpose without due authority, but shall be kept a separate fund for such specified object, and any officer failing to comply with the provisions of this section, shall be liable to a fine not exceeding \$500 or to imprisonment in the county jail not exceeding six months.'

"These statutes just quoted constitute all of the laws of the state of Oregon which throw any light upon the question involved in this case, and in the interpretation of these several statutes I am frank to say that I welcome the modern demand that statutes shall be interpreted without mysticism in their logic, or sense in their reasoning, and that they shall be taken to mean as nearly as possible what any intelligent layman would understand them to mean from a casual reading, and in the interpretation of statutory provisions, unless controlled by the authority of higher courts; it has been, and is, my policy to accord to each provision of law the meaning which any intelligent man would give to it.

"Let us then note what the statutes of Oregon declare:

"First, We have the constitutional provision that no tax shall be levied except by virtue of some law."

"Second, The county court is directed, at its January term in each year, to levy any other taxes which by law it is required to levy, and any other taxes which it may determine to levy, and which by law it is permitted to levy.

"Third, We have the statute declaring that the county court shall have power to provide for the erection of court houses, jails, etc., and it seems to me to be perfectly plain that if the county court has power to provide for the erection of a court house there is a complete and ample warranty of law, expressed therein, for taking any necessary steps for raising the revenue to carry out their purpose, and that it is intended by this section of the Code to give them full power to levy a special tax for the purpose of providing means for the construction of such court house, and I am convinced that the power so granted is clear and unequivocal, and

(Continued on Page 4)