

## COURT DECIDES FOR COURTHOUSE IN HOT SPRINGS

### COURTHOUSE JUDGMENT

In the circuit court of the state of Oregon for Klamath county.

J. M. Dougan company, a co-partnership consisting of J. M. Dougan and R. E. Chrisman; and J. M. Dougan, plaintiffs, vs. Klamath county, et al, defendants.

Based upon the findings of fact and conclusions of law filed herewith in the above entitled court and cause:

It is hereby ordered, adjudged and decreed that plaintiffs' suit herein be and is hereby dismissed; that the restraining order heretofore issued be dissolved; and that the defendants, Klamath county, R. H. Dunnell, Burrell Short, Asa Fordyce and G. K. Van Riper recover from plaintiffs their costs herein incurred.

J. W. HAMILTON,  
Circuit Judge.

Dated July 13, 1920.

The contract for the building of the Main street courthouse was entered into without legal authority and is void, holds Judge J. W. Hamilton of Roseburg, in a decision received here this morning in the action of J. M. Dougan & Co., contractors, against Klamath county and the members of the county court. Therefore the court dismisses the suit, dissolves the restraining order heretofore issued against the use of the courthouse building fund, and gives the defendants, R. H. Dunnell, county judge, Burrell Short and Asa Fordyce, county commissioners, and G. K. Van Riper, county treasurer, their costs incurred in the action.

The decision will be appealed at once, C. F. Stone, local member of Dougan's counsel, stated today, and in the meantime a stay of execution will be sought and a bond furnished to secure the stay. This will prevent the county court from going ahead and completing the Hot Springs courthouse if so inclined. Judge Hamilton's decision, it is admitted, gives them the legal right, although the expediency of completing the Hot Springs building until the supreme court has ruled upon the litigation is another question.

"It is my firm conviction," said plaintiff's attorney, "that the decision is not sound in the legal points decided, and will be reversed by the higher court. Judge Hamilton's legal ability is above question, but he studied this case for only a few weeks. We have studied it for two years."

There is in the neighborhood of \$80,000 in the courthouse fund at present, it is stated. Attorneys for the county hold that the decision of Judge Hamilton, while not in any way so specifying, lays the basis for recovery of approximately \$41,000 paid Dougan from the fund.

Estimates by architects as to the cost of completing the Hot Springs courthouse vary, running from around \$100,000 to \$200,000. Testimony by several architects and contractors during the hearing of the case here was that by substitution of less expensive material than was considered in original estimates the cost could be reduced to from anywhere from \$100,000 to \$137,000, but there is a wide latitude of opinion.

The court's findings are in effect that in April, 1913, the Klamath county court selected a courthouse site in Hot Springs addition and in the same year started erecting a building. On March 20, 1918, another site for a courthouse was selected on so-called Lot 35 on Main street, adjoining the old courthouse. Some material was placed on the ground and other material ordered, when the county court (the personnel of which had changed to the present office-holders) notified the contractor to stop work, that the county would not accept the building. Regardless of this notification, the

## ALLIES THREATEN TO DRIVE OUT TURK

LONDON, July 17.—A threat to drive the Turk from Europe "once and for all" is contained in the allied reply to the Turkish objections to the peace treaty made public here today. Such action might follow Turkey's refusal to sign the treaty or her failure to give it effect, the reply states. The time limit for Turkey to make known her decision expires at midnight, July 27.

## OPINION OF HAMILTON IN DOUGAN SUIT

Following is the opinion of Judge Hamilton in full in the suit of J. M. Dougan & Co. against Klamath county, its county court, et al:

In the circuit court of the state of Oregon for Klamath county.

J. M. Dougan company, a co-partnership consisting of J. M. Dougan and R. E. Chrisman; and J. M. Dougan, plaintiffs, vs. Klamath county, et al, defendants.

### Opinion

This controversy arises over the construction of a courthouse in Klamath county, Oregon. In the year 1909 it was determined by the county judge and commissioners of said county to provide for the erection of a suitable courthouse; they made estimates of levies of assessments of taxes required for such purpose, and created a special new courthouse fund to be used in the construction of the building.

In April, 1912, an order was duly made by the county court of Klamath county selecting lot ten (10) of Hot Springs addition to the city of Klamath Falls as the site upon which said courthouse building should be erected.

The action of said court in creating by taxation this special fund for the erection of a courthouse was the subject of litigation, and by a decision of the supreme court of Oregon filed December 30, 1913, in case of Obenham vs. Daggett, 68 Or. P. 374, the action of the court was sustained.

In 1912 actual construction of the building on said lot 10 was commenced and the levies of taxes for the years 1913 and 1914 were made especially for the completion of said building. Work was continued thereon and progressed until January, 1915, when the walls were completed, the roof on; the third floor including the jail was completed, and the electric light and plumbing connections installed.

One hundred and forty thousand dollars had been expended. A special tax was levied in the years 1915, 1916 and 1917 for the alleged purpose of new courthouse construction. Of this fund so raised \$9,633.61 was used in paying warrants issued prior to January 1, 1915, for work performed and material furnished on Hot Springs courthouse. The balance of this fund, consisting of money on hand and delinquent taxes, amounted on March 20, 1918, to \$124,755.46.

On March 20, 1918, the county court of Klamath county, acting through the county judge and one commissioner, entered into a contract with the plaintiffs herein for the construction of another courthouse at Klamath Falls on lot 35 in said city at the contract price of \$131,755.00. The citizens of Klamath county at a recall election on April 22, 1918, recalled the county judge who had entered into this latter contract, and at the same time elected the present incumbent to the office of county judge of Klamath county. On the 20th day of April 1918, the judge who was recalled with one

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## THE COURTHOUSE DECISION

[Editorial]

The decision just handed down by Judge Hamilton must be accepted as the law by the people of the county, until a higher court affirms it or reverses the opinion of this distinguished jurist. It makes no difference which side of the courthouse question a person may be on, he must admit that Judge Hamilton decided the questions involved on the law, as he saw it, and was in no way influenced by other than a strict interpretation of the law. But there is another question that his opinion raises and one that should be settled in a manner that will be for the best interests of the county, namely, what shall be done now—move into the Main street courthouse or finish the Hot Springs structure?

We have no desire to see this controversy continued by extended litigation nor by hasty action, and we would suggest that before any definite action is taken that all the parties concerned meet in conference and see if some middle ground for settlement cannot be reached. Once before The Herald offered a suggestion, which if adopted at the time would have disposed of the courthouse question over a year ago. That solution is not practicable at this time. But it would offer for the consideration of both sides this:

Let the county move into and occupy the Main street building. As we understand the matter the structure is the property of the county to do with it as it sees fit. Let us use it. Then sell the Hot Springs building to the school district, making the best bargain for the people of the county that business men can make. Then transfer the money now in the courthouse fund and that realized from the sale of the Hot Springs property to the road fund and use it in building a system of permanent highways. We believe that this would create a fund of a quarter of a million dollars for a work that this county needs.

By following such a program no one would be injured and a question that has disgraced this county for over a decade will be disposed of in a manner that will reflect credit upon its people.

### BULLETIN

SANDY HOOK, July 17.—Yacht race called off, account of time limit.

## RESOLUTE LEADS IN START OF SECOND RACE

SANDY HOOK, N. Y., July 17.—The Resolute crossed the starting line ahead of the Shamrock today in the second international cup race. The Resolute seemed from the shore to work better than the challenger. The air was light, however, and the skipper of the Resolute won all honors at the start.

Fifteen minutes after the start the Resolute was a quarter of a mile to windward, holding the Shamrock well. At 2:05 both yachts were holding the starboard tack, the Resolute to windward and the Shamrock trying to get ahead but unable to cross the defender's bows. The Resolute had the race well in hand at 2:30 and 2:35 when the yachts were nearing the first turn, showed little change in position. Seen from Long Beach, 15 miles away, they appeared to be sailing neck to neck. The Shamrock rounded the first mark 17 minutes behind the defender, unofficial time.

## WOULD MAKE GAS PUBLIC UTILITY

LOS ANGELES, July 17.—Reports of investigators of the Department of Justice on the shortage of gasoline in Southern California indicate the possibility that certain companies are illegally curtailing the production of oil. J. Robert O'Connor, United States District Attorney, announced here.

Mr. O'Connor said he would confer with these investigators and if the information then laid before him bore out early reports he probably would proceed against these producers under the Lever act. He had not decided, he added, whether proceedings would be through the medium of a grand jury investigation or the cases taken immediately into court United States Commissioner.

Initiative petitions to have placed on the November ballot a proposition to make gasoline a public utility were put in circulation here today.

D. B. Lyons, Los Angeles County Registrar, extended to midnight Saturday, July 17, the time for filing the petitions, which officially expired Wednesday.

Mr. Lyons said he "would take that step because he believed the gasoline problem one which the people should solve for themselves."

## MARSHFIELD AND ASHLAND GUARD MEMBERS KILLED

TACOMA, July 17.—A rigid inquiry into the explosion of a six-inch field gun at the Camp Lewis artillery range yesterday, which killed three men and painfully wounded five other members of the Oregon coast artillery of the national guard, was under way today.

The investigation thus far shows that only a poor fuse or a possible flaw of the shell could have caused the fatal accident.

The dead are: Corporals Edward G. Scott and Clyde R. Dumbarger of Marshfield, and Private Ralph Fraley of Ashland. The injured include Private Herbert E. Peterson, William J. Blake, mechanic, and Peter Mirra-soul of Marshfield, and Private Herbert Elhart of Ashland. The others injured were regulars.

Governor Olcott and wife narrowly missed being injured in the tragedy as they left the gun only a few minutes before the explosion.

## BAD FOREST FIRE

A forest fire that started yesterday in the Long lake district is still raging today, with a big crew of fire fighters attempting to check it. More men were dispatched this afternoon from this city to reinforce the fighters. The fire is in the Wapukwaner, Western-Pacific and Christy timber. Report was received this afternoon that the Christy mill was seriously damaged. One report said the mill was burning.

## WEST COAST LUMBERMEN'S WEEKLY REVIEW

PORTLAND, July 17.—One hundred and twenty-two mills reporting to West Coast Lumbermen's association for the week ending July 10, show a total production of 35,833,411 feet.

Production was approximately 58 per cent below normal due to the holidays and the number of close downs for mid-season repairs.

New business totaled 49,616,923 feet which was 38 per cent above production, and 7 per cent above shipments—shipments totaling 46,059,763 feet.

The unshipped balance in the rail trade was 6,484 cars.

In the water trade unshipped domestic cargoes totaled \$1,365,563 feet. Unshipped export cargoes, 57,469,421 feet.

At the recent Rose Day celebration in honor of Queen Alexandra, Mary Pickford, who has been spending her honeymoon in London, paid five dollars apiece for five little roses to wear for the occasion.

## COMMUNISTS ESCAPE FROM PRISON CONVOY

BERLIN, July 17.—Bela Kun, former Hungarian Communist dictator, and a number of other Communists, who were being transported from Vienna and Russia, via Germany, escaped from the train near Oderberg, according to a Breslau dispatch to the Berliner Zeitung.

## BEND LUMBER CONCERN MAKES BIG PURCHASE

BEND, Oregon, July 17.—The Brooks-Scanlon Lumber company announces the purchase of 26,000 acres of timber, a sufficient supply to last their mills for many years. The tract adjoins the former holdings of the company on the east and south.

The deal was made through the agency of Hunter & Staats, local timber operators, representing the Northwestern Timber company, and themselves interested to a considerable extent in the property.

While no consideration was made public, it is understood on good authority that approximately \$1,500,000 is involved in the deal.

The tract thus transferred is 22 miles from Bend at its nearest point, and 50 miles distant at its farthest boundary. It is 12 miles in length and of varying width and is located in Deschutes, Lake and Klamath counties.

In making the sale to M. J. Scanlon, vice-president of the Brooks-Scanlon Lumber company, Hunter & Staats, who are pioneer residents of this section, have achieved an old ambition of guaranteeing that the lumber in question would be manufactured in Bend.

The Northwestern Timber company, which relinquished ownership today, acquired possession in 1910 from the Manistee Lumber company. H. K. Brooks of the Brooks-Scanlon Lumber company made the statement that at the present rate of logging the new property will probably remain untouched by saw or ax for another decade.

## PRESBYTERIAN COMMITTEES

UNIVERSITY OF OREGON, Eugene, July 17.—Standing committees of the synod of Oregon, governing body of the Presbyterian church of the state, have been named by Reverend William Moll Case, of Eugene, who was recently elected moderator of the synod. They include:

Bills and over—Rev. L. Myron Booser, of Medford, J. M. Cornelius, of Pendleton, and B. L. Eddy, of Roseburg.

Resolutions—Reverends A. R. Evans, of Portland, Elmer C. McVicker, of Moro, and E. H. McDonald, of Nyssa.

Presbyterians records—Reverend Charles W. Hayes, of Portland, chairman; Reverends Louis M. Anderson, of Myrtle Point; A. H. Gammons, of Jacksonville, and L. A. Doble, of Irrigon, Grande Ronde; Reverends Williams Westward, of Baker, and J. W. Huff, of Baker, Pendleton; Reverends James Alkin, of La Grande, J. Y. Stuart, of Whites, and W. G. Beatty, of Cottage Grove, Portland; Reverends William Baird, of Baker, C. C. Babbidge, of Umapine, and Alex Houston, of Portland, southern Oregon; Reverends H. E. Giles, of Portland, J. C. Morigen, of Enterprise, and W. T. Reeves, of Stanfield, Willamette.

Finance—Elders Wilson Benefield, and L. A. Wiley, both of Portland. Reverend W. H. Nugent, of Portland, was named as vice moderator of the synod.

WEATHER REPORT  
OREGON—Tonight and Sunday, unsettled weather, probably thunder storms in the mountains.

## CONGRESSMEN IMPRESSED BY OREGON VISIT

With reference to the late trip of the congressional appropriations committee on their inspection of the various reclamation projects, Mr. Hetherington, assistant secretary of the Portland chamber of commerce, writes to President E. B. Hall of the Klamath chamber as follows:

"We were glad to be able to accompany the appropriations committee on its trip through the state of Oregon. It gave us a first hand idea of how the committee was impressed with the possibilities of the particular section of the state through which it passed. Several of them who had previously made the statement that they would not approve of any further appropriations of money for the reclamation of western arid lands, were fully converted to the advisability of now increasing appropriations and proceeding with the work as soon as money is available in the reclamation fund.

"This committee was very much impressed with the people which it met throughout Oregon. The chairman here in Portland made the statement that it was very apparent to him that the chief factor of success was that the chief factor of success was present, namely: That of an enthusiastic and determined people. Altogether this trip was a most decided success, and, as a representative of the Portland chamber of commerce, we wish to thank you for the many courtesies shown the delegation from this chamber."

## ANTLERED HERD WILL GATHER

SALEM, July 17.—The Marshfield delegation of Elks, coming in a train of six special coaches, is going to be a strong contender for the next annual session of the Elks of Oregon when the question comes to a vote at the third annual convention, to be held in this city July 22-24.

The antlered brethren of three other cities will come in special trains, according to word received here, and it is expected that the eastern Oregon contingent will have one and possibly two specials.

Besides Marshfield, Roseburg Elks are sending a delegation too large to be accommodated on the regular passenger trains and Astoria is also to send a special.

Aside from the Portland delegation, which will consist of 1,500 Elks headed by a 45-piece band, the McMinnville lodge promises to have one of the largest outside delegations, and will have special headquarters here throughout the convention.

## REBEKAHS INSTALL OFFICERS FOR YEAR

Thursday evening the Prosperity chapter of the Rebekah lodge held its regular meeting and installed officers for the coming year. Alfreida Stimmets, district deputy president, conducted the installation.

Following are the respective officers: Hettie Garrett, noble grand; Fannie Virgil, vice grand; Alice Gooler, recording secretary; Nellie Wat-tenburg, permanent secretary; Adeline Cofer, treasurer; Irena Loucks, warden; Louise Humphrey, conductor; Herman Smith, chaplain. Henrietta Brookfield, R. S. N. G.; Flora Emmitt, L. S. N. G.; Jessie Momyer, R. S. V. G.; Ruth Avery Palmer, L. S. V. G.; Jennie Hurs, I. G.; Carrie Higginson, O. G.

## MOTHER, SEVEN CHILDREN, BURNED TO DEATH

BONNERS FERRY, Idaho, July 17.—Mrs. John Rosch and seven children were burned to death at 3 o'clock this morning, when their home at Copeland, 20 miles north of here, was destroyed by fire. The husband escaped. The coroner has gone to investigate.