

PROHIBITION WILL STAND

Klamath Falls must continue dry, Judge H. L. Benson has filed with the county clerk his decision in the action brought by A. Castel and Kent Ballard against Klamath county, J. B. Griffith, county judge, and Fred Melhase, county commissioner, for a writ of review of the proceedings in the local option election. The decision of the judge is as follows: "This cause coming on regularly to be heard, upon the petition of the plaintiffs for a writ of review, and the court having heretofore granted said writ, and the county clerk having certified up the record in the said case; now at this time the court having heard the arguments of counsel, and being fully advised in the premises, finds that there is no substantial error in the record. It is therefore ordered and adjudged that the said writ be, and the same hereby is, dismissed, and that defendants have judgment for their costs herein."

Mr. A. Castel, one of the plaintiffs, when asked about appealing the case said it was too soon to say what action would be taken and Kent Ballard, the other plaintiff, stated that he was through with the proposition and that as far as he is concerned the action will stop with the decision of Judge Benson.

Following is the opinion of Judge Benson in the case: "The petition of the above-named plaintiffs for a writ of review herein, assigns a number of alleged errors in the record, which the court has examined as fully as possible, and has arrived at the conclusion indicated in the order made and entered herein, for the following reasons: "The errors assigned by plaintiffs are as follows:

1. That it does not appear in the record, that the county clerk compared the signatures on the petition for a local option election with the genuine signatures on the registration books.

2. That the printed notices of election sent out by the clerk had the clerk's name printed thereon, instead of being written by his own hand.

3. That the certificates of the sheriff as to the place where such notices were posted is not sufficiently explicit to enable the County Court to find that such notices were posted in accordance with law.

4. That the act under consideration requires that the County Court shall hold a special term for making the final order declaring prohibition.

5. That there does not appear in the record as certified up to this court any abstract of the votes cast for and against prohibition.

As to the first of these conditions, it is sufficient to say that the statute nowhere indicates that there should be any record of the clerk's action.

As to the second assignment, the authorities appear to be practically unanimous to the effect that a printed signature may be adopted by a public officer and be as binding as though written by his own hand.

Referring to the fourth assignment it is my opinion that the phrase "Special Session" does not necessarily mean a special term of the court, but rather a special sitting of either a regular or a special term, and that therefore there is no merit in plain-

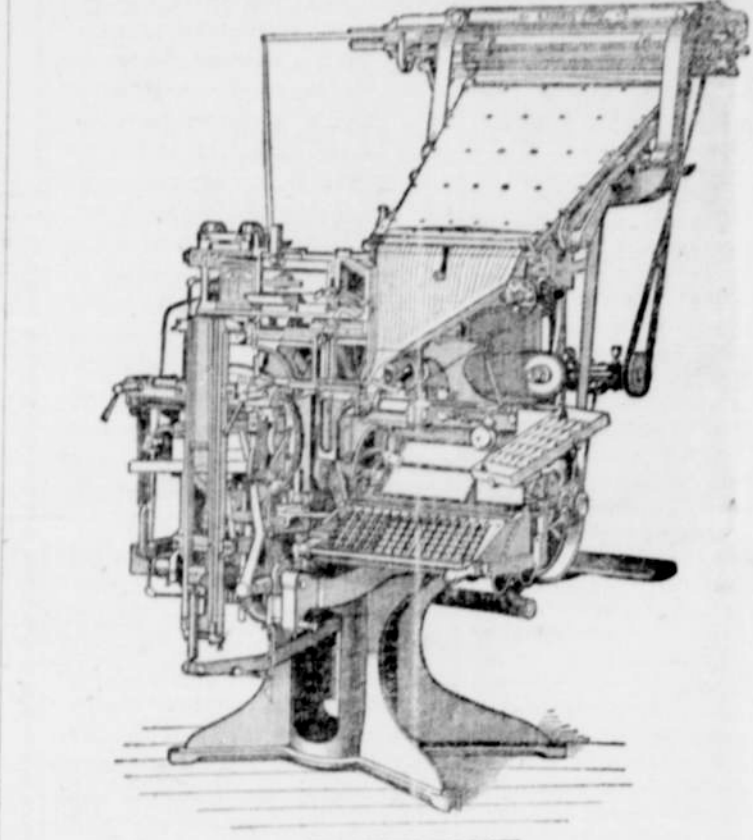
tiff's assignment of error. "The other assignments of error may be considered together.

The entire argument of counsel for plaintiffs is based upon the theory that the County Court is a court of special and limited jurisdiction, and that none of the jurisdictional facts can be presumed in favor of such jurisdiction. That in each of the foregoing particulars, the preliminary steps preparatory to the issuance of the order declaring prohibition, must affirmatively appear in the record.

However, while counsel's contention as to the nature of the County Court and its limited jurisdiction is undoubtedly correct, I do not understand that the decisions of our Supreme Court have any where indicated the nature of the evidence which must necessarily appear in the record to establish such jurisdictional facts, and it appears to me also, to be perfectly clear that the legislative body, whether it be the State Legislature, or the voice of the people in general, when exercised by the initiative, has ample power to declare the character of the evidence which shall be required by the County Court, in a particular case.

The local option law which is under discussion in this case, was proposed by the people by initiative petition, and approved by a majority of the votes cast at the general election held June 5th, 1904. Section 7 of the act provides, among other things: "That prior to any election, the County Clerk shall deliver to the sheriff of the county at least five notices of the election for each election precinct in said county voting on the question." It also provides: "That the sheriff shall at least twelve days before any election hereunder post said notices in public places, in the vicinity of the polling place, or places. Thereupon the clerk and the sheriff shall each briefly enter of record their compliance with the provisions of this section, and such record shall be prima facie evidence that all the provisions of this section have been fully complied with." The record in the case at bar contains the certificate of the clerk that he delivered such notices to the sheriff at the proper time, and the certificate of the sheriff to the effect that he posted such notices in five public places in each precinct within the proper time.

Again, Section 10 of this act provides: "On the tenth day after any election hereon, or sooner, if all the returns are received, the county clerk taking to his assistance two justices of the peace of the county, shall proceed to open said returns and make an abstract of the vote for the information of the County Court. That said court shall on the eleventh day after the election, or as near thereafter as practicable, hold a special session, and if the majority of the votes hereon in the county, as a whole, or in any subdivision in the county, as a whole, or in any precinct in the county are 'for prohibition' said court shall immediately make an order, declaring the result of said vote, and absolutely prohibit the sale of intoxicating liquors within the prescribed limits, except for the purposes and under the regulations specified herein, until such time as the qualified voters therein at a legal election held for that purpose by a majority vote decide otherwise; and the order thus made shall be held to be prima facie evidence that all the provisions of the law have been complied with in giving notice of and holding said election, and in counting and returning the votes and declaring the results thereof."



The first Mergenthaler Linotype to be brought to this county is now in operation in the Republican office, where Mr. D. B. Kendall is doing the work for all of the papers in this city. This machine is the latest model, it being the first machine shipped from the factory having the patent. It was started Monday morning and was a success from the beginning. It is one of the greatest time and labor saving devices ever invented in the line of printing machinery.

SPRING CREEK NOTES.

Just below the junction of Spring creek and Williamson river is Frank Silvie's fishing ground, the most beautiful camping ground in the state of Oregon. The cold sparkling water affords typical trout fishing. At this point the river is about 150 feet in width and from two to six feet in depth with occasional holes varying in depth from 10 to 15 feet. The water is clear as a crystal and colder than the ocean. The water swarms with rainbow trout which can be seen by the thousands in the clear cold water. The fishing is splendid at this time and many trout are caught that weigh as much as ten pounds. There are many camps along the banks of the river. Judge H. L. Benson and party occupied one of the tents for several days, but they have now returned to the city. The judge is an expert fisherman and can cast a line from 50 to 75 feet, making the fly fall in the water as gracefully as a snowflake. His camp was a jolly one for the judge is a good hand at almost anything. He makes bread about as well as he tells stories. The large graphophone at the Benson camp furnished music for all of the campers.

Deer Season is Now Open

The season for male deer opened in Klamath county on Wednesday and continues open until November 1st. The season for female deer does not open until September 1st, and closes the same time as the male season. No hunter is allowed to kill more than five deer in one season and hunting with dogs and by night is prohibited.

Deer are said to be more plentiful in this section this year than they have been for several years and a number of hunters are planning to go to the hills in the early part of the season. A special effort should be made to prevent all illegal shooting of deer so that the number will not be decreased.

HOME FROM CHAUTAQUA.

Rev. P. Conkili, pastor of the Methodist church, returned last night from Ashland, where he has been attending Chautauqua. He reports a large attendance and a good time. The Hon. John Sharp Williams, who hails from a state "where the people still believe in God and vote the Democratic ticket," was there and made a fine address on talking.

Mrs. J. M. McIntire will arrive here in a few days from Eugene to join her husband and to make her home in this city.

Dr. R. R. Hamilton has returned from Portland where he went on professional business.

Most of the people who have been attending Chautauqua at Ashland have returned home.

Passmores Will Give Concert

The distinguished Passmores will be heard in concert in Klamath Falls next Tuesday evening, July 21, at the opera house.

This will be an event in the musical history of this city. Mr. Passmore was for years one of the leading vocal teachers of San Francisco and for the past three years has been at the head of the vocal department of the leading conservatory of music in Berlin, he being the first American upon whom such an honor has been conferred. Besides his fame as a vocalist he is a great composer, and in Germany his works were classed with those of the greatest writers. He will be heard in songs.

The girls, Mary, Suzanne and Dorothy, were considered artists before they went to Europe three years ago. They have studied with the best teachers there and have done extensive concert work. The German press spoke of them as the best trio in Germany. Mary, the violinist, has played in public since the age of five, her mastery of the king of instruments approaches perfection. Suzanne is a brilliant pianist and achieves great success wherever she is heard. She studied with the great Schwarenka in Berlin. Dorothy handles the mellow-voiced 'cello in the most sympathetic manner. The expression and soul of her playing are nothing less than remarkable. Anton Hekking was her instructor in Berlin.

Though their solo work is wonderful, their ensemble work is much more so. Having had so many years of practice together they play with marvelous perfection and expression. The program will appear later, and those who fail to hear these girls and their noted father will miss the greatest musical event that has occurred in our city. They come directly from the Chautauqua assembly at Ashland where they aroused the greatest admiration and enthusiasm.

In Klamath Falls Mr. Passmore can receive no stronger recommendation than to say that he is the former instructor of Mrs. Don J. Zumwalt, whose sweet singing is the pride of this city. The eminent musicians come here to visit with Mrs. Zumwalt and to spend a vacation in the northern end of the county and at Crater Lake. They will arrive here from Ashland Monday night.

NEWS FROM DAIRY.

Dairy school will close Friday the 17th. An entertainment will be given in the evening. We promise a good time as usual, to all that come. P. H. Gray took some fat logs to Klamath Falls Thursday. G. O. Anderson accompanied him.

Dr. W. S. Johnson was called to see Mother Michael last week and reports her to be in very bad shape.

Miss Mary Robinson closed her school at Hildebrand last Friday and gave an entertainment on Saturday eve, at which time almost the entire population of the district with some from outside were present and enjoyed a good time. Two pupils received their eighth grade diplomas, viz: John Ritter and David Bliss.

Supt. Jas. G. Wight made the presentation speech including some encouraging words for the school in general. Mr. Jacob Rueck also made a good talk for the benefit of the school. When everybody turn out as they did on this occasion it looks as though they were pleased with the school and had an interest in it.

We had a good exhibition of broncho busting in Dairy Monday, given by Hiram Moore. The broncho came off but the bucking went on as good as ever. Moore was a stayer though and after a mile or so of bucking the horse quieted down.

E. B. and W. P. Sedge were Bonanza visitors Tuesday.

Bonanza had quite a rain storm Monday while Dairy had a wind and dust storm. A good rain would brighten things up, even to the farmers faces.

WILL APPEAL CASE. F. H. Mills and A. L. Levitt, the attorneys for the plaintiffs in the prohibition case, state that the case will be appealed to the Supreme Court and notice of appeal will be given at once. The case will not come up until October and pending this decision most of the saloon men of this city will dispose of their fixtures and engage in other lines of business or find new locations.

G. W. White, president of the First National Bank, has made arrangements for his family to reside at Portland this winter. While in the city he purchased a home and during the next year the children will attend school in Portland. Mr. White will continue to make his home in this city.

E. R. Pountain left Wednesday for Eugene for a brief visit with his father and brother. Mr. Pountain will spend the rest of the summer in Oregon and in the fall will return to Chicago to continue the study of medicine at the Northwestern University.

Bids Asked For

Project Engineer D. W. Murphy, has issued the specifications for five schedules on the South Branch canal and is advertising for bids on the same.

The five schedules comprise seven miles of canal and will connect the South Branch with the Adams system. The specifications state that sealed bids will be received until 2 o'clock p. m. on the 28th of July at the reclamation office in this city and that all bids must be accompanied by certified checks in the amount of \$200 for each schedule. Bidders may bid on one single schedule or any combination of schedules or on the five schedules as a whole.

The work involves the excavation and embanking of about 112,000 cubic feet of dirt and the contractor bidding in the work must begin work within thirty days after the signing of the contract by the Director of the Reclamation Service, and must thereafter prosecute the work with a force necessary to complete the work on or before the 15th day of December, 1908.

The five schedules comprising the portion of the canal to be constructed begin with No. 4 and end with No. 8, and comprise the following amounts of the three classes of dirt:

No. 4. Class 1, 21,020 cubic yards; class 2, 500; class 3, 50.

No. 5. Class 1, 21,450 cubic yards; class 2, 500; class 3, 50.

No. 6. Class 1, 21,450 cubic yards; class 2, 500; class 3, 50.

No. 7. Class 1, 21,600 cubic yards; class 2, 500; class 3, 50.

No. 8. Class 1, 24,500 cubic yards; class 2, 500; class 3, 50.

In cutting the work into small schedules the Government makes it possible for small contractors and ranchers to bid on portions of it. The completion of the south branch to the Adams canal will make a big increase in the amount of lands that can be irrigated from the Government system next Summer.

Word has been received in this city that I. A. Duffy was married to a San Francisco lady a few days ago and that he and his bride have taken up their residence in San Diego. Friends of Mr. Duffy in this city have not been able to learn the name of the fortunate lady that won the affections of the former Klamathite.

County court adjourned Friday afternoon until August 4th. Before taking an adjournment it was decided to re-advertise for bids on the bridge across Lost river at the Upper gap and it was also decided that the county would not contribute any money towards advertising the county in the Sunset magazine.

G. P. Van Ripper and R. M. Sarter are spending the week at Crystal creek. They were well supplied with fishing tackle, guns and ammunition when they started and as the deer season is now open they are sure to bring back a large amount of venison.

Mr. and Mrs. G. Heitkemper, Jr., and son left Sunday morning for Spring creek where they will be the guests of Mr. and Mrs. Alex Martin, Jr., for a few days. They will be taken as far as the Williamson river bridge by B. St. Geo. Bishop in his fine launch.

C. B. Clendenning has started the erection of a large barn between 8th and 9th streets. He expects to conduct a livery and feed business as soon as it is completed and will make a specialty of fancy livery.

Miss Edith Purdy, who has been visiting with her aunt, Mrs. G. W. Fish, has returned to her home at Montague, Cal.

WANTS TO ISSUE \$150,000 BONDS

It is very probable that the activity on the part of the Mayor and the councilmen of this city will result in putting Klamath Falls on a better financial basis. On Monday the Mayor and a number of the members of the council made a trip out to inspect the boundaries of the additions that have been recommended to be taken into the corporate limits. Mayor Stiltz is an ardent advocate of the extension of the boundaries of the city. In discussing the matter he said:

"We do not want to take in all of the additions, but those that are close to town and are deriving benefit from the corporation. The revenues coming from these additions may not amount to much, but there are some valuable properties just outside of the corporation and in case we bond the city it will be necessary to bond them in good order to get enough money to do any good. The cost of taking in the additions will not be much. The city attorney says he can arrange the boundaries and the election should not cost over \$100. The way the town stands at present we cannot bond for more than probably \$75,000, and in order to have enough money to work on we should have not less than \$150,000. I consider the extension of the corporate limits the first step towards bonding the city."

Councilman Hanks, of the Third ward, expressed himself in favor of bonding the city as to take in all of the additions that have any value attached to them and have people living on them. He, too, considers the enlargement of the corporation necessary in order to bond for a sum sufficient to make improvements. Mr. Hanks is a strong advocate of a municipal water system.

Councilman F. E. Ankeny, of the First ward, when asked about the matter said: "I was not out with the council yesterday, but if they can show me that it is of any benefit to enlarge the limits of the city I am in for it. I have not given the matter much thought, but I think it might be a good idea to take in the parts that are close to the present boundaries so that we can bond the city for a sum large enough to make the improvements that the city really needs. I think the city should be bonded for not less than \$100,000. We cannot do anything with less than \$90,000, and should have more than the sum first mentioned."

All of the other councilmen, Obenchain, Wilkins, Sanderson and Crisler, have expressed themselves as favoring an extension of the corporate limits and it is very probable that at the meeting next Monday night the first steps will be taken towards extending the limits.

Parties returning from Spring creek state that the resort is well patronized by parties from various cities on the Coast. Most of the private camping grounds are occupied and all of the boats on the river are in use whenever fishing is good. Several families from this city are now at the resort.

Several of the Klamath Falls baseball boys liked Lake county so well that they decided to remain there and work through haying. They experienced no difficulty in getting jobs.

The Real Thing

BEGINNING with Saturday, July 11, I have decided to hold Saturdays as Bargain Days. Each and every Saturday thereafter, different goods will be put on sale at bargain prices, and it will be to your special benefit to keep your "eye peeled" and watch for future announcements.

As a Starter

On Saturday, July 11, there will be reductions on everything in the house (excepting contract goods) and it will pay anyone wanting things in the jewelry line to call.

G. Heitkemper, Jr.

LEADING WATCHMAKER AND JEWELER
Republican Block

PIANOS

A fine stock of PIANOS and PIANOLA PIANOS are now on exhibition in Klamath Falls

Such pianos as A. B. CHASE, LUDWIG, KINGSBURY, WELLINGTON, STEINWAY and PACKARD are not often offered for sale in this section of the state.

SHERMAN, CLAY & CO.,

One of the oldest and best known piano houses of the west, are offering these pianos direct to the people.

MR. R. P. MEYER AND MR. G. F. JOHNSON, OF THE PORTLAND STORE, are in charge of the stock and will be here for a week or ten days only. Come at once to see the pianos and make your selection.

EASY TERMS OF PAYMENT

may be arranged if you are not prepared to pay cash.

PIANOS WILL BE ON EXHIBITION AT HOUSTON HOTEL
STORE OPEN EVENINGS

Sherman, Clay & Co.

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GILLETTE'S

FOR

FURNITURE

Sewing Machines, etc.

KLAMATH FALLS

Our goods are attractive, also the prices