

KLAMATH REPUBLICAN

W. O. SMITH, Editor.

LEADING NEWSPAPER OF INTERIOR OREGON

TWO DOLLARS PER YEAR IN ADVANCE

All communications submitted for publication in the columns of this paper will be inserted only over the name of the writer. No non de plume articles will be published.

REAL ESTATE TRANSFERS

The following realty transfers, contracts, deeds, mortgages, etc., recently filed with the county clerk, are furnished by the City and County Abstract company:

Agnes H. Eskelson to Melvin H. Elsted, warranty deed, \$10, lot 2, block 3, Fairview No. 2.

The Klamath Development company to W. H. Stewart, warranty deed, \$10, lots 6 and 7, block 11, Railroad addition.

Richard E. Smith to Henry Sellon, warranty deed, \$10, W 1/2 of SE 1/4 of NE 1/4, Sec. 26-39-9.

Ella Lutke to Wm. Lutke, warranty deed, \$10, lots 1, 2 and 3, block 53, Nichols addition.

Fred Melhase to Wm. Ketsdover, warranty deed, E 1/2 NW 1/4, Sec. 27-38-9.

The Klamath Development company to Kingsley G. Dunn, warranty deed, \$10, lot 11, block 6, Second Hot Springs addition.

United States to Edwin Lawrence, patent, SE 1/4 Sec. 6-41-8.

Alex Martin Jr. to John W. Gabler and Rosino King, warranty deed, \$1,100, E 1/2 SE 1/4, Sec. 9-29-9.

Geo. L. Woodford to Jas. C. Wilson, deed, \$10, N 1/2 SW 1/4, Sec. 10-39-8.

The Klamath Development company to Mela & Dorasie, warranty deed, \$10, lot 4, block 8, Second Hot Springs.

United States to Oscar E. Weller, patent, S 1/2 S 1/2, Sec. 18-37-7.

The Klamath Development company to Arthur Boles, warranty deed, \$10, lot 4D, block 5, Railroad addition.

The Klamath Development company to W. P. Johnson, warranty deed, \$10, lot 8, block 42, Hillside.

J. L. Cunningham to C. E. Riley, warranty deed, \$10, lots 3, 4 and 5, block 58, Nichols addition.

C. E. Riley to C. K. Buckman, warranty deed, \$10, lots 3, 4 and 5, block 58, Nichols addition.

Klamath Water Users Association to J. B. Mason, release of contract, S 1/2 SE 1/4, Sec. 6-41-9.

The Klamath Development company to H. G. Lawrence, warranty deed, \$10, lot 19, block 8, Second Hot Springs.

S. O. Shattuck to Thos. Drake, quit claim deed, \$1, NE 1/4 Sec. 35-33-6.

United States to Maggie B. Dayton, patent, N 1/2 SW 1/4, Sec. 7-41-8, and NE 1/4 SE 1/4, Sec. 12-41-7.

United States to Thos. Baing, patent, SE 1/4 SW 1/4, Sec. 6-41-8.

Maggie B. Dayton to Rose Soule, warranty deed, \$10, N 1/2 SW 1/4, Sec. 7-41-8, and NE 1/4 SE 1/4, Sec. 12-41-7.

Thos. Laing to Rose Soule, warranty deed, \$10, SE 1/4 SW 1/4, Sec. 6-41-8.

The Klamath Development company to H. Hunter, warranty deed, \$10, lots 2 and 3, block 32, Hillside addition.

Klamath Water Users Association to C. E. Lennon, release of contract, SE 1/4, Sec. 31-40-9.

Klamath Water Users Association to C. E. Lennon, release of contract, SW 1/4, Sec. 11-41-9.

United States to Kristian Jorgenson, patent, S 1/2 NW 1/4, N 1/2 SW 1/4, Sec. 25-26-15.

Wm. S. Worden to Emma Swenon, warranty deed, \$10, lot 10, block 20, Worden.

The Klamath Development company to Chas. Clark, warranty deed, \$10, lot 1, block 24, Hot Springs.

The Klamath Development company to Chas. Clark, warranty deed, \$10, lot 14, block 36, Hot Springs.

A. Kershner to H. R. Dunlap, quit claim deed, \$10, part of block 31, Klamath addition.

The Klamath Development company to Wm. Corry, warranty deed, \$10, lot 21B, block 3, Railroad addition.

Chas. E. Worden to C. W. Pugh, deed, \$10, lots 9 and 10, block 6, Second addition.

C. W. Pugh to Jos. Harris, warranty deed, \$10, lots 9 and 10, block 6, Second addition.

Geo. H. Capron to Russell W. Ford, contract, \$850, lot 12, block 17, Hot Springs.

Wm. S. Worden to Mrs. Mary Childers, warranty deed, \$10, lot 23, in block 38, Worden.

Oregon Valley Land company to Jas. Frew, warranty deed, \$200, SW 1/4 Sec. 21-36-15.

The Klamath Development company to Perry B. Fuller, warranty deed, \$10, lot 10, block 37, Hot Springs.

Klamath Water Users Association

to Leo S. Robinson, release of contract, NE 1/4 NE 1/4, Sec. 7-41-9.

Klamath Water Users Association to Wm. H. Robinson, release of contract, E 1/4 Sec. 2-41-8.

Paul Brettenstein to C. B. Barber, warranty deed, lot 3, block 8, Lakeside addition, \$150.

L. F. Willis to Ada E. Parsons, warranty deed, \$10, block 2-1, Riverside tracts.

J. L. Sparrentorn to Ada E. Parsons, deed, \$10, block 1-2, Riverside tracts, and lots 8, 9 and 10, block 5, Bonanza.

Directors File Bonds

John M. Berthoff, W. D. Campbell and Jacob Reuck, three of the directors chosen at the recent meeting of the stockholders of the Horsey Irrigation district, filed their bonds with the county court. All of the bonds are in the sum of \$5,000, and they were approved.

FINISHES SURVEY OF COON POINT

WORK OF CORRECTING ERROR MADE IN 1885 IS ACCOMPLISHED IN FOUR FEET OF SNOW WITH MERCURY 10 BELOW

Ernest P. Rands, assistant superintendent of surveys in the government service, returned Saturday evening from Coon Point on the Upper Lake, after making a survey of that neck of land. He left this morning for Portland.

"During the greater part of the two weeks we worked at Coon Point, the thermometer was 10 below zero, and the ground was covered with four feet of snow," said Mr. Rands at the Hotel Hall Sunday. "Despite this, my assistant, Jerry Darrell, and I worked every day."

Coon Point extends into Upper Klamath Lake near Odessa, and instead of following the meander line, the government survey party in 1885 ran their line across a ridge which is at an elevation of 200 feet above the lake. This left from 300 to 400 acres of unsurveyed land between the surveyors' line and the water.

Mrs. Rose M. Torrey and N. K. Gray settled on the unsurveyed tracts and the survey was made at their instance, in order to entitle them to homestead the land.

Before making the survey at Coon Point, Rands surveyed Buck Island in Upper Klamath Lake, which is being homesteaded by P. K. Hamilton. Rands spent Christmas and New Year on this island.

BUD'S FRIENDS ARE OPTIMISTIC

Following his victory over Sammy Trott in Los Angeles Saturday, Bud Anderson's friends are comparing him to Ad Wolgast, with the hope that the Vancouver lad may get a chance at the former champion in the near future.

The dope on the two fighters follows:

	Wolgast	Anderson
	Inches	Inches
Weight	133	133
Height	64 1/2	66
Reach	65 1/2	66
Neck	15 1/2	16 1/2
Chest, contracted	36	36
Chest, expanded	38 1/2	41
Waist	29	30
Right forearm	19	11 1/2
Rt. upper arm, down	11	11 1/2
Rt. upper arm, up	11 1/2	13
Right thigh	18	20 1/2
Left thigh	18	20 1/2
Right calf	12	15
Left calf	12	15
Wrist	6	7 1/2
Ankle	6 1/2	9 1/2

WAGNER GOES TO FALL CREEK JOB

Orlie H. Wagner, for the past two years employed as operator at the West Side power plant of the California-Oregon Power company, has been promoted to the position of operator of the company's big plant at Fall Creek. He leaves in a few days for Fall Creek.

Wagner will be succeeded here by E. G. O'Brien, who will be here with his family on February 1st. O'Brien is from Dunsmuir, and he was formerly district agent there.

Mr. and Mrs. M. V. Weatherford of Albany are registered at the White Pelican.

Edwin Wilson, of the Indian police, is here from the Agency on a business trip.

JUDGE BENSON GIVES OUT OPINION ATTACK ON LEGALITY OF MEASURES IS CONFIRMED

Court Declares That While He is Personally in Favor of the Commission Plan, the Law Prevents Decision Favorable to Relators in Mandamus Case—Attorneys Agree With the Court

In a decision rendered Monday Circuit Judge H. L. Benson held that the commission charter adopted by the voters a year ago is faulty, and the application for a writ of mandamus to compel the city officials of Klamath Falls to forthwith put a commission form of government into effect was denied.

The decision of the court is a complete vindication of the action of the present officials of Klamath Falls and leaves the way clear to the adoption or rejection of the new charter, which has recently been prepared, and which will be voted on March 10th.

Local attorneys generally agree that Judge Benson's decision is sound and that an appeal to the state supreme court will not be effective. It is held that the trend of all decisions of the Oregon supreme court relative to an amendment of the constitution whereby the people are given the right to the initiative and referendum and relative to the right of legal voters in municipalities to amend and create new charters are to the effect that where a charter is amended or a new one created by a vote of the people according to and under the terms of Chapter 226 of the General Laws of 1907, the new charter thus created is a law unto itself and supercedes and wipes out all prior municipal laws, and in case of the amending of a charter the effect is that all prior municipal legislation in conflict is repealed.

In his decision Judge Benson expresses his belief in the wisdom of the commission form of government, but declares that the charter proposed for Klamath Falls could not be sustained by law.

The mandamus proceedings were started late last summer by Henry Rabbes and Dr. W. A. Leonard. City Attorney Drake filed a demurrer, which was sustained. Then the writ was amended. The city attorney held repeatedly that the plaintiffs did not have a legal right to sue, and this opinion was later confirmed when the proceedings were dismissed, with the costs against plaintiffs, and new proceedings, with the state of Oregon as plaintiff and Rabbes and Leonard as relators were initiated.

The case actually came into court for the first time Saturday morning by the consent of the city attorney, who desired to expedite matters.

Judge Benson's decision follows: "This cause is submitted to the court upon the petition of the relators for an alternative writ of mandamus, and the question to be determined is: Shall the writ issue?"

"The petitioners contend that on May 20, 1912, a certain municipal charter for the City of Klamath Falls was legally adopted by a majority of the legal voters of the city, and that the defendants, whose duty it was and is, to make such charter effective, have neglected and refused to perform their manifest ministerial duty therein; for which reason petitioners pray for an alternative writ, commanding the defendants to perform such duty or show a valid excuse for not doing so.

"We must therefore examine the petition and determine therefrom whether or not it states facts sufficient to justify the court in issuing the writ.

"As the purport of the petition has already been briefly summarized it is unnecessary to go into it further than to say that the proposed charter, as submitted to the legal voters of the city on May 20, 1912, is set out in full as 'exhibit A' in the petition.

"A careful inspection of this exhibit calls attention at once to the 'ballot title' of the proposed legislation, which reads as follows:

"A bill proposing by the initiative an amendment to an act entitled 'An act to incorporate the City of Klamath Falls, Oregon, and to provide a special charter therefor, and to repeal all acts in conflict herewith,' and to provide a Commission form of government for the City of Klamath Falls, Oregon, to be submitted to the legal voters of the City of Klamath Falls, Oregon, at the annual general election to be held in said city on the 6th day of May, A. D. 1912. The following is the form and number in which the question will be submitted on the official ballot for the proposed amendment to the above described act by the Police Judge of the City of Klamath Falls, Oregon, to the people thereof, for their approval or rejection."

"The petition for the writ also alleges the adoption of a charter for the city by the legislature of the state at its regular biennial session in 1905, also that the Charter of 1905 was superseded by a new charter adopted by the legal voters of the city on May 21, 1910; that the petition for the charter sought to be enforced by this proceeding was filed with the police judge of the city on the 29th day of January, 1912, and that on April 23, 1912, and before the statutory time of 90 days had elapsed for submitting the proposed charter, exhibit A, to the people for adoption, another charter was adopted by the legal voters of the city, thereby superseding the charter of May 21, 1910: That by the terms of the last mentioned charter the date of the regular election was changed from May 6 to May 20, 1912, at which the proposed amendment, exhibit A, was voted upon and adopted by a majority vote of the legal voters of the city.

"The first question that presents itself then, is the title of the proposed act of legislation. And in considering this, it must be borne in mind that the Constitution of Oregon provides that every such act must have a legislative title as provided in Section 20, Article IV, of the Constitution, which reads as follows:

"Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if subject shall be embraced in an act which shall not be expressed in the title such an act shall be void only as to so much thereof as shall not be expressed in the title."

"In addition to this constitutional provision, the Code of Oregon, Sec. 3475, provides that when an initiative petition is filed with the secretary of state (or city clerk) it shall be submitted to the attorney general (or city attorney) who shall, within a specified time, provide and return a ballot title for the proposed measure, and the same section further provides that 'the ballot title may be distinct from the legislative title.'"

"The supreme court of Oregon, in the case of State ex. rel. vs. Richardson, 48 Oregon, 309, speaking of initiative measures, says: 'The greater number of voters do not possess this information, and usually derive their knowledge of the contents of a proposed law from an inspection of the title thereof, which is sometimes secured only from the very meagre details afforded by a ballot which is examined in an election booth preparatory to exercising the right of suffrage. It is important therefore, that the title to laws proposed in the manner indicated should strictly comply with the constitutional requirement.'"

"A careful examination of the ballot title of exhibit A discloses, when taken in connection with the other allegations of the petition:

"That the proposed act is an amendment of the charter under which the city was being governed at the time when the initiative petition was filed on January 29, 1912, which is alleged to be the charter adopted by the city on May 21, 1910. But a careful examination of the charter of 1910 and of exhibit A shows that the proposed act does not in any detail undertake to amend the charter of 1910, but to supersede it with an entirely new charter, complete in itself, and in effect, to repeal the charter of 1910.

"It follows that the ballot title of exhibit A is misleading, and not in accordance with the facts.

"But if this were not so, and if exhibit A were in truth an amendment of the charter of 1910, we are confronted with another obstacle which I regard as insuperable. For it further appears from the petition that on April 23, 1912, the legal voters at a special election repealed by implication, the charter of 1910, and adopted an entirely new and different charter, which was in full force and effect at the time when exhibit A was submitted to the legal voters for their approval on May 20, 1912. It does not need authorities to show that a charter which has been abrogated cannot be amended.

"It follows, of course, that it would be useless to go further into the merits of the contention, for no matter what further facts might be developed the court is bound to hold that exhibit A has no such title as would justify the court in holding it to have been legally adopted as the charter of the city. Personally I am an advocate of the commission form of government, and believe that such a system of government would be for the best interests of our city, but such considerations can have no place in the determination of questions of law.

"It follows that the writ must be denied and the proceedings dismissed. It is less a source of regret to me to be compelled to hold as I do by reason of the fact that relators have the right of appeal, and can if they desire, take the matter to the court of last resort.

"Let an order be entered in accordance herewith."

Worden Couple to Wed

A marriage license was issued this afternoon to Frank M. Downing Jr., and Esther A. Spafford, both well known residents of Worden.

Duke Visits City

Harry L. Duke, basketball commissioner of the Sacramento Athletic Club, is spending a few days visiting Klamath Falls friends. The S. A. C. quintet has been playing in Northern California, and Duke took occasion to come to Klamath Falls before returning. Last year Duke brought a Sacramento team here for two games with the Pavilion team.

MISS HOGUE ILL.

SUMMON PARENTS

Miss Faye Hogue, one of the best known young ladies of this city, is seriously ill at the Norris ranch at Fort Klamath. Her parents, Mr. and Mrs. C. C. Hogue of this city, were summoned to Fort Klamath Sunday.

According to telephone bulletins received from the Fort, the young lady's condition is serious. Her parents will remain at Fort Klamath until she is able to return to Klamath Falls.

Miss Hogue has been visiting Fort Klamath friends for the last three weeks.

YORK REFUSES TO BE PAROLED

KLAMATH COUNTY PRISONER DECLINES HIS LIBERTY WHEN HE LEARNS THAT HE WILL IMMEDIATELY REARRESTED

T. E. York, convicted in this city of swindling and sentenced to from two to twenty years in the penitentiary, has declined a pardon from Governor West. He declares that the governor has no right to force him to leave the state institution.

It became known to the prisoner that immediately on his discharge from the prison at Salem he would be arrested and taken to Chicago to face trial in the federal court on a charge of perjury.

The two years had expired, and as the Chicago authorities were anxious to get possession of the man, United States Marshal Scott took the matter up with Governor West and the conditional pardon was issued. Deputy United States Marshal Fuller went to Salem after the man, and when he was brought out into the warden's room and the pardon read to him, he positively refused to accept it, also refusing to leave the penitentiary unless forcibly thrown out.

This was a precedent for the officials, and being unable to find any authority to forcibly make the man accept the pardon against his will, he was locked up in his cell again and Deputy Marshal Fuller returned without his prisoner.

York refused to talk to either the warden or deputy marshal as to the grounds for his refusal, except to say that the Klamath county officials had made him promises when he pleaded guilty there, that they had not kept, and his refusal to accept the pardon was the result of legal advice.

ELKS PLAN MASQUE

HARD TIMES BALL

Arrangements for a hard times mask ball are being made by the entertainment committee of Klamath Falls Lodge No. 1247, B. P. O. Elks. The affair will be held at Houston's opera house on the night of February 12th.

WELL ALONG WITH

WORK ON PROJECT

The following report of work on the Klamath project is published in the current issue of the Reclamation Record, the official publication of that branch of the department of the interior:

Klamath Project (74 per cent completed)—The weather during December was cloudy with occasional rain and snow storms, but until the 20th permitted work to be carried on by the contractors on the second unit laterals. The precipitation was 1.43 inches, and the minimum temperature 15 degrees. The Hess metal flume at Olene crossing was completed, except for a few feet adjacent to the concrete structure, which was deferred until milder weather next spring, when concrete work will be resumed. The roads were bad for heavy hauling, which made it impossible to continue work with the traveling excavator. Repair work on the canals and laterals was completed for the season. Some additional progress was made in procuring right of way deeds, particularly in closing up long outstanding cases. The Lost River diversion channel took the entire flow of Lost River during the month.

Fred H. Starr and Charles Holt are in from the Greenfields Farm for a short sojourn.

THREE HAVE GONE TO CRATER LAKE

TWO LEAVES IN THE MORNING FOR TRIP

Journey From Chilquien to the Lake Will Be Made on Skis and Snowshoes—Party Will Take Pictures and Will Also Make Soundings and Other Observations of Midwinter Conditions

Not content with seeing "Oregon's Greatest Wonder" in the summer, a party of intrepid local chateaus are determined to view Crater Lake in midwinter, and with this purpose in their, midle, they left Tuesday.

Members of the party are J. W. Bailey, J. D. DeVoe and W. Luke Clapp, all connected with Clapp's garage. They will journey from here to Chilquien tomorrow morning by train and from there the trip will be made on skis and snowshoes. It is their intention to spend two days at the lake, and their journey, they figure, will take just a week.

The party is armed with cameras and bales of film, and they intend to get a collection of snow scenes. In addition they will make soundings in the snow banks, take temperatures and collect other interesting data. This will be given to the government service for their information.

Crater Lake has been visited but very few times in the middle of winter. The last trip there was made in February, 1911, by a party under Forest Ranger Momyer and another led by Harry Hicks, a Medford newspaper man. The trips at that time were made in the hope of finding B. Bakowski, a Polish photographer, who, unaccompanied, entered the park in January to secure winter views. Bakowski's body was never found.

"All of the members of our party are experienced in the use of skis and snowshoes," said Mr. Clapp today, "and as the territory we are to traverse is familiar to us, we anticipate no difficulty. We expect to be gone a week, but are taking full rations for two weeks. We will camp on the snow at least two nights. The snow at the lake I judge is about 30 feet deep, but we intend to nail boards on the trees at the snow line so the depth can be determined next summer."

CHAMBER OF COMMERCE IN ITS NEW LOCATION

Removal of the furniture, exhibits and other belongings of the Klamath Chamber of Commerce from the former location in the Bellman building was finished Saturday and Monday Secretary Cale Oliver straightened up things in the organization's new home in the Reidy building on Seventh street.

A meeting of the directors of the club will be held in the new quarters late tomorrow afternoon.

The new home of the Chamber of Commerce is more centrally located, and it is especially easy of access by the Klamath county farmers, as it is a short distance from the Klamath Falls creamery and from the Klamath avenue hitching posts.

A telegram was received from W. A. Delzell, who was tendered the position of secretary of the Chamber of Commerce. In the telegram, sent from Oklahoma, Mr. Delzell makes a tentative acceptance. A letter from him is expected daily.

COASTING AMUSES

KIDS—AND OTHERS

The corner of Fifth and Main streets has recently been populated by interested groups of grown-ups, watching with a great deal of enjoyment the twenty or more youngsters who are coasting down the high school hill, and the pleasure the kids get out of the sport is no greater than that of the grown-ups, as they recall the old days when they used to excel all others when it came to sliding "hillbuster."

The track beaten down the hill from the high school extends to Main street, and the kinks and curves of the route are causing many a sled to upset.

Case May Not Be Appealed

"I am very well satisfied with Judge Benson's decision," declared a well known citizen who has been active in the prosecution of the writ of mandamus to compel the city officials to establish the commission form of government.

"My only purpose in interesting myself in the case," he continued, "was to put the city on a substantial basis, so that improvements might be carried on this summer."

C. M. Oneill, attorney for Rabbes and Leonard, stated this afternoon that he had not yet been advised whether or not the case would be taken to the state supreme court.

W. W. Smith, a well known stockman, is here from Bly attending to business matters.