

DECLARING MARTIAL LAW WAS WRONG. Judge O'Day Disapproves of Governor's Acts.

Demanding that law enforcement will be a live issue in the political campaign, Judge Thomas O'Day, lawyer and Democrat, has declared his opposition to placing the military above the civil power and reserved any declaration of support of my candidate for Governor until he has been advised fully as to the attitude of the candidate on that question.

Judge O'Day has forwarded the following letter to one aspirant for the Democratic nomination:

I am in receipt of your favor of the 17th inst. relative to the possibility of your candidacy on the Democratic ticket for Governor of this state at the coming election. You ask me certain questions pertinent to your candidacy, which doubt if I am able to answer as fully as I should like. However, here is one question that, to me, is of great importance. It not only affects your candidacy, but affects all candidates alike. It is a question that may be of minor importance in the campaign, but I am persuaded that it will be more than a minor factor and possibly may be controlling issue and for that reason I think that it is no more than fair to you that I give you my impressions in regard thereto.

Feeling for West Kindly.

Preliminary to what I have to say, am not speaking as a political or personal opponent to Governor West. On the contrary, I supported Governor West and have the most cordial feeling toward him, but I dissent from his action in using the militia at Copperfield, or in the use of the militia in the manner in which he thinks, as chief executive, has a right to use it. The people of this state, when they originally promulgated the constitution, divided the powers of the state into three departments—executive, judiciary and legislative powers, making each coordinate power supreme, and prohibiting the control of one department by the other. The constitution of this state, among other things, contains a bill of rights in which the personal rights of the citizens and inhabitants of this state are guaranteed and in which certain limitations are placed on executive, judicial and legislative departments. Among these is article 27, article 1 of the constitution, which provides: "The people shall have the right to bear arms for the defense of themselves and the state, but the military shall be kept in subordination to the civil power."

Provision Believed Violated.

This provision of the constitution, I think, Governor West, in lining out the militia at Copperfield, has violated. I think every democratic tradition from Jefferson to Wilson is opposed to the use of the militia in his use of the militia in the instance referred to. All these provisions of the constitution are historical. For instance, take the XIII, XIV and XV amendments to the Constitution of the United States. They were given in human blood, and the leucos of that are on every battlefield, from Bull Run to Appomattox.

Provision Believed Violated.

The provision that I have referred to in the state constitution is also ten in human blood, and it is necessary to state the instance of Charles L. who lost his hand, and Charles L. who was driven from his home, or the history of the revolution in France. We have illusions nearer home. Every drop of human blood that was spilled in the fall of Warren at Bunker Hill until the surrender at Yorktown evidences the fact that these rights of the citizens, guaranteed by the bill of rights, are sacred and were obtained only as a result of human life and human sacrifice.

Governor Believed Wrong.

The governor seems to think that these certain laws are not ended at Copperfield, certain saloonkeepers are running the town, etc., and he as chief executive, and is responsible for the execution of the laws. He is called upon to first execute an order condemn and then by executive order enforce through the militia, his edicts. I do not believe that. If this were a matter of first impression there might be some ground for dispute, but it is not a matter of first impression.

These matters set forth in the bill of rights were acknowledged, stipulated and acted upon long prior to the adoption of the constitution of this state. They are older than the government of the State of Oregon. They have been tested, passed upon and are generally understood. The history of these provisions is against the governor's interpretation. The courts have based upon these provisions and their conclusion is opposed to the error's interpretation. The common sentiment of human kind, common understanding of the civilized races has passed upon these questions and they are opposed to the interpretation of the error.

Effects Declared Wide.

This is a question that does not affect an individual, simply as such. It is a question that affects property, simply as such, because an individual may be seized, and in the ordinary course of society probably often is seized. One's property may be taken from him wrongfully, and in the course of administration probably is taken wrongfully, but the question here in issue is not the status of a particular individual. It is the status of the odd millions of population in the United States, but in the 200,000,000 of population that will in the future be in the United States.

Effects Declared Wide.

This question goes to the very citadel of human liberty, and that is, in the true sense, the courts are open, while the civil powers are in full swing, that an individual can be tried by executive, his property taken from him, through the militia, and that he be denied the power of civil courts to give him a remedy? Can the chief executive arbitrarily declare martial law and subject the citizens of any particular district, or the whole state, for that matter, to military rule? If he can do so, is this a matter and executive order over which the judiciary has no control, or is the status of the individual and his property a matter of judicial determination where the individual may have the right of trial by jury to be defended by counsel and to have those civil remedies which enlightened society and civilization has decreed that he shall have?

Federal Case is Cited.

In the case of ex parte Milligan, 4 Wall, 142, this question came before the Supreme Court of the United States. It was right after the war. In fact, the case was heard at the December term, 1866.

Every judge on that exalted court was a friend of the administration. Every judge was opposed to the States' rights. Every judge on the bench probably detested, probably hated the petitioner in that case and certainly detested his acts. Milligan and others were arrested in Indiana by a military commission, charged with levying war against the United States, giving aid and comfort to its enemies during the time of actual war, were tried and sentenced to be hanged. They sued out a writ of habeas corpus. The Circuit Court of the United States certified it to the Supreme Court of the United States for decision.

Notice Closing Streams.

KNOW ALL MEN BY THESE PRESENTS, That, WHEREAS, the State Board of Fish and Game Commissioners of the State of Oregon (as well as its predecessors, the Board of Fish Commissioners) has propagated and stocked, and is propagating and stocking the waters of Tillamook Bay and its tributaries, in Tillamook County, State of Oregon, with salmon fish, and

WHEREAS, said Tillamook Bay and its tributaries are frequented by salmon fish, and for the purpose of protecting the same the said State Board of Fish and Game Commissioners has decided to close a tributary of said Tillamook Bay, known as Hoquarton Slough, and its tributaries, above a point on said Hoquarton Slough 47 degrees 31 minutes West 2,013.7 feet from the section corner common to Sections 23, 24, 25 and 26, Township 1 South, Range 10 West of the Willamette Meridian—this point on said Hoquarton Slough being more particularly designated by posts erected by the Master Fish Warden warning the public; and also another tributary of said Tillamook Bay, known as Tillamook River, and its tributaries, above a point 100 feet below the lowermost portion of the mouth of Trask River, in Tillamook County, State of Oregon, to prevent fishing therein by any means whatever, except with hook and line, commonly called angling, for salmon fish during the periods of time hereinafter specified.

NOW, THEREFORE, NOTICE IS HEREBY GIVEN by said State Board of Fish and Game Commissioners that said tributary of Tillamook Bay, known as Hoquarton Slough, and its tributaries, above a point on said Hoquarton Slough 47 degrees 31 minutes West 2,013.7 feet from the section corner common to sections 23, 24, 25 and 26, Township 1 South, Range 10 West of the Willamette Meridian, is or are opened again to salmon fishing herein prohibited, as provided for under Section 5316 of Lord's Oregon Laws; and that said tributary of Tillamook Bay, known as Tillamook River, and its tributaries, above a point 100 feet below the lowermost portion of the mouth of Trask River, in Tillamook County, State of Oregon, and its tributaries, above a point 100 feet below the lowermost portion of the mouth of Trask River, are and each of them is hereby closed to fishing of any kind for salmon fish, except with hook and line, commonly called angling, from and after January 31, 1914, until said tributary of Tillamook Bay, known as Hoquarton Slough, and its tributaries, above a point on said Hoquarton Slough 47 degrees 31 minutes West 2,013.7 feet from the section corner common to Sections 23, 24, 25 and 26, Township 1 South, Range 10 West of the Willamette Meridian, is or are opened again to salmon fishing herein prohibited, as provided for under Section 5316 of Lord's Oregon Laws; and that said tributary of Tillamook Bay, known as Tillamook River, and its tributaries, above a point 100 feet below the lowermost portion of the mouth of Trask River, is or are opened again to salmon fishing herein prohibited, as provided for under Section 5316 of Lord's Oregon Laws; and it is as will be unlawful to fish for, or take or catch any salmon fish by any means whatever, except with hook and line, commonly called angling, in any of said waters during the said periods of time above specified.

Any and all persons whomsoever so fishing in violation of this notice will be prosecuted as by law provided.

STATE BOARD OF FISH AND GAME COMMISSIONERS. By FLOYD BILLYW, Chairman. By H. H. CLIFFORD, Secretary. By GEO. H. KELLEY. By C. H. EVANS, Commissioners.

Notice to Contractors.

Sealed bids addressed to the County Court of Tillamook County, Oregon, for the proposed improvement of the Hughey Creek road, in Tillamook County, Oregon, will be received by the County Clerk of Tillamook County, Oregon, at its office in Tillamook City, Oregon, on or before the 21st day of February 1914, at 10 o'clock A. M. and at that time opened and read. Each bid shall be accompanied by a certified check made payable to Tillamook County, for an amount equal to at least 5 per cent of the amount of such bid, which shall be forfeited to the County in case a ward is made and the bidder shall fail, neglect or refuse for a period of five days after which the ward is made to enter into a contract and file a surety bond satisfactory to the Court as required by law.

Notice to Contractors.

Sealed bids addressed to the County Court of Tillamook County, Oregon, for the proposed construction of Section "C" of Garibaldi-Wheeler County Road in Tillamook County, Oregon, will be received by the County Clerk of Tillamook County, Oregon, at its office in Tillamook City, Oregon, on or before the 21st day of February 1914, at 10 o'clock A. M. and at that time opened and read. Each bid shall be accompanied by a certified check made payable to Tillamook County, for an amount equal to at least 5 per cent of the amount of such bid, which shall be forfeited to the County in case a ward is made and the bidder shall fail, neglect or refuse for a period of five days after which the ward is made to enter into a contract and file a surety bond satisfactory to the Court as required by law.

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length merely indicating to you that so far as I am concerned that I will not vote for any man, or woman, that believes that the executive has the power, under the constitution, to do the acts which the Governor is doing in Copperfield. I do not believe that the military should be put above the civil power.

If I looked upon this matter as a mere passing incident that was here today and forgotten tomorrow, it would be of very much less interest to me, but I do not feel that way. It seems to me that in the present campaign it will be a live issue and every citizen ought to be opposed to such use of the militia.

I, therefore, reserve any declaration as to the support of any candidate until I shall have advised myself more fully as to the attitude on the question herein referred to.

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