

**SCHOOL BOUNDARY CASE IS DECIDED.**

**Supreme Court Holds that Boundary Board had Right to Change Boundaries.**

The case of school district No. 35 was decided against that district on Monday by the Supreme Court on appeal from an opinion rendered by Judge Hibbes in the Circuit Court. The Boundary Board changed the boundaries of school districts Nos. 35, 31 and 32 taking part of the territory from district No. 35 and giving it to districts Nos. 31 and 32 and being aggrieved school district No. 35 brought suit to annul the ruling of the Boundary Board.

Attorney R. R. Danway represented No. 35 and Attorney H. T. Beets No. 31 and 32. Danway attacked the case on the grounds that the change of boundaries of a school district would have to be submitted to a vote of the people and that the Boundary Board had acted unconstitutionally in the matter, upon both of which propositions he lost on appeal.

Judge Burnett, in rendering the opinion of the Supreme court says: "Section 2, Article XI, of our constitution provides for the establishment of school districts, the details of which it is not necessary to rehearse because no question was made at the argument that they were not observed in this instance. The sole contention presented by the plaintiff is that the district boundary board, exercising its powers, as it does, from the legislative assembly, has no authority to change the boundaries of a school district because that is tantamount to the amendment of the charter of a municipality within the inhibition of section 2, Article XI of the state constitution. Stated otherwise, the plaintiff maintains that a change in the boundaries of the plaintiff district can only be accomplished through the initiative power described in section 12, Article IV and Section 4, Article XI of the state constitution. These portions of the organic law so far as applicable to the question in hand read thus:

Section 12. "The initiative and referendum powers reserved to the people by this constitution are hereby further reserved to the legal voters of every municipality and district, as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers, as to their municipal legislation."

Section 2, Article XI—"Corporations may be formed under general laws, but shall not be created by the legislative assembly by special laws. The legislative assembly shall not enact, amend, or repeal any charter or act of incorporation for any municipality, city, or town. The legal voters of every city and town are hereby granted power to enact and amend their municipal charter, subject to the constitutional and criminal laws of the State of Oregon."

Speaking of school districts, Mr. Justice Moore in School District No. 35 vs. School District No. 31, 60 Or. 38, 118 Pac. 170 said: "These divisions are vested with certain powers, which they can employ in the particular manner prescribed. As agencies of the state, they have no vested rights in the property which they may acquire, but hold it in trust for the general public, and such trusts or portions may be changed at the will of the power creating them."

A school trustee sustains no higher relation to the state than a county officer, and the rule is settled that the legislative department may divide counties at pleasure, apportioning the assets and burdens in such manner as may be deemed just and reasonable."

Writing about the excerpts from the organic act above mentioned in Kierman vs. Portland, 27 Or. 434, 112 Pac. 402, 403, 37 L. R. A. 483, 133 Mr. Justice King used this language: "It will be observed from the first sentence in section 2 that no restriction is placed upon the legislature with respect to the enactment of general laws, the exception being that no special law relating to or affecting the municipalities shall be enacted by the legislature, to enact general laws upon the subject, making it clear that inhibition in the next sentence has reference to special laws."

Our holding is that the state may, by constitutional provisions, directly delegate to municipalities any power which it, through the legislature, could formerly have granted indirectly. All the prerogatives attempted to be exercised by Portland in the construction of the Broadway bridge, formerly could have been granted by the legislature, and the power to provide therefor, having been delegated to the city by amendment to our organic laws, is valid, and the right to exercise such powers will continue until such time as changed by general enactment of the lawmaking department of our state, provisions for which may be made by the legislature by general laws, applying alike to all municipalities of that class, or by the people through the initiative, by the enactment of either general or special laws on the subject."

Further, in State ex rel vs. Port of Tillamook, 62 Or. 332, 341, 124 Pac. 637, 640, Ann. Cas. 1914C 483, Mr. Justice Bean says "Such municipal corporations are always subject to the control and regulation of the lawmakers of the state in the manner directed by the constitution. City of McMinnville vs. Howenstine, 56 Or. 451, 456, 109 Pac. 81. While these public corporations are capable of adopting and amending their charter, they still continue to be agencies of the state. A general control is left in the legislative assembly."

Again Mr. Justice Eakin in Riggs vs. Grants Pass, 66 Or. 266, 134, Pac. 776, 778, says "Article XI, section 2 of the constitution confers powers and authority upon cities to form their own charters and make their own laws within their municipal limits, that is, in local and special municipal legislation. Authority beyond that must come from the sovereign, namely, the legislature, by general laws or by the people by general or special laws."

Referring to section 2, Article XI, it is said in the state ex rel vs. Gilbert 60 Or. 434, 439, 134 Pac. 1038. "This provision of the fundamental law does not in any way infringe upon the right of the legislature to make general laws for the formation of corporations. The inhibition of that section is directed solely against action by the legislature affecting municipalities, particularly municipalities, city or town."

If we concede that the quoted utterances of this court are judicial heresies as the plaintiff's argument proceeds, and that school districts are independent municipal corporations, having each an autonomy all its own, it still remains to consider whether they have charters within the meaning of section 2, Article XI, supra, and whether the procedure described in the complaint constitutes an amendment of such an instrument. Dismissal for a moment the idea that a municipal charter is a special legislative act conferring upon a particular municipality powers and privileges peculiar to itself, we must find a charter for the plaintiff, if at all, in the general laws enacted by the legislative assembly affecting school districts for it is not pretended that any other rule of action affecting the plaintiff has been established either by the people of the state at large through the initiative process or by similar legislation enacted by the legal voters resident within the boundaries of the plaintiff school district. It is manifest that a school district's right of existence, operation and treatment is found in the statutes heretofore enacted by the legislative assembly in the exercise of its constitutional authority to "provide by law for the establishment of a uniform and general system of common schools."

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In substantially the present form the rule of changing the boundaries of school districts through the action of a district boundary board has been in existence from a date prior to the adoption of the amended form of section 2, Article XI. It is one of the essential features of the constituent law of school districts. From a view point of the plaintiff it might be called one of the terms of its charter. For all that appears in the complaint the procedure described whereby the plaintiff was deprived of part of its territory was in strict accordance with the statute. No enactment from any legislative source whatever has in any manner prescribed the boundaries of the plaintiff district. In this respect the case in hand is easily differentiated from such as Cook vs. Portland, 59 Or. 572, 139 Pac. 1095; Thurber vs. McMinnville, 63 Or. 419, 128 Pac. 43; McKean vs. Portland, 61 Or. 382, 122 Pac. 291; State ex rel vs. Port of Tillamook, 62 Or. 332, 124 Pac. 637. In all those cases the constituent act establishing the municipality in question described in explicit terms the boundaries in question. The delimitation of its exterior lines was part and parcel of its charter in each instance. In the case of school districts described the boundaries of the constituent act has in no wise ever prescribed the boundaries of the particular district but has committed the establishment and control of them to a district boundary board. That body in making such changes simply administers and does not amend the laws under which the plaintiff district exists, even though we may style those general enactments the charter of the complainant here.

Much was forcefully said at the argument about the evils of gerrymandering as exemplified in the boundaries of the districts named in the complaint; but we have nothing to do with such administrative questions. We have before us in the instance only a question of authority and not of the manner in which it is exercised. The proceedings described in the complaint are not open to the objection urged against them by the plaintiff. The decree of the Circuit Court is affirmed.

**TO CONFER ON LAND GRANT**

Another Session Possible By Terms of Resolution After Railroad Meeting

Salem, Or.—Representatives of the people of Oregon and the Southern Pacific railroad will meet and try to reach an amicable adjustment of the Oregon & California land grant situation.

After adopting resolutions calling upon congress to enforce the terms of the original grant—that is, to enforce the sale of land to actual settlers at \$2.50 an acre, regardless of its value—the Oregon land grant conference closed its sessions here by adopting another resolution providing for a committee consisting of the governor, secretary of state, state treasurer, the chairman of the conference and three members to be appointed by the chair, to confer with officials of the Southern Pacific in an effort to secure their co-operation in the opening and early settlement of the property.

The resolution calling upon congress for action regarding the enforcement of the original terms also carries with it a forceful expression of opposition to further increases in the forest reserves of the state.

Under the terms of the second resolution, providing for the meeting with the railroad, it may be necessary to reconvene the conference.

R. B. Miller Quits O-W. R. & N. Portland.—R. B. Miller has resigned as traffic manager of the O-W. R. & N. Co. and will be succeeded on November 1 by Frank W. Robinson, assistant traffic manager.

**THE MARKETS**

**Portland.**  
Wheat—Club, 85c; bluestem, 91c; red Russian, 79c; forty-fold, 88c; red life, 85c.  
Hay—Eastern Oregon timothy, \$16. alfalfa, \$13.50.  
Butter—Creamery, 29c.  
Eggs—Ranch, 30c.  
Wheat—Eastern Oregon, 28c; valley, 29c.  
Soyabean—30c.

**Keastle.**  
Wheat—Club, 91c; club, 84c; red Russian, 79c; forty-fold, 88c; red life, 85c.  
Hay—Timothy, \$14 per ton; alfalfa, \$14 per ton.  
Butter—Creamery, 30c.  
Eggs—30c.

Notice to the investor is by part of the government bonds, and the securities. The recorder offered to create a commission for their own franchise and bankers who are written by a large syndicate of American credit loan to Great Britain and New York.—The proposed syndicate will float Allied Loan.

**NOTICE TO WATER CONSUMERS**

Notice is hereby given, that the hours for sprinkling are between the hours of 5 and 8 A. M., or 5 and 9 P. M.

Water will be shut off where this rule is violated.  
John Aschim, Superintendent.

Subscribe for the Herald, it comes twice a week.

**Silage Crops and Silos.**

Any one who attended the County fair and the homesteaders' fair at this fall cannot doubt the possibility of growing silage crops in this county. At both of these fairs were exhibits of corn, artichokes, sunflowers, oats, vetch and clover as good as can be grown in Oregon. All of these crops will make the best of silage. An article in a recent farm paper told of excellent results in the state of Washington obtained by mixing sunflowers and corn in the silo. On the bottom land oats and vetch have yielded as high as 25 tons of green feed to the acre, it is safe to say that much of the corn in the county this year will run as high as 15 to 20 tons, artichokes also yielded heavily and analyze about the same as corn.

As by now all the silos with oats and vetch in the spring, feed it out during the dry weather in the summer and then fill with corn or artichoke tops again in the fall.

The economy of the silo as a method of preserving green food for the winter months is without question. Nevertheless the efficiency of silage as a feed is doubted. The claim by some that it improves the digestion of the cow is wholly without foundation if it is fed in reasonable quantities. Steady milking cows have been fed silage for over 15 years without any injury being improved by it.

What kind of a silo shall we build? That is up to the man who is going to build. A good silo must first, be air tight, second durable and third, reasonable in cost. Concrete silos answer these requirements but require a fairly heavy outlay to start with. The patent silos are all right but usually the cost is out of proportion to the advantages of the few features that secured the patent. The local silo is as good as the patent silo and much cheaper in cost.

A Wisconsin silo can be built for a dollar a ton capacity and while not quite so durable as the concrete silo will give excellent satisfaction for a period of from ten to fifteen years. This silo is built of 2x4x6 upright and boarded round and round with half-inch lumber, then acid proof tar paper then another layer of half-inch lumber. The lumber bill for a fifty ton silo, 12x24 feet will not exceed \$30 and the paper and labor of erecting can easily be kept within \$20.

The number of silos have doubled this year and should easily do so again next year.

R. C. Jones, County Agriculturist.

**BULGARIA READY FOR WAR**

Allies Lose Hope of Keeping Balkan Power Neutral.

Sofia, via London.—Bulgaria apparently is on the brink of war. The public generally believe that hostilities are imminent. The military authorities have taken precautionary steps and ordinary traffic has been suspended.

Diplomatic representatives here of the entente powers believe, however, that their cause is a lost one and that Bulgaria is manifestly showing a tendency toward the central powers. This is due to the dissatisfaction of the government at Serbia's reply to the negotiations for territorial concessions to Macedonia and at the conduct of Greece.

None of the allies' representatives here cherish longer the hope that Bulgaria can be prevented from joining with Germany, Austria and Turkey.

**Notice for Publication**

PUBLISHER Department of the Interior U. S. AND OFFICE at Portland, Oregon, August 21, 1915.

Notice is hereby given that Benjamin A. Collier, of Beaver, Oregon, who, on August 12, 1912, made Homestead Entry, Serial No. 62598, for NE 1/4 of SE 1/4 and the SE 1/4 of NE 1/4, Section 33, Township 3 south, Range 9 west, Willamette Meridian, has filed notice of intention to make Three-year Proof, to establish claim to the land above described, before the County Clerk of Tillamook County, Oregon, at Tillamook, Oregon, on the 28th day of September, 1915. Claimant names as witnesses: Jacob Huston, John Kumm, John Cox, Henry Davidson, all of Beaver, Oregon.

N. Campbell, Register.

**SUMMONS**

In the Circuit Court of the State of Oregon, for Tillamook County R. W. Holland, Plaintiff,

versus Grace M. Holland, Defendant.

To Grace M. Holland, the above named defendant:—In the name of the state of Oregon:

You are hereby required to appear and answer the complaint filed against you in the above entitled suit on or before six weeks from the date of the first publication of this summons to-wit: On or before six weeks from the 13th day of August, 1915, and if you fail to appear for want thereof the plaintiff will apply to the Court for the relief prayed for in the complaint herein which is for a decree as follows:

1. That a decree be entered in this cause whereby the contract of matrimony heretofore existing between the plaintiff and the defendant be annulled;

2. That the plaintiff be granted an absolute divorce from the defendant;

3. That the plaintiff be granted by any other and further relief by the Court which may be just and equitable.

This Summons is published by order of the honorable A. M. Hare, Judge of the County Court, of Tillamook County, Oregon, which order was made and entered on the 12th day of August 1915 during the absence of the Judge of the Circuit Court for Tillamook County from said Tillamook County.

Dated this 13th day of August, 1915.

S. S. Johnson, Attorney for plaintiff.

First publication Aug. 18, 1915. Last publication Sept. 24, 1915.



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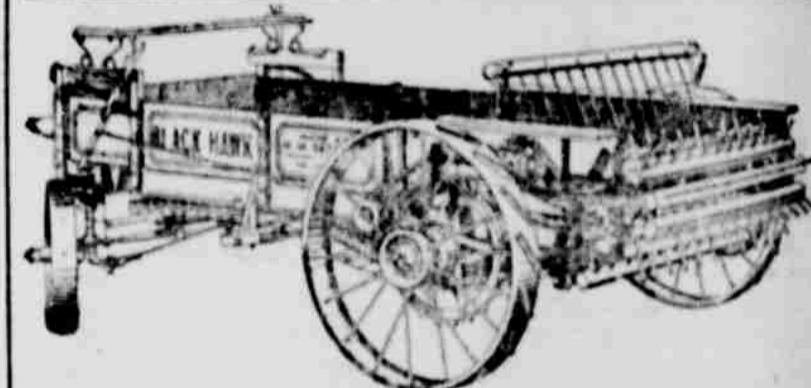
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**Notice of Completed Contract.**

Notice is hereby given, that the County Road Master for Tillamook County, Oregon, has filed in this office his certificate for completion of the contract of Sandberg & Logus Co. on Bayocean County Road from Station 48 plus 00 to Station 60 plus 52.3, in accordance with the plans and specifications, and any person, firm or corporation, having objections to file to the completion of said work, may do so within two weeks from the date of the first publication. Dated this 15th day of September 1915.

J. G. Hilden, County Clerk. First publication, Sept. 16th, 1915. Last publication, Sept. 30th, 1915.

**Notice of Completed Contract.**

Notice is hereby given, that the County Road Master for Tillamook County, Oregon, has filed in this office his certificate for the completion of the contract of Jeffrey & Barton, on the Eugene Atkinson County Road, between Station 42 plus 00 and Station 130 and 15 and any person, firm or corporation, having objections to file to the completion of said work may do so within two weeks from the date of the first publication. Dated this 8th day of Sept., 1915.

J. C. Holden, County Clerk. First publication, Sept. 9, 1915. Last publication, Sept. 23, 1915.