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Where There Was An Emergency Clause

Reasons Why a Special Session Was Needed

One of the greatest arguments advanced for a special session of the legislature was that in the absence of a law to put the referendum into effect any kind of an emergency clause would prevent the people from having a vote on the bill.

Governor Geer and his advisers took the position that the referendum was in full force and effect and needed no legislation whatever to refer any bill to the people. Gov. Geer said that if he had any doubt about the referendum being in full force and effect he would call a special session immediately to put it into effect.

The Journal contended that a law was needed to give it force and effect and one of the last acts of the present legislature was to pass a bill to put the referendum into working operation, thus refuting the position of those who opposed a special session.

Now comes the attorney general of Oregon in further refutation of those who claimed that no special session was necessary to protect the people from the extravagance of the legislature, and says that the referendum cannot be had on any bill that carries an emergency clause. He holds that the legislature is the sole judge as to whether an emergency exists or not, and its decision is final, and that was the view taken by the supreme court of South Dakota where the referendum has been rendered a dead letter in just this manner.

Those who have followed this discussion will now see that very little if any of the work of the present legislature can ever be referred to the people. Some of the work of the next legislature may be so referred, but it is more than likely that an emergency clause will be invented that will attach to almost any kind of a specious bill and thus prevent the people from having a whack at it.

All the readers of this paper can now see that a special session was necessary to get any good at all out of the referendum so far as this legislature is concerned. They can also read the following opinion of the attorney general and see how little they have to expect from direct legislation unless it be in the way of initiating reforms:

Attorney General's Opinion.

Salem special: Attorney-General A. M. Crawford rendered an opinion in which he holds that the referendum amendment to the constitution does not preclude the legislature from putting an act into immediate effect by attaching to it an emergency clause in the form used prior to the adoption of the amendment. The opinion was rendered in passing upon the Indian war veteran's appropriation act, which the attorney general holds is now in effect. This view of the law practically nullifies the referendum clause of the constitution, for if an act can be put into immediate effect by attaching the old form of emergency clause, the legislature can defeat the right of the people to demand the referendum upon any act.

Attorney General Crawford said tonight that he disliked to render an opinion which will have this effect, but that, in construing the constitution as amended, he could not do otherwise.

The emergency clause on the Indian war veteran's bill declares that the Territory of Oregon promised to pay the Indian war veterans, but that neither the territory nor state has paid them, and many of them have died without being paid, therefore, an emergency exists and the act shall be in effect after its approval by the governor. Section 28, article 4, of the constitution provides that "No act shall take effect until 90 days from the end of session, at which the same shall have been passed, except in case of emergency, which emergency shall be declared in the preamble or in the body of the law." Section 1, of article 4, as amended, provides among other things, "The second power (reserved by the people) is the referendum."

The opinion of the attorney general after setting out all the facts, says that the question which arises is whether the legislature has the power to put the act into immediate effect, under the two sections of the constitution just quoted. He first lays down the well known rules that in construing the constitution, effect must be given to the whole instrument if possible, and that the effort must be to ascertain the intent of its framers. The opinion then says that in construing the constitution, it is the duty of the court to construe it according to its language, and if the language is unambiguous the court is not at liberty to conjecture what may have been the intention of its framers.

Applying the foregoing principles to said two sections of the constitution and upon the point under consideration they read: "The second power reserved by the people is the referendum, and it may be ordered, except as to laws necessary for the immediate preservation of the public peace, health or safety, and except also such laws as are passed with an emergency clause as provided by section 28."

This principle of construction is maintained in the case of State vs. Bacon, 14 S. D., at page 403 and further that such was the intention of the legislature in submitting the amendment and of the people in adopting it is manifest from the fact that no amendment was made to section 28. Such view is further strengthened by the fact that the referendum applies only to laws not in force. It reads: "Any measure referred to the people shall take effect and become a law when it is approved by a majority of the votes cast thereon and not otherwise." Also referendum petitions must be filed with the secretary of state not more than 90 days after the adjournment of the legislative assembly which passed the bill, and that is the same number of days which must elapse after adjournment of the legislature before a law can go into effect under said section 28, unless an emergency is declared in the preamble or body of the act.

"The amendment to section 1 was made to harmonize in that respect, with the provisions of section 28 and the legislature must have had the latter section in mind when acting on the former. We might also with very good grace claim that the legislative and executive branches of our state government have so construed the sections for the reason that many of the laws passed by the recently adjourned legislative assembly were passed with an emergency clause declaring that they should be in force and effect from and after their approval by the governor, and they received executive approval."

The opinion holds that the legislature is the sole judge of whether an emergency exists, and that it is the duty of the court to construe the emergency as declared in proper form to make it effective.

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Wanted.—Girl to do general housework. Apply at J. R. Linn residence, 540 State street. 3-4-3t*

Wanted.—A small house or building lot within four blocks north or east of the court house. Must be a bargain, for cash. Address with particulars, "C", care Journal. 3-4-1f

Bids Wanted.—Sealed, for the furnishing of 25 cords of second-growth fir, to be delivered at the school for the blind within the next 30 days, will be received at the school until Thursday, March 12, 1903. G. W. Jones, supt. 3-3-3t

Wanted.—Girl for general housework. Apply mornings at M. O. Buren's residence, 175 Court street. 3-2-1f

Wanted Men.—We teach the barber trade in the shortest possible time at small expense, and guarantee positions. Write Moler's Barber College, Salt Lake City, Utah. 2-16-2m*

2000 head of Stock Cattle Wanted.—Cows and heifer calves, yearlings and 2-year-old heifers; five bulls to the hundred head, to raise on shares by reliable and perfectly responsible lifelong cattle men. Fine grass range in western part of Lane county; half increase for six years. Address A. J. Thompson, Gardiner, Oregon. 12-16-4m*

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For Sale.—Two heifers, 2 years old, and a young bull. Inquire of Paul Minzomier, little car line road, North Salem. 3-4-3t*

For Sale.—Spring cats and spelt for seed. Also good cats for feed. Prices reasonable. Chas. O'Brien, 400 Capital street. Phone Black 2185. 3-3-1m*

For Sale.—Large Scotch stag hound, one year old. Inquire of Mrs. Kingston, North Fourteenth street. Call before 2 p. m. 3-2-1wk*

Hair Dressing.—A fine assortment of goods, consisting of first-class work, Combs rooted and put up nice as cut hair. Old switches dyed to any shade. Hair jewelry and shampooing a specialty. Mrs. C. A. Spaulding, Corvallis, Oregon. Call at 383 Front street. 2-28-6t

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