

POLL TAX RESTRICTION ON VOTING

CANNOT LAWFULLY BE ENFORCED ON THE NEW WARDS OF THE CITY

Chief Justice Waldo Held the Legislature Cannot Create New Qualifications That Are Not in the Constitution

Republican Members of the Charter Commission Opposed Polltax Restriction on Voting, and the Disfranchising of Voters for Non-payment of Taxes.

The Citizens' council at its last session ordered the poll tax clause enforced against voters in the new wards, as well as in the old city.

Many people believe this was an injustice, as there is no way for the city government to prove, from its records, who paid the \$3.00 poll tax, or who had not paid.

Prominent lawyers interviewed yesterday in The Journal, including Attorneys Bayne and Slater, who were on the committee that drew the charter, declared it was not the intention to force the poll tax provision on the new wards. Poll tax collection has not been pushed, and hundreds would be disfranchised.

City Recorder Judah published an opinion in this morning's Statesman from Mr. Slater, who, he says, framed the poll tax provision of the Greater Salem charter. Here is Mr. Slater's opinion in full:

Mr. Slater's Opinion.

"Salem, Or., Dec. 2, 1903.

"N. J. Judah, Recorder of the City of Salem:

"Dear Sir: At your request made on behalf of the city of Salem, for my written opinion whether as a matter of law the city of Salem, through its street commissioner, can demand and enforce the payment to it by each of the male citizens who is an inhabitant of the territory of this city, and who is over 21 years and under 50 years, and who would not be exempt from road duty under the general laws of Oregon, of a road poll tax of \$3 for each individual who has not already paid such tax for the year 1903, before such inhabitant, can legally vote at the coming election. I have examined into said matter, and state as my legal opinion that the city of Salem can not demand or enforce the payment of such tax. If an inhabitant of such territory being liable for such tax to the road district of which his place of residence was a part before having been transferred by law within the boundaries of the city of Salem has paid such tax he will be entitled to vote without paying any further tax, but if he has not paid such tax he will not be entitled to vote at the city election, but may qualify himself so as to be able to vote by paying the said tax to the road supervisor of the district to which he formerly belonged, or he may voluntarily pay said tax to the city of Salem, which may receive it, but cannot enforce payment.

"By the general statutes of Oregon, said road poll tax is due and collectible at any time between the first day of March and the first day of December to the road supervisor, and such tax was due and collectible from each inhabitant liable therefor in such territory, before it became a part of the city of Salem. By the charter of said city, now in force, such tax is levied by the said council at the same time other taxes are levied, and said tax for the present year had been levied upon and against the inhabitants of the citizens of Salem prior to the first day of October, 1903, so that a person becoming an inhabitant of the city after said date, either voluntarily or by force of statute, would not be liable to the city of Salem for such tax, but before he can legally be entitled to vote at the coming city election he must have paid to the supervisor of the road district of which he was formerly an inhabitant, a road poll tax for 1903.

"All of which is respectfully submitted. W. T. SLATER."

Opinion Looks Both Ways.

Reading Mr. Slater's opinion carefully it is not clear. While it says the city cannot enforce payment at the

end of the first paragraph, it declares at the end of the second paragraph that the citizen of the suburban ward cannot vote unless he first pays the country road supervisor his poll tax.

How can the right to vote under a city charter be annulled by payment or non-payment to a county road supervisor, acting under a state law? How does a country road supervisor get any jurisdiction at an election, carried on under a city charter, in a territory where he has no jurisdiction?

Will the judges and clerks at the city election in the new wards next Monday dare to enforce such a nonsensical rule against their neighbors—a rule for which they can show only Mr. Slater's opinion?

But the purpose may be to involve the whole coming city election in litigation, and thus seek to defeat the charter. The poll tax provision would never stand the test of the courts in Oregon.

It is an Unjust Restriction.

The Citizens' party, having a majority of the judges of election in each ward, will have it in their power to enforce the law, under Mr. Slater's opinion.

The enforcement of this provision will work a hardship on many young men, and men with families to support, to whom the payment of \$3 for the privilege of casting a ballot will seem rather high.

The man who is exempt from poll tax by reason of age or military or fireman's exemption will have a great advantage in any election, and, under the operation of this law there will be each year a larger number who will not vote, or whose poll tax will be paid by some rich man who can afford to operate in city politics.

Following is the only supreme court decision touching on this question of imposing a restriction by the legislature on the right of suffrage:

Judge Waldo's Decision.

In White vs. Multnomah County, 13 Oregon, pp. 317-325, Waldo, C. J., says:

"As we construe the constitution, every law which requires previous registry as a pre-requisite to the right to vote is ipso facto void." * * * "The right to vote itself has been placed beyond their interference or control." * * * "The right to vote under the constitution is a vested constitutional right." * * * "But under this act he who goes to the polls on election day, possessing every constitutional qualification, may find that the legislature has stepped in between him and the constitution. He finds his vote denied because he has not done something which the legislature has required him to do. He discovers that he is not a qualified elector, and yet he is told that his omission to do the act which had effect to disqualify him is not itself a disqualification; or if he have performed the act, that his performance does not constitute a qualification. This will not square with the logic of facts." * * * "Can the legislature, then, take away from an elector his right to vote while he possesses all the qualifications required by the constitution? This is the question now before us. When the citizen goes to the polls on election day with the constitution in his hand, and presents it as giving him a right to vote, can he be told: 'True, you have every qualification that instrument requires; it declares you entitled to the right of an elector; but an act of assembly forbids your vote, and, therefore, it cannot be received.' If so, the legislature is superior to the organic law of the state; and the legislature, instead of being controlled by it, may

void the constitution at their pleasure. Such is not the law."

What the Constitution Says.

The constitution declares that any male citizen over 21 who has resided in the state for six months, or an alien who has declared his intention a year previous shall be entitled to vote at all elections authorized by law.

Citizens Demanded the Restriction.

In drafting the charter the five Citizens' members of the charter commission, and the three from the Greater Salem Commercial Club, who are now Citizens, all demanded the poll tax restriction on voting. The Republican members opposed it, and John H. McNary and T. B. Kay fought the provision in the charter commission, and before the Greater Salem Commercial club. Mr. Kay carried his fight into the legislature, but was overruled by the rest of the delegation, because it was feared it would endanger the whole charter. But Mr. McKay and Mr. McNary are still opposed to it, and will make a fight to have it struck out of the charter at the earliest opportunity, which will be at the special session, if general legislation is permitted. If the poll tax restriction is wrong, it is not the fault of the Republican members of the charter commission, but was forced upon the voters of this community by the Citizens.

The Utah Situation.

Salt Lake, Dec. 4.—Coal strikers at Catalgiate last night chained a plank across the main line of the Rio Grande & Western. It was discovered in time by the guards. Tents are being erected at Sunnyside to accommodate the miners being shipped in. A number of employers of members of the national guard today notified Governor Wells they cannot hold their positions open for them, unless they are discharged from military service.

Robbed a Messenger.

Baltimore, Dec. 4.—A runner for the Merchants' National Bank was robbed in the postoffice this morning, at 9 o'clock, of a registered letter, which he had just received, and placed in a satchel, which he sat down while he signed the receipts. A man seized the satchel and escaped through a crowd of pedestrians. It is rumored the packages contained \$100,000, but bank officials say only about \$2000.

Bonier the Murderer.

Buffalo, Dec. 4.—Officials this morning stated they had sufficient evidence to convict Bonier of murdering the aged Frehr couple. Bonier this morning gave his age as 75. Although twisted with rheumatism he is exceptionally powerful.

Lydia E. Dreyfus.

Paris, Dec. 4.—Dreyfus said if his case is revived, as he hopes it will be, he will demand reinstatement in the army, and then immediately resign.

THE STAMP OF TRUTH.

Salem Residents Know It Well.

There is the stamp of truth on a statement endorsed by people we know by our friends and neighbors. The following experience of a citizen is but one case of scores right here at home:

Charles Beadle, veteran of the civil war, member of Co. I, N. Y. Infantry, residing at 423 West Sixth street, Eugene, Ore., says: "I was afflicted with kidney complaint for a great many years, I might say, ever since I came out of the service in the sixties. I never knew the moment when any over exertion of the contraction of a cold would bring on an attack, and on more than one occasion I have been so bad that I was almost helpless. The last severe attack I had was about six months ago when the lameness across the small of my back set in in dead earnest and felt as though there was a heavy weight over each kidney. There was a weakness of the bladder and kidneys and the secretions were not under proper control. Some of the numerous remedies I used gave temporary relief but that was all. Learning about Doan's Kidney Pills I got a box. I felt their beneficial results after a few doses. I shall always keep them on hand to have in case of need. I met one of my old comrades, Mr. Stowell, who was complaining of his back and kidneys. I told him to get Doan's Kidney Pills. He took my advice and a day or so after I asked him about the pills. He said they were the finest thing he had ever used and that they straightened him up in a hurry." Plenty more proof like this from Salem people. Call at Dr. Stone's drug store and ask what his customers report.

For sale by all dealers. Price 50 cents. Foster-Milburn Co., Buffalo, N. Y., sole agents for the United States. Remember the name, Doan's, and take no substitutes.

"It was prettily devised of Aescop. The fly sat upon the axle-tree of the chariot wheel, and said, what a dust do I raise!" So are there some vain persons."

"Judges ought to be more learned than witty; more reverent than plausible, and more advised than confident. Above all things, integrity is their portion and proper virtue."

CASTORIA. The Kind You Have Always Bought. Sold by all Dealers.

WILL FIGHT AGAINST THE LAW

Mining Corporations Want the Tax Bill Repealed

Many Refuse to Pay, and State Must Either Enforce the Law Or Refund Money Collected

Thursday's Telegram says:

The fight waged by Oregon miners against the obnoxious Eddy corporation tax law has assumed definite form, and the campaign is being strenuously carried forward.

A bill amending the Eddy corporation tax law has been drawn up by R. C. Wright, who is one of the executive board of the Oregon Miners' Association, and will be introduced at the special session of the legislature called to convene December 21st. The amendment covers the tax on all corporations in the state, making the minimum fee \$5 and the maximum \$15. The \$5 fee is for corporations up to and including a capitalization of \$25,000, and \$15 for all above that sum. This, it is contended by mining men and other incorporators, will be agreeable, and they are determined to bring the matter to a head.

It has been suggested that a mass meeting be called in Portland to take up the proposition and get united effort. A copy of the bill, as drawn, will be sent to every branch organization of the Miners' Association in the state, as well as to all daily and weekly papers. It has not been decided as yet who will introduce the bill, but many members have signified their willingness to support the measure, both in the house and senate.

The present law was passed February 16, 1903, and has, to a great extent, been a dead letter, as many of the companies have refused to pay the license, which amounts annually from \$25 to \$250. Those mining companies that have not paid are doing work just the same, and the corporations that have complied with the terms of the law receive no more encouragement than those that have not. The backers of the bill to be introduced are confident of its passage, as every person interested in its becoming a law is using influence on the members from the different sections of the state, asking their aid towards its adoption.

Law As a Science

(Oregon Law School Journal.)

Law is as much of an exact science as medicine, mechanics, and other professions, and persons unaware of its details will frequently come to grief in their attempts to remedy its supposed defects. At nearly every session of our legislature, both territorial and state, many laws have been enacted which are more or less incomprehensible, from the fact that they were drafted by persons who know but little of our system of laws, or bills properly drafted during their course through the different channels which they are required to pass, amendments were hastily added to them which destroyed the original harmony and thwarted the purpose for which they were intended.

The State of Oregon has always had the good fortune to have its members composed of persons of more than ordinary ability, and as a consequence our laws are not so defective as that of a great many other states. But, owing to the limited time and the great amount of matter coming before our legislature for consideration, it is impossible for the members to give the proposed laws that care and consideration which they are capable of giving them, if they were not over-storibant bills, such bills as political plums for favorites, and bills for other questionable private motives are now scarcely ever presented or allowed. The people keep posted upon the business of the county, and if they discover a bill allowed against the county which they deem to be wrong they institute proceedings to stop its payment. County courts are made more careful in examining and paying bills. A person is made more cautious about the presentation of exorbitant or questionable bills, because he does not like to have it appear in print that he has attempted to defraud the county. But it appears to us that this law does not go far enough, and that it would be more ef-

icient if it required the publication of all bills allowed by a county. The people should know everything for which their money is expended. The exception in this law, that bills in which the items are based upon charges fixed by law need not be published, would seem to include all bills presented under fee-bills. The fee-bill system in the past has been regarded as a source of the greatest drain upon the public treasuries. Without the publication of such bills it allows the officer's construction of the law and the amount of his bill to go unquestioned by the people who pay the taxes to meet their payment. Nearly every county court of this state now prides with the reduction of public expenses. Our county courts are almost without exception composed of very competent men, but we cannot say that they are in any way more competent than their predecessors in office. We are therefore forced to the conclusion that the publicity required by this law in the presentation and allowance of bills has been the great factor that has brought about the present economy in public affairs.

In conclusion we will say that the worked. The fact that our legislature is overworked costs the people directly and indirectly a great deal of money on account of hastily considered laws. Very few persons consider the great amount of matter the members of the legislature are required to consider in forty days. We have before us a part only of the printed bills which were introduced at the last session, and we find they weigh 13 pounds and 3 ounces, which is equal in weight to five or six bound law books. Besides this there is a printed calendar each day of each house, reports of the different state officers and institutions of the state, as well as the usual correspondence which each member receives from his many constituents. Now it is a fact that very few attorneys can properly read more than one law book a week, or more than five books during a session of a legislature; if this be so, how can the members of the legislature intelligently go through a greater amount of reading matter intelligently when a greater part of each day is taken up with their duties upon the floor of the house while in session.

The different committees are overworked with matters coming before them to such an extent that they have but little time for details, and therefore are required to act hastily upon all matters coming before them, and when amendments are proposed to bills they cannot fully consider whether or not such amendment may not destroy the harmony of the other provisions of the proposed law.

The present special session, called to remedy defects in a tax law passed at our last session of the legislature, is a sample of the effect of an overworked legislature, and we are convinced that no one of the members of the legislature is to blame for this defect. This bill was introduced by Representative Phelps, and we are pleased to say that the bill, as introduced by Mr. Phelps, was well drawn and adapted to accomplish the purpose for which it was intended. After this bill was introduced some member, to suit some

interest of his constituents, in the rank of his work, got an extra section added to this bill (Section 13), which destroyed the harmony of the whole bill, and caused the different counties, cities and school districts to be stayed for a year in the collection of their taxes.

There is but one way that this trouble can be overcome, and that is to provide the legislature with the services of lawyers of acknowledged ability to assist its members in the framing and enactment of laws. It was formerly the practice of the legislature of Massachusetts to take the opinion of the judges of their supreme court upon important bills coming before them; and such court would call to its assistance the most able lawyers of the state to assist them in their deliberations.

County Court Matters.

The county court today heard road petitions, among them being the proposed new road across the lands of the W. M. Case estate, near Champeau. This petition was dismissed by the court, owing to a defective description.

In the matter of the petition of L. Baragar and Ernest Baragar for a road, 30 feet wide, from their premises, south of Salem, to the nearest public road, the court appointed viewers, consisting of B. B. Herrick, Jr., M. A. McCorkle and Grover Simmons to view the proposed road, and report to the court.

After disposing of these petitions the court adjourned for the day.

Petition to Sell.

Winnie H. Pemberton, executor of the will and estate of Nancy E. Stephens, deceased, today petitioned the probate court for an order to sell certain real property belonging to the estate, and a citation was ordered to issue to the heirs interested, requiring them to appear in court on Monday, December 21st, at 10 a. m., and show cause, if any, why such sale should not be made.

Comic Opera Tonight.

Salem people should not overlook the comic opera tonight by the Olympic Opera Company, a really strong and meritorious combination. In the excitement over city politics there is danger that they will have a small house, and feel like never coming to the city again.

It Was Brown.

Salt Lake, Dec. 4.—Mrs. Annie Bradley filed an amended birth report with the board of health today, naming former senator, Arthur Brown as the father of her two children.

Capt. M. W. Hunt, of Whiteaker, is in the city for a short business visit.

Ideas strangle statutes.—W. Phillips.

Hule Wing Sang Co.

Fancy Dry Goods

Made up in a new line of heavy wrappers, all colors. White underwear. All kinds of waists, fancy goods, silks, gents' and ladies' finishing goods, silk handkerchiefs, chinaware. New line of winter goods for sale cheap. 100 Court street, Salem, Or. Corner of alley.

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