

THE BEST NEWSPAPER

The Daily Capital Journal

THE LARGEST CIRCULATION

THIRTY-SIXTH YEAR.

SALEM, OREGON, FRIDAY, NOVEMBER 28, 1913.

PRICE TWO CENTS. ON TRAINS AND NEWS STANDS, FIVE CENTS.

DRY ELECTION OF NOVEMBER 4 HELD INVALID ELECTION SCHEDULED TO BE HELD NEXT MONDAY IS TO BE PERMITTED

DEMURRER OF DRYS IN LOCAL OPTION CASE IS OVERRULED BY JUDGE

Gives as One of His Reasons for Declaring Election of Early This Month Void Because Wrong Date--Several Dates Involved in City Election of Next Monday Will Be Ruled on Later on, Court Merely Refusing to Grant Injunction--Drys Will Appeal to Supreme Court in Local Option Case.

Judge Galloway, of the circuit court, today sustained the demurrer to the complaint in the case of the Salem Brewery Association against the city of Salem and held that while he denied the motion for a temporary order of injunction restraining the defendant from holding the December 1 election on the amendment of the city charter, he will not render a final decision in the matter until after the election in question has been held. The court overruled the demurrer in the case of John Stellan against County Judge Bushey and granted the defendant ten days in which to answer. In this suit the plaintiff is seeking to restrain the county court from declaring the November 4 local option election, and unless reply to the court's decision is forthcoming within ten days from today a permanent injunction will prevail and the election will be declared null and void. The court held today the election was invalid because held on the wrong date.

As Suit Now Stands. In rendering his decision in the city case, Judge Galloway held that while he could not grant a temporary injunction to restrain the city from holding the election next Monday, he does not believe at the same time that he should dismiss the proceedings on the grounds there are still several very material points involved. Among the most important features, he averred, is the fact that since the supreme court has annulled the Gill registration act the vote that will be cast at the city election will be far below that cast at the last special election and that he may consider those circumstances in deciding the legality of the election.

"The constitution of this state is plain on the question of the manner in which administrative powers shall be put in force," said the judge. "For instance, one person or any one class of persons of comparatively small number can legislate or enact laws in any municipality in the state which would prove contrary to the laws of the state. The point made by counsel for the plaintiff to the effect that in the event the entire state was to vote wet under the local option law, the municipal corporation could, if not restrained, enact a law in its charter declaring any city or town dry, is very good.

"I will not undertake to pass upon this injunction suit until after the people of Salem have held their election next Monday. I do not believe that I can restrain the people from holding the election by a temporary order and will hold that the demurrer filed by the defendants shall be sustained and that the complaint will be continued until some time after December 1, or at any time thereafter suitable to both parties interested."

Local Option Case. Judge Galloway, in overruling the demurrer in the case of Stellan against the county court, continues the order for injunction asked for in the complaint. It remains now for the defendant to answer not later than December 8, or Judge Galloway will sign the order which will permanently restrain County Judge Bushey from declaring the local option election held on November 4. The court rendered its decision on about the same identical points introduced by Attorneys McNary and Car-

son at the time of the argument on demurrer last Tuesday night. He held that a municipality must so arrange its charter to conform with the regular provisions of the local option law when holding an election on any date other than that upon which a regular election is held. The local option law, he held, specifically points out the manner in which all local option elections shall be held. He holds that such an election must be held upon a regular election upon the first Tuesday after the first Monday in November.

"The city of Salem failed to comply with the local option ruling," contended Judge Galloway, "and it is the opinion of the court that this uncorrected fault in Salem's municipal charter should be held sufficient to overrule the demurrer in the case of Stellan against the county court at this time. It is not the fault of the law that this election was held contrary to statute, as supreme court opinions, two in number, have been handed down in which it is held in the plainest of language that before a municipality can hold a local option election it must first so arrange its municipal charter so as to conform with the time designated for holding a wet and dry contest."

Still Have Recourse. The liquor interests of the city still have another alternative in the event the election which is to be held next Monday proves contrary to their interests. In the event the amendments to the charter declaring it to be unlawful to sell, barter or give away intoxicating liquors in the city carries, the plaintiffs in the city case are at liberty to make a second application for an order of injunction restraining the declaration of the election.

As the matter now stands, insofar as the city election case is concerned, the complaint for injunction is just being held in abeyance by Judge Galloway pending the outcome of the general city election.

Will Answer. County Attorney Ringo announced this afternoon that the defendant in the county case will file an answer some time this afternoon. Just what will be included in the reply the county attorney was unable to say late today, but he declares that he and his associates will carry the case on.

Counsel for the plaintiff was non-committal following the court's decision. It is believed, however, that in the event the amendment to the city charter to be voted on next Monday carries, a supplementary complaint will be filed in the circuit court early Tuesday morning for the purpose of blocking the declaration of the election by the city.

The ballots for the election Monday are all printed and everything is in readiness to hold the vote on the charter amendments. TIME OF AID MEETING CHANGED. The ladies Aid Society of the First Presbyterian church will meet at the home of Mrs. L. K. Page, 402 North Cottage street, at 8 p. m. today. The gentlemen are cordially invited. Hostesses: Mrs. L. K. Page, Mrs. Dr. Robertson, Mrs. H. H. Corey, Mrs. J. A. Pomeroy, Mrs. Burdall, Mrs. D. W. Hedge, Mrs. E. Eakie, Mrs. James McGregor and Miss Page.

WEST AND OTHERS AID IN STARTING WORK ON PACIFIC HIGHWAY

Samuel Hill Turns First Shovelful, and Says Oregon Is in Lead.

CONVICTS WILL BE USED

Superintendent Lawson Prepares to Put Bunch at Work on an Extension Rock Cut.

[UNITED PRESS LEASED WIRE.] Medford, Nov. 28.—In the presence of Governor West and the State Highway Commission and a hundred prominent citizens of Jackson county, the first shovelful of earth in the construction of the Pacific Highway in Oregon was turned this afternoon by Samuel Hill, the father of the good roads movement in the Northwest. The act marked the beginning of work on the \$107,000 grading contract let last week for the new road over the Siskiyou mountains, a highway 24 feet in width, with a six per cent maximum grade, that will be hard surfaced 16 feet in width. The survey traverses the sky-line of the Siskiyou, and the highway will be one of the scenic boulevards of the world. Oregon Leads.

"Oregon," said Mr. Hill, "is in the best shape of any of the states for good road construction. Oregon begins where the other states have left off, and has the advantage of all their experience. Today marks the beginning of permanent highway construction in the state. Jackson county points the way and leads Oregon, and its example will be rapidly followed by all." Short speeches were made by Governor West and representatives of the various commercial clubs. Preceding the ceremony, an elaborate luncheon was

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Late News Bulletins

[UNITED PRESS LEASED WIRE.] San Francisco, Nov. 28.—That the Western Fuel company officials would produce the books of the concern before the federal grand jury this afternoon was the belief of Matt L. Sullivan, special United States prosecutor. Intimations have been given, Sullivan asserted, that there would be no further trouble about the books. If the books are produced, it is certain that the contempt proceedings will be dropped.

Washington, Nov. 28.—Every wheel on the Southern railway was stopped for five minutes today out of respect to the memory of President Finley, who died at his home here early in the week. Funeral services were held in St. John's Episcopal church.

Rome, Nov. 28.—Bishop Dennis Dougherty, of the Philippine islands, was received in private audience today by Pope Pius.

VICTIM OF APOPLEXY.

[UNITED PRESS LEASED WIRE.] Chicago, Nov. 28.—Frank Rowley, former managing editor of the now defunct Chicago Chronicle, and later associated with newspapers in San Francisco, died here today. He was stricken with apoplexy 14 months ago.

The Weather

The Dickey Bird says: Occasional rain tonight and Saturday; southerly winds.

VALUE OF SALEM WATER PLANT IS \$278,634 IS COMPANY'S STATEMENT

Civil Engineer, of Chicago, Employed by Company to Appraise It.

IT IS UP TO COMMISSION

Should Soon Be Able to Ascertain Why Salem's Water Bill is Bigger Than Its Bread Bill.

We are pleased indeed to tell a long-waiting public that the Salem Water company has at last filed with the railroad commission a statement of its physical valuation. This statement was filed this morning by Wm. J. Hagonah, a civil engineer of Chicago, who has carefully examined the water company's plant and determined its value. This examination was made at the request of the water company, and is its own showing as to values. Mr. Hagonah finds that the cost of reproducing the plant, that is building it new, would be \$313,614, and that the present value is \$278,634.

This is only one step in the investigation, and the end is yet some distance in the future, for the commission will now probably make some investigation on its own account.

However, the valuation does not seem unreasonable, and as we remember it, is considerably less than the price fixed on it when it was offered for sale to the city.

Financial Statement Lacking.

The company has not yet filed its financial statement showing its receipts and expenditures, so its profits can be arrived at and a fair judgment made as to the justness of its rates. This will come later, and considerably later, if the company is as slow in making its financial statement as it has been in

MUST BE SWORN IN ELECTION DAY

Attorney-General Crawford Holds Voters Who Were Not Registered Under Law of 1912 can Only Vote by Using Blank A, and This on Election Day Before Election Judges--Affidavits of Voters Before Notary Public or Other Officer Valueless--About 2000 Will Be Obligated to Swear in Votes Monday, if they Vote--Busy Time for Judges Promised.

Attorney-General Crawford holds today that in all cities above 5000 in population, the voters who are not registered under the old law in 1912, can only vote by using blank A, and this on election day before the election judges. The voter, after the registration books have closed, which is the case now, cannot make the necessary affidavit before a notary public or other officer, but must make it before the

election judges alone. There are about 4700 registered under the old law, and this will leave about 2000 to swear in their votes Monday. It will be practically impossible for the judges to handle all these, and many will be deprived of the privilege of voting. For this reason it is advisable to be on hand the moment the polls open and have your witnesses ready if you would be certain of getting your ballot.

SLAYER CORNERED BY BIG POSSE BATTLES AND KILLS HIMSELF

[UNITED PRESS LEASED WIRE.] Cuba, Ill., Nov. 28.—Frank Adams late last night shot and killed his wife at a dance in the opera house here. The slayer eluded other dancers and today barricaded himself in a building. Sheriff Roy, at the head of a posse of deputies and citizens, battled for several hours with Adams, one bullet tearing away Constable Hagerman's lower teeth. At 10:30 o'clock Adams committed suicide by sending a bullet through his head.

GETS TWO YEARS.

[UNITED PRESS LEASED WIRE.] Sacramento, Cal., Nov. 28.—Walter K. Billings, charged with transporting dynamite on a street car in the state, was sentenced today to serve two years in Folsom penitentiary.

Plea for Doing Away With Capital Punishment Made

[UNITED PRESS LEASED WIRE.] New York, Nov. 28.—"It would be a return to barbarism to hang Bessie Wakefield," said Mrs. James Laidlaw, society leader, philanthropist and criminologist, commenting today on the case of the woman under sentence of death in Connecticut for the murder of her husband. "Eliminating sentimentalism and unworkableness," she continued, "it would be a detriment to the public to have Connecticut insist on the law of an eye for an eye and a tooth for a tooth. Furthermore, the return to barbarism would be just as atrocious if the state should hang James Plew, her alleged accomplice. I do not believe there should be any difference between the punishment meted out to Plew and to Mrs. Wakefield. "Because Bessie Wakefield is a woman makes no difference. Women should be men's equal in all things under the law. "I venture to assert that a consensus of the nation would be found overwhelmingly in favor of abolishing capital punishment. It has not been abolished purely on account of inertia. "The Wakefield case should be made the foundation for a nation-wide protest against capital punishment—either of men or women. "It is too bad that more publicity cannot be given before each hanging or execution. If there were enough of it people would realize the awfulness of taking human life thus cold-bloodedly."

The Capital Journal Newsies Have a Lively Thanksgiving

It was a jolly lot of youngsters that put their feet under the long table in the Hotel Marion dining room Thursday afternoon at 1 o'clock, as the dinner guests of The Capital Journal. Shortly before the dinner hour a big seven-passenger automobile standing in front of The Capital Journal office attracted the attention of the restless kids, and some one suggested capturing it and having "a parade." To suggest is to accomplish with newsboys, and in less time than it takes to write it they were aboard. There must have been some expert sardine packer handy, for on that one machine 45 kids packed themselves somehow, and no doubt some 15 more on hand would have also got on it had not Joe Underwood showed up with his taxi and gave the overflow crowd a chance. Fifteen of them got in, on or around that taxi, and the two machines carried the boys, those underneath being for the time silent, around three or four blocks, finally dumping them at the Marion. There, under the direction of Mr. McInturf, the circulation manager, who acted as major domo, toast master, boss herder or whatever the position might be called, they were gotten into line and marched into the dining room, where a table reaching the full length of the room gave them all a chance for the work outlined for them. From that time until the final curtain there was something doing every minute, and the other guests of the hotel, as well as the boys, had the time of their lives. When the second helping of turkey was put where it would do the most good, the boss herder called Tucker, "King of the Newsboys," to tell "how to sell newspapers," which he did well. Young, of Route 13, told of a number of things he would rather do than "deliver papers when it rains," one of which was "to eat turkey and pumpkin pie." Blue, of Route 14, told how many papers he would sell in West Salem, when its streets were all paved, and said he would have a gang of boys helping him, and would sell 2000 Capital Journal every evening. "If he would have said more but some unregenerated little son of Bellah butted in with: "Gee, that feller has had something besides turkey." That ended the speech. Blued, of Route 3, told what he learned on his route that they did not teach at the university, and it proved to be what the Arkansas woman described as being "a pretty much of a good deal of most anything." McInturf, of Route 12, told how he felt when he had to work that morning, and he thought he was going to miss the dinner. He got on his feet, looked solemnly up and down the long rows of fellow sinners, and then made a speech that we commend to some of the old after dinner talkers, for he said all he had to say in just one word: "Hungry," and sat down. King, of Route 2, responded to a request to say what he would tell his grandchildren about this Thanksgiving dinner, and was doing so ably and gracefully, when one of the irresponsible broke in with: "Tell it to your kids and tell 'em to pass it on."