

MUSHET LOSES RECOUNT SUIT

CITATION FOR G. A. SMITH TO APPEAR IS DISMISSED

CONTEST THROWN OUT OF COURT ON TECHNICAL GROUNDS

Campaign Committee Workers for the Defeated Candidate Meet, but Take No Conclusive Action

(Continued from Page One) of Fickett vs. Honey at San Francisco. The state primary election law itself provides for such contest. It further provides that this act shall not apply to the nomination of officers of municipalities whose charters provide a system for nominating candidates for such offices. Statutes of 1909, page 691.

No Remedy in Statutes

As the city of Los Angeles comes within the exception, we must hold that there is nothing in the general statutes of the state which would authorize the holding of this election contest, unless we can find that those laws are made applicable by the terms of the city charter.

I assume, and do not doubt, that the city charter could provide for a primary election contest, by merely saying that such contests may be held in the manner provided for in the code of civil procedure, or by making some special provision therefor. So that it remains to look into the charter and see whether it has any provisions relating to, or in any way including, primary election contests.

Section 202 of the city charter, which was referred to by Judge Conroy, is as follows:

All elections shall, except as hereinafter provided, be conducted and held in accordance with the provisions of the laws of the state for the holding of general elections in effect at the time.

Regarding this Judge Conroy said: It is admitted in this case that the plaintiff depends upon section 202 as being that part of the charter which, as he claims, makes the election contest a part of the state law. If this claim cannot be maintained, then the court has no right to require the defendant to respond to any "citation" in this proceeding.

Supreme Court Decision

The only decision of our supreme court which has been cited for the plaintiff as closely related to this question is Kirk vs. Rhoads, 46 Cal. 358.

In that case the "Act to incorporate the city of Sacramento" contained provisions which, it was held, permitted the county court to hear and determine an election contest. The said act provided that "all the provisions of law in force regulating elections, so far as applicable, should apply to elections of officers of that city." The supreme court stated that the section of the code of civil procedure, relating to contests of elections, were a part of the state laws regulating elections.

It may be here to consider whether that ruling applies to this case. Here the reference to the state law (as such reference is contained in section 202 of the charter of Los Angeles) is by its own terms limited to the proposition that these elections shall be conducted and held in accordance with the state laws for the holding of general elections.

It seems clear enough that the election contest sections of the code are "a part of the general system for the regulation of elections." But it does not necessarily follow that the judicial proceedings there-in provided for are a part of the holding of the elections, as those words are commonly used and understood, and as the words were used in sections 194, 202 and 206b of the charter of the city of Los Angeles.

It may be that, in a certain sense, the work of conducting an election is not complete until the person elected has acquired complete title and all of the incidents of title to his office. And there is some reason in the suggestion that, according to the broadest meaning of the words, the work of any special tribunal appointed to recount ballots cast at an election is work included in the conduct of the election.

Agrees with Plaintiff

I find myself inclined to agree with plaintiff's counsel in this general proposition.

Women Who Will Take Part in Big Sacred Heart Fair



MRS. N. A. McDONALD

THE Sacred Heart parish fair will be opened Wednesday evening with a formal program at which J. Bernard McGrath will preside as chairman of the evening. It will continue daily, including Saturday, the closing day. The Sacred Heart orchestra will furnish musical numbers, and Misses Florence Pauly and E. Eaton and Edwin Dwyer will give vocal selections. William J. Hanlon will be the speaker of the evening. Elaborate arrangements have been made for the fair. The booths will be in charge of prominent matrons and maids of the parish. Mrs. N. A. McDonald and Miss Florence M. Grose are among those taking an active part in the management for the event.



MISS FLORENCE M. GROSE

But this does not foreclose a further examination of the words used in the city charter, to ascertain what they say and what they really mean.

The section 202 says that these municipal elections are to be conducted and held in accordance with the provisions of the laws of the state for the holding of general elections. This brings us to the very question upon which this case must depend.

When the superior court holds a session for the determination of an election contest according to the methods set forth in the code of civil procedure, is the court "holding" the election? And if this court in the present proceeding should make a new count of the ballots, would this court be still holding the primary election?

I observe that the common understanding of these words would not include a court contest as being part of the conducting and holding of the election. This is illustrated by the complaint now before the court. The plaintiff says that a primary election "was held" on the tenth day of November, and he says that the municipal election is to be "held" on the first Tuesday in December.

The city charter, in section 206b, says that the primary nominating election "shall be held not less than three or more than five weeks preceding the general election." There are now only fifteen days until that election day. I am sure that the hearing of this election contest could not be construed as part of the holding of the election, within the meaning of section 206b.

Falls Back on "Words"

It is well established rule of construction of statutes that words are to be interpreted according to their common and well-understood use among the people, or among the particular class of people to whom the words are peculiar. Applying this rule to the words here under consideration, my conclusion is that the conducting and holding of the primary nominating election in accordance with the laws of the state for the holding of general elections does not include a judicial inquiry into the result of such election.

It will be ordered that defendant's motion be granted, and the citation will be dismissed.

The attorneys who appeared in the case were Edwin A. Merserve for Mr. Smith and Gesner Williams, Louis R. Works, John D. Works, G. R. Sparks

LAY PLANS FOR AVIATION WEEK

FERRIS AND M. & M. COMMITTEE GO OVER DETAILS

WILL BEGIN IMMEDIATELY TO COLLECT FUND REQUIRED

Manager of Event Promises Aerial Exhibition Will Be Valuable to Los Angeles—Date Set for January 10-20

Aviation week matters were started off with a rush yesterday by the special executive committee of the Merchants and Manufacturers' association. Practically the entire afternoon was passed in going over details and working out plans.

Dick Ferris, general manager of numerous phases of the ten days' program, and these were thoroughly discussed and approved. From now on the committee and Mr. Ferris will put in their time to make the aerial exhibition the greatest thing which has been seen in Los Angeles. The committee is actively at work completing the necessary subscription list to assure the fund required.

"Aviation week is a sure go and it will make the world sit up and talk about Southern California," said Mr. Ferris last night. "Under the plan decided on every subscriber to the fund will have a chance to get his money back, for the committee adopted a plan arranging for a pro rata distribution of returns.

"It should be remembered every contributor is helping to make possible columns and columns of advertising all over the world. Every paper and magazine will say something about winter aviation in California.

"I look for the largest crowd which ever has come to Los Angeles, but there will be hundreds of thousands who will not come who will read about the flights over the green orange groves in the worst part of winter and who will gain a renewed conception of the glories of California. That will be the contribution of the subscribers to the Aviation week fund to the people of Southern California. I think it is extremely conservative to say this advertising will be worth more than a million dollars to this section. In fact, it will be a boost to the whole state, presented by the business interests of Los Angeles county."

While the big event will be known as Aviation week, it will really comprehend ten days of flying, as the date finally set yesterday is from January 10 to 20. Another move which will be warmly approved by business men is the passage of a resolution providing there shall be no advertising programs of any kind allowed in connection with the event.

Members of the committee will make a tour today to investigate the best site for the balloon park, which cannot be located at Arcadia because of the expense for gas supply. Arcadia park, a site near Eastlake park and Pasadena are under consideration.

Denies Brandenburg New Trial

ST. LOUIS, Nov. 22.—Broughton Brandenburg, the writer who was fined \$500 for abducting James Shephard and Cabanis, III, was denied a new trial by Judge Grimm today. He received permission to appeal to the supreme court and was released on a \$1000 bond.

and W. T. Craig for Mr. Mushet.

Isidor Margolis has ascertained, he says, what melted his vote on the morning of election day. "I was double-crossed by the Liberal Alliance," he said. "I found that they had printed a few hundred cards with my name on as the ballot to be voted for. These were for circulation only among my friends in order to make votes for Mushet, while elsewhere they said I was not in it." Mr. Margolis' friends claim that if everything had been straight he would now have "Doc" Houghton's place on the ticket.

That Dr. J. W. Jones received only a nominal vote after his campaign has been a subject of much comment. It has been discovered that the Jones strength in the Smith campaign was completely as possible into the Smith camp. Automobiles and carriages placarded with the name of Jones were really hauling voters placarded with the name of Smith. In one or two precincts, notably in Pico Heights, Smith committeemen directed the movements of the Jones vehicles. It is estimated that Dr. Jones had from 400 to 500 votes that his workers brought to the polls for Smith at the primary election.

Not content with swallowing the Jones strength the Smith campaign committee have taken over the slogan "A Village or a City," which Dr. Jones hurled so loudly into the California climate two or three days before election. That motto now heads the printed matter which the Republican city central committee is sending out, and is to be the most talked of subject toward the end of the campaign.

Good government meetings tonight will be held at Diehl's hall on Central avenue and Adams street and at Seidors' hall in San Pedro. Lorin A. Handley will speak at the former meeting and the precinct workers of the Good Government organization have assured him a rousing reception. Good government candidates will attend the San Pedro meeting, leaving the Pacific Electric building with an extra car at 6:25 o'clock. The harbor meeting will be entirely informal, and any candidate making a long speech will be made to swim the channel, according to a statement of the San Pedro reception committee.

RESIGNATION OF POLICEMAN IS ACCEPTED WITH REGRET

Father-in-Law of Patrolman Roy L. Allen Needs Him to Assist on Ranch

The resignation of Patrolman Roy L. Allen was accepted by the police commission last night with regrets. Allen resigned because his father-in-law needs him to assist on his ranch at Hollister, Cal.

A father-in-law is a new acquisition for Allen, as he has been married only during the past few months. He has been on the force for six and a half years, and Chief Dishman declared his record was excellent for the entire time. The commission directed Secretary McKeag to write a letter to Allen conveying the commission's sincere regrets at his resignation and wishing him success in the future. This is a most unusual honor, as no such letter has ever been written by a police commission to any other patrolman.

New Patents Granted

The Hazard & Strause patent agency reports the following list of patents granted to inventors of Southern California for the week ending November 16, 1909:

J. F. Bierend, Los Angeles, show-case; M. Bruffat, Los Angeles, reclining rocking chair; J. W. Gates, Los Angeles, spring fork for wheeled vehicle; C. M. Gay, Los Angeles, refrigerating apparatus; F. C. Hoffer, W. H. Whittell and F. H. Bente, Los Angeles, assignors to Excelsior Supply company, Chicago, stand for motorcycles and bicycles; F. Kiely, Los Angeles, baking powder tester; W. H. Knapp, Fresno, assignor of half interest to W. H. McKenzie, raisin seeding machine; A. H. Light, Los Angeles, assignor to Light Engineering company, automatic oil burner; F. W. McKnight, Los Angeles, assignor of half interest to J. D. Krimminger, pipe riveting machine; J. M. Patrick, Los Angeles, wind deflector for automobiles; T. G. Rowe, Los Angeles, wheel drive for automobiles; T. Williams, Los Angeles, drag handle for fishing reels.

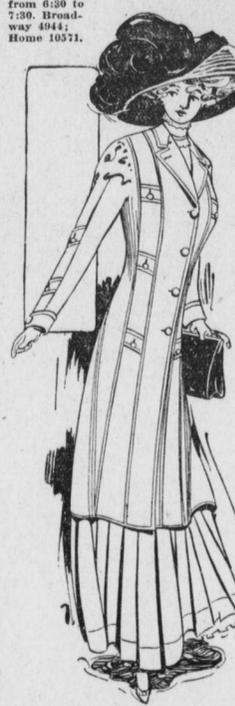
Santa Fe Makes Thanksgiving Day Rates

On November 24 and 25 the Santa Fe will send round trip tickets at reduced rates between all stations on its line where one way fare does not exceed ten dollars. Tickets will be limited to November 29, 1909, for return.

Sole Agency Dunlap Hats

Home 10571 Sunset-Broadway 4944
Broadway Department Store
BROADWAY COR. 4TH LOS ANGELES. ARTHUR LETTS

Select a Charming Suit from This Sale for Thanksgiving While Such Garments Are Priced \$15, \$19.50 and \$22.50 TODAY



We have never acquired the ability to adequately advertise such a sale of women's suits as we shall here attempt to tell about. Such a sale deserves more than we will be able to give in such a limited space. In brief, you cannot possibly afford to miss this opportunity if you have the slightest need of a dressy, practical suit. Sale prices are \$15.00, \$19.50 and \$22.50. Plenty of blue serges, blue chevots and blue broadcloths at these prices. Come early.

- Black Jackets**
34 Inches, Today at **\$5.95**
These are of black broadcloth that would do credit to jackets at half again as much. They are lined through with best Venetian lining. They will answer for every short coat requirement—\$5.95.
- Gingham Petticoats**
Priced Today at **45c**
These are made of fast colored ginghams in checks, stripes and plaids. Choice of tan, blue and gray. Deep tailor stitched ruffles and flounce. Marked 59c and 65c. For today, at 45c.
- Short Kimonos**
Fleece Lined Today for **33c**
Next to never have you the chance to secure such pretty, warm, short kimonos at 33c. They are made of flannelette and priced in this sale at 33c.
- Pleated Skirts**
Seldom Sold at **\$2.95**
Choose from skirts of Melton cloth, panamas and novelty material, in blue and gray. Sizes up to 36 waist and 44 length; priced at \$2.95. 2d floor

Fine Satia Damask for Your Thanksgiving Table--Yard 75c

This is a price for today only. Regularly such a fine quality satin damask, in the 2-yard width, sells in Broadway stock at \$1 yard, to say nothing of how other stores sell it. Every thread pure flax and finished in a fine satin gloss; handsome poppy and fleur de lis patterns show up beautifully on this fine texture; also plain centers with floral borders. Buy this in the Third Floor Annex today for your Thanksgiving table linen at yard 75c.

23-INCH NAPRINS TO MATCH, \$3.00 DOZEN
\$2.50 ALL LINEN NAPRINS \$1.75 DOZEN—22 1/2 inches, of fine satin damask; extra choice patterns. Today only, at \$1.75 dozen

- Cotton Challies at... 5c**
These come in pretty Persian and figured patterns, in quite a wide range of colors. Third Floor Annex, today, yard 5c.
- Canton Flannel... 10c**
Either bleached or unbleached, and both of heavy quality; thickly fleeced. Priced for today at yard 10c.
- Kimono Flannel at... 10c**
This is a kimono flannel for winter wear, in light and dark colors. Just 50 pieces to be sold underpriced today, yard 10c. —Third Floor Annex.

DESMOND'S

Corner Third and Spring Streets, Douglas Building

Do You Believe in Yourself?

You must if you would inspire confidence in others, and without the confidence of your fellowman success is a remote possibility. We believe in ourselves; the soundness of our business methods has been tried in the crucible of time; we believe in the quality of the goods we sell, because WE KNOW them to be the BEST of American manufacture; we believe in our ability to UNDERSELL, because we enjoy a purchasing power greater than that of any clothing store in town.

If You Are Not Buying Your Clothes at Desmond's Start Now, While We're Selling All Our Men's and Young Men's Suits and Overcoats

At 1/4 OFF

—Nothing Reserved

Special Sale Again This Week of 75c and \$1 Shirts and 19c Neckwear
See Our \$2.50 Velour Hats
See Our 235 Feet of Show Windows

DuBois & Davidson
FURNITURE COMPANY

A ROCKER Bargain
\$8.75

A handsome roomy chair like illustration. Early English finish and well made. You would expect to pay twice our low price for this chair.

This is only a hint of the exceptional values we offer. Advertising space costs money and we can't tell about all the bargains here without charging more. Better visit our store before buying.

212-214 W. SIXTH ST.