

# THE TETON PEAK.

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NO. 3

## Attorney General's Opinion.

In response to the question: "Has there been any legal provision made for calling a constitutional convention?" Attorney General John A. Bagley has rendered an opinion to the effect that the joint resolution passed by the Seventh legislature, recommending that the electors vote upon the question of calling a constitutional convention at the next general election, has not been legally submitted to the electors and cannot be printed upon the ballot or voted upon in November of this year. The resolution, in the opinion of the attorney general, merely provided a mode of submitting the question to the electors but the bill necessary to place the question before the electors in a legal manner failed to pass the house of representatives.

The resolution recommending to the electors that a constitutional convention be called for the purpose of revising and amending the state constitution and that the question be voted upon at the coming election, passed the senate on March 2, 1903, and the house of representatives on March 4, 1903. To give this resolution full effect it was necessary that a bill should be passed authorizing the secretary of state to publish a certified copy of the resolution for a least six weeks prior to the election in one paper of general circulation in each county in the state, in order to comply with constitutional provisions.

Such a bill was introduced and passed in the senate but was never acted upon by the house of representatives, hence, the attorney general maintains, the questions cannot legally be submitted to a vote at the forthcoming election.

**FULL TEXT OF OPINION.**  
The opinion of Attorney General Bagley, which was delivered yesterday, is in full as follows:

Boise, Idaho, April 21, 1904.  
—Hon. W. E. Borah, Boise, Idaho.  
Dear Sir:—Replying to yours of April 14th in which you ask: "Has there been any legal provisions made for calling a constitutional convention?" will say:

The members of the last legislature passed the following resolution:

"Be it resolved by the legislature of the state of Idaho:

"Section 1. That it is deemed necessary to call a constitutional convention to revise and amend the constitution of the state of Idaho; we recommend that the electors of the state of Idaho, at the next general election of this state, vote for or against a constitutional convention."

"Sec. 2. The question to be submitted to the electors of the state of Idaho shall be in form as follows: "Shall there be a constitutional convention called by the Eighth session of the legislature of the state of Idaho to revise and amend the constitution?"

**THE NECESSARY BILL.**  
Senate bill No. 115 provided:

"Be it enacted by the legislature of the state of Idaho:

"Section 1. That senate joint resolution No. 10, which recommends that the electors of the state of Idaho vote at the next general election upon the question: "Shall there be a constitutional convention called by the Eighth session of the legislature of the state of Idaho, to revise and amend the constitution?" is hereby submitted to the electors of the state of Idaho to be voted upon at the general election to be held in November, 1904.

Sec. 2. The secretary of state shall cause a certified copy of said resolution to be published for at least six weeks preceding the said election, in at least one newspaper of general circulation in each county of the state of Idaho, and shall require proof of said publication to be made by affidavit, filed with the secretary of state, which he shall preserve as part of the records of his office."

### FAILED TO PASS HOUSE.

This bill passed the senate March 6, 1903, and was transmitted to the house of representatives the same day. The legislature adjourned March 7, and before any action was taken upon this bill by the house.

**WHAT WAS REQUIRED.**  
Article 3, section 20, of the constitution provides:

"Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention to revise or amend this constitution, they shall recommend to the electors to

vote at the next general election, for or against a convention, and if a majority of the electors voting at said election shall have voted for a convention, the legislature shall at the next session provide by law for calling the same; and such convention shall consist of a number of members not less than double the number of the most numerous branch of the legislature."

### RESOLUTION VALUELESS.

The house having failed to pass senate bill No. 115, providing for the submission of the resolution recommending that the electors vote for or against the calling of a constitutional convention, leaves us with the resolution, but without authority or any provision to submit it to the people at the coming election. The legislature has the sole authority to submit this question to the people and to point out a mode for the expression of their will on the subject. (Cooley's Constitutional Convention, 29.)

This resolution should be submitted to the people by an act of the legislature, which should pass both branches with the same formalities as any other law and receive the approval of the governor. Until this is done this question is not submitted to the people. There is no authority for anyone to print the resolution upon the ballot at the next election or for the electors to vote upon that question.

### MERELY A SUGGESTION.

The members of the legislature in adopting this resolution did not act in the capacity of a legislature, but in the capacity of a body, committee or a convention, clothed with special authority. Their recommendation to the electors to vote upon the question of calling a constitutional convention, reduced to the form of a resolution, was not an act or a resolution of the legislature, but a resolution of that special body or convention. It could only operate by way of advice or recommendation. It amounted to nothing more than a proposition or suggestion to the people to decide whether they would or would not have a constitutional convention.

**CANNOT BE VOTED UPON.**  
No provision has been made for submitting this question to the people, and therefore it cannot be done. The legislature undertook to provide a mode of submitting it, but the measure failed in the house.

I therefore am of the opinion that the resolution recommending that the electors vote upon the question of calling a constitutional convention, at the next general election, has not been legally submitted to the electors of the state and cannot be printed upon the ballot or voted upon at the next general election.

The following cases bear generally upon this subject:

Wells vs. Bain, 75 Penn. St. 39.  
Koehler vs. Hill, 60 Iowa, 543.  
(At 614).

Luther vs. Borden, 7 Howard, 38.  
Jameson's Constitutional Convention, 525-576.

g A. E. and E., 901-2-3.  
Opinion of the Justice's, 6 Cush., 573.

Collier vs. Freersen, 24 Ala., 100.  
Hatch vs. Stoneman, 66 Cal., 632.

Respectfully,  
**JOHN A. BAGLEY,**  
Attorney General.

### PARKER.

Married, on the 27th of April, Miss Myrtle Cornish of Parker, and Mr. Henry Pulley, of Egin. The bride is the accomplished daughter of Mr. and Mrs. John Cornish and the groom is the son of Mr. and Mrs. David Pulley of Egin.

Commissioner Costley was in Parker doing business on the 27th. Mrs. Frank Smith was attacked by a vicious cow in C. H. Karlson's corral. Had it not been for assistance it would have been a serious case. As it was she received a few slight bruises.

Work has been commenced on the slicer. They are digging the trenches for the foundation.

The Primary association was out for a walk on the first of May. They had a picnic and a very nice program in the meeting house in the afternoon and there was a dance at night. All the toughs in the country gathered on the outside and it was the most disgraceful affair that ever happened in the place.

J. L. Stoddard had a very valuable horse drop dead in the stable without a moment's warning.

James Griffith of St. Anthony, has located in Parker for the summer. He is watermaster of the St. Anthony canal.

## Mr. Bassett Replies.

Rexburg, Idaho, May 4th, 1904.  
Editor "Teton Peak"  
St. Anthony Idaho.

Dear Sir:—

While the article contained in your last issue is written by such an unscrupulous person under the guise of the name of "Two Hundred and Sixteen" as to be unworthy the notice of respectable people, yet, for fear that your honorable readers may not be conversant with the situation and may take what is said therein to be the truth, I desire to briefly answer the same, feeling sure that you will consent to a few lines in defense of the accused.

As to Mr. Wallis, I desire to say that his record ever since he has been in Rexburg has been one of energy, thrift, determination for the right, ever willing to lend a helping hand in every move undertaken for the public good, and I am willing and ready to recommend him as a most desirable citizen in any community. As to the unwarranted attack in question I unhesitatingly assert that it has come from an element that is constantly opposing the good government of our town and inspired by jealousy, spite and feelings of bitter revenge from some sneaking coward who dare not come out in the open sunlight and tell the people who he is.

As to myself I claim no such qualifications as I do for my friend Mr. Wallis. I freely acknowledge my weaknesses and only wish I was a better man. I must say, however, that I feel much gratified to note that my antagonist had to go back for a period of eight years to find something to attack me about. Judge from the spirit of his letter he certainly would have been only too pleased to have referred to something more recent if he could have found such against me, but replying to this far-fetched attack I have only to say that had my entire party been present and saw what I did, they would have followed the same policy, as is very plainly manifest at the last state election, which, if it indicates anything at all, it indicates that I was simply six years ahead of the times and my party acknowledged it by unanimously insisting that I accept the nomination for the same position at the last election which was six years later.

As to my right to support Mr. Wallis for the office of City Attorney for Rexburg, or any other man or woman for any other position of public trust within the United States, the State of Idaho, Fremont County or the City of Rexburg, I claim the right to be heard, on the grounds that I became a full-fledged American citizen when only a small boy, a permanent resident of Idaho before I attained my majority and have spent my entire strength of manhood in its development. I helped fence the first field in Rexburg, as well as to build its first houses, dig its first water ditches, teach its first school, was its first postmaster; I came here to live, work and die among this people, and when I am criticised for expressing my wish with regards to its interest I resist the interference as coming from a narrow, prejudiced, and an American despot.

Whether I hold the position of "Tom Bassett the Democrat, or Thomas E. Bassett, President of Fremont Stake", I hope to be broad minded enough to sacrifice my life's blood, if need be, in giving to every law abiding American citizen this most glorious privilege. "The right to a voice in the government of our Free and Glorious Republic" and I expect to exercise this right notwithstanding any ecclesiastical position I may be honored with.

Not wishing to monopolize your valuable space I will close. Thanking you in advance for this intrusion, I am

Very truly yours,  
**Thomas E. Bassett.**

**FOR SALE AT ONCE,** easy terms, 160 acres, 1 1/2 miles from Sugar City. Clay soil, 100 acres in cultivation. Independent water right—\$5500, for a few days only. 110 acres, 4 miles from Sugar City, clay soil in perfect state of cultivation. Plenty of water. \$500 including crops for 15 days only.

Five 80 acre tracts within three miles of Marysville, \$8 to \$25 per acre.

160 acres on Squirrel Creek, relinquishments, improved, \$1600.

Come at once if you want a snap.

C. C. Moore Real Estate Co.

## COUNTY GOSSIP.

Dished up by the Peak Staff of Correspondents.

### DARBY.

Bishop H. O. Crandell, of Driggs, passed to the Great Beyond Friday, April 29. He came home from town in the evening and complained to his wife that he was not feeling well and sat down in a chair. His wife went out to do some of the chores and when she returned found him dead in the chair. He was a good bishop and had many friends, and made friends wherever he went. Much sympathy is felt for the bereaved family. The funeral will take place at Driggs at 2 o'clock.

The weather is fine here. The farmers are putting in their crops. There is quite a good deal of land for sale here cheap. People looking for homes will do well to call on us.

James Hill has sold his ranch and cattle and will soon start for the coast where he can enjoy more sunshine and a warmer climate.

The Peak is a good paper. It has found its way into many homes here and is always welcome. Those who do not read it ought to, if for no other reason, to find out what our creamery is doing.

### DRIGGS.

Talk about a bunch of cayottes in distress, you ought to hear the Driggs' new German band, three for a dollar.

Mr. Eddie Seymour of Driggs, will make his first trip with the Fast Freight & Passenger line Monday, May 2nd, and will run on the following days: Leaves Driggs Mondays and Fridays, returning Tuesdays and Saturdays.

Mr. F. M. Molen has opened his new butcher shop and is doing a nice business.

Work on the new ward stake meeting house is progressing nicely.

Don C. Driggs, president of the Teton Stake, has left for Salt Lake and will return in about ten days.

Mr. Jeffs has sold his city home to Eddie Seymour. C. D. Roberts will occupy it.

Bishop H. O. Crandell died at Driggs on the 30th ult. Deceased was 60 years, 9 days old. He was one of the pioneers of Utah, arriving there in the 50's and located at Springville. While acting in capacity of bishop of Driggs, he was loved by all who knew him and was considered to be a leader in all enterprises that were for the benefit of the country. The sympathy for the bereaved ones was expressed by the entire valley by their attendance at the funeral which took place at Driggs school house.

Mr. Ursenbach, of Victor, has moved to Driggs, and will take charge of the Teton Real Estate Co. He informs us that the company will in a very short time be in condition to supply the demands all over the county for coal.

### TWIN GROVES.

Mrs. Thomas Richards returned last week from a trip to Ogden where she has been attending the funeral of her nephew.

Mr. Burt has been doing some carpenter work for Adolph Murri at St. Anthony and is now at Wilford farming on Will Davis' place.

Hugh Dowdle has been canvassing this section of the country to ascertain the number of cows milked, preparatory to introducing the dairy business. We wish him the greatest success. What a boom to the community.

A few weeks ago one dark night when the wind was blowing a gale, Mrs. Richards lost a dozen chickens, Joe Black lost some turkeys.

Stillman Young lost some sacks of wheat and Willard Stalker lost his ax. The thief has by experience become so bold that he visited Tom Richards' granary one night last week and one of the boys heard a noise at the granary and on going around he saw the thief dart out across the field. There are very strong suspicions as to who the guilty parties are but nothing absolutely certain.

Arthur Edgington is putting in a grain crop on Will's place. He will live in his brother's house when Will's family moves to the mill. Arthur being an unmarried man, will have to batch or "some thing."

### CHESTER.

May 3.—Didn't ye scribe say that Chester was on a boom? Land

is selling for \$40 an acre and several families have come in from the east. Chas. Brown has sold out at \$40 an acre. Richard Humphrey has also sold 80 acres of his place at a good figure.

Alvord brothers have located some fine claims up the country. Ed Hunnicutt has also located a good claim in the same locality, their three farms being contiguous.

Our schools observed Arbor day with a very fine program. E. W. Hunnicutt, principal of our schools, and Edwin Alvord made a record last Saturday and Sunday. They walked nearly 60 miles from Saturday at 10 o'clock a. m. till Sunday evening at 8 p. m., and surveyed 500 acres of land, which we think is pretty good for fellows that are not used to manual labor.

Our schools close Friday, May 6th, after a very successful term of six months. Our principal has gained many warm friends while in our community. The examination for graduation from the eighth grade was by the principal of schools.

Mortie Brown, son of Charles Brown, met with a serious accident a week ago last Friday, by a horse falling on him and breaking a leg. He is getting along nicely under Dr. Harshburger's care.

The delegates chosen from Chester to attend the Republican county convention to be held at St. Anthony next Saturday were: Robert Helm, J. E. Hathaway, E. W. Hunnicutt, C. H. Brown, Mrs. Florence Burgess, Thos. Brown and D. W. Hathaway. Of course Chester is going Republican this fall, at least we will vote for Teddy.

## Will Not Walk on Their Return Home.

Boise, Idaho, April 30.—Shippers of live stock here are being notified this evening that the Northwestern road has rescinded the rule against the giving of return transportation for those taking live stock to market. Stockmen feel elated, as they regard this as the beginning of the end of the long fight over that point. The roads united in the rule that no more return transportation should be issued. The shippers have contested the point with great determination, but the traffic association decided some three weeks ago that the rule should stand. It would mean a heavy bill of expense to stockmen. They admit some shippers have abused the privilege, but they hold this can be avoided if the railway agents exercise precaution.

## Hon. Ben E. Rich Interviewed.

Mr. Ben E. Rich dropped into St. Anthony the first of the week on a flying trip and submitted to an interview by a Peak reporter. Mr. Rich has effected arrangements for the building of a permanent mission headquarters and chapel combined at a suitable point in the south. Of course our reporter interrogated him on politics and things connected with factional conditions now existing among the Republicans of Idaho. He was very pronounced in expressing his opinion of some things. During the interview Mr. Rich said: "I am not in sympathy with the many complaints against Senator Heyburn and Congressman French, owing to the recommendations made by them for Federal appointments. Senator Heyburn stated to me at Washington that it was his intention to recognize the indorsements coming from the machine of his party in the state. When an applicant for a position is recommended by the state and county organizations as well as by the National committeeman, it constitutes the indorsement of the party machine, which Senator Heyburn and Congressman French will recognize. Republicans of Idaho should see the justice of the stand taken by our representatives in congress and not censure them for giving recognition of party indorsements of this kind."

"If the machine is bad, it is within the power of the Republicans of this state to correct the evil. If it is bad and Republicans permit it to remain so, they should censure themselves instead of those who are doing right in recognizing their party, as Senator Heyburn and Congressman French are doing. Neither of these gentlemen, I feel certain would knowingly, recom-

mend an unworthy person for public office, and it goes without saying that President Roosevelt would be the last man in our Nation to give an appointment to a person if he thought for a moment such person was not suitable."

The reporter asked Mr. Rich how about Smith Woolley and he replied:

"It is a well known fact that I was opposed to Smith Woolley. I stated my objections to Senator Heyburn, to Congressman French and to no other Republicans in Washington. Afterwards I withdrew my objections and wrote to Senator Heyburn to that effect. I understand Mr. Woolley has stated that I continued my opposition to this appointment in Washington. Senator Heyburn won't say so, Congressman French won't say so, no Federal official from president down will say so; and if these are reported correctly they have simply lied and I don't give a continental what they or any one else thinks or says about it. The only thing I ever did after withdrawing my objections to Woolley was to dictate a letter to him, which was done in the presence of Congressman French, letting him know the cold-blooded truth of what the charges consisted of against him in Washington. Congressman French and his secretary thoroughly understood the spirit by which that letter was dictated and so far as I am concerned Woolley, Wallis & Co., may continue misrepresenting the matter to their heart's content if they wish."

The reporter intimated that it was understood that Mr. Wallis was after a Federal appointment, and Mr. Rich replied: "I think he has already been appointed and I think he had the endorsements of the party machinery. I am satisfied this is correct, and if it doesn't suit the Republicans of Idaho, they have only themselves to blame and should not censure the men in congress upon whom the president relies for information. Nor should they censure the head of the Interior Department if he appoints Mr. Wallis a special agent of the land office, if he has the endorsement of his party. If you will examine into the matter you will find that Mr. Wallis has been backed by the machinery of his party. If the machinery is good, then stop kicking, if it is bad, remedy the evil and stop kicking, but don't lay the blame on those whose duty it is to recognize the party in this state, and remember that so far as recognition is concerned, the party means the machinery of the organization. Once every two years our state organization is reorganized; it is the Republican's duty to see it is always kept good; the same can be said of the county organization; and once every four years the National committee is reorganized and Idaho names a National Committeeman. If Republicans have been asleep in the past, they now have an opportunity to remedy every evil, because one week from next Saturday, the Pocatello convention names delegates to go to the National Convention, and those delegates will have to say who shall be National Committeeman from this state, unless the convention sends them instructed on this question. This will be followed soon with a complete reorganization of the state machinery. Stop kicking against a good machine, if it is good, and if it is not, then for heaven's sake fix it so that it will not be used for selfish purposes."

Mr. Rich was asked if he would like to go to the National Convention and he said: "Yes, of course I would, wouldn't you? I think Fremont county is entitled to representation on the delegation. I think there are a great many men here who are worthy to go. The county convention should send its delegates to the state convention instructed for some person from this county. If I should be the one, I would consider it a great honor. I understand some opposition would be made to me on account of having bolted a convention in '96. I was instructed to do so by a unanimous resolution passed by our county convention and also by direction of the state convention. I simply obeyed the instructions, and nine-tenths of the Republicans of the state indorsed it. I want to tell you this, though, if I ever get into another National Republican Convention, you will not see "Ben Bolt." We are all Republicans now."

Read the Commercial National Bank's ad.