

**SUIT AGAINST HERRON ET AL**

(Continued from page one)

Sixteen, Seventeen, Eighteen, Nineteen South, and Ranges Forty-one, Forty-two, Forty-three, Forty-four and Forty-five, East, totaling in area and extent fifty thousand acres to be thus watered, irrigated and reclaimed, from through and by the system of irrigation and storage which will be constructed by the plaintiff and plaintiff's associates in said enterprise.

That the plaintiff and his associates who are jointly and directly connected with him in the said enterprise of storing, impounding and holding for the purpose of applying the waters of the said streams for the purpose of irrigation and domestic uses, have ample and sufficient means, and will completely, fully, absolutely and entirely construct, build and complete the said project on or before the first day of January, 1912.

That the defendants and each of them hold and pretend to claim certain rights in and to the waters of Bully Creek under and by virtue of a pretended location and appropriation of a diversion point and points made by one Milton W. Smith on the seventh day of November, A. D. 1908; and a copy of the notices of appropriation by the said Smith for dams and diversion points, numbers one and two respectively, are herewith attached and marked exhibits "A" and "B," and made a part of this complaint.

That the said Smith, in his said notices of appropriation, did not claim or pretend to claim any point upon said Bully Creek as a point for a storage dam for the storing, holding and impounding of the waters of the said Bully Creek and its tributaries.

That the said notices of the said Smith as made and filed by him in the office of the County Clerk of Malheur County, Oregon, are for the purpose only, of diverting the waters of the said Bully Creek from its natural channel, without storing or impounding the same.

That the only description given or mentioned in the said notices of the said Smith, of appropriation, looking to any diverting or obstructing or hindrance of any kind or nature to impede the flow of the waters of Bully Creek, is a mere brief description of the point of diversion where the main canals or ditches were said to intercept the said Bully Creek.

That more than twelve months have elapsed since the filing of the notices of appropriation by the said Smith and the said Smith and his successors in interest, (the defendants above mentioned), haven't done or caused to be done by him or them or either of them, any work, labor, improvements or expenditures in the way of any material beneficial or substantial improvements, such as dams, ditches, or reservoirs looking to the completion of the appropriation as made by the said Smith.

That the said defendants and each and all of them, singly and collectively, are not financially able to complete or to construct a storage reservoir sufficient to hold, store and impound the waters of Bully Creek and its tributaries for irrigation purposes.

That the said defendants have, with the sole view only of making a show, display and parade attempted certain work at what is known as Dam Num-

ber One, which said work is and was not substantial, is and was not beneficial, is and was not material, and was never intended by the said defendants or either of them as permanent work and improvements for the purpose of either a compliance with the laws in such cases, or looking toward the construction and completion of a dam and reservoir for the storing and impounding of the waters of Bully Creek and its tributaries.

That the said defendants are obstructionists, so far as the same applies to the storing and impounding of the waters of Bully Creek, and the application thereof to the lands lying under the same for reclamation purposes.

That Bully Creek is a perennial stream, which during the irrigation season of each and every year furnishes a very small amount of water, and unless the flood waters of said creek and its tributaries be stored during the winter and spring months, sufficient cannot be had to irrigate and reclaim any appreciable number of acres of desert lands.

The plaintiff's right and claim to store and impound the waters of Bully Creek is superior and paramount to any right and claim of the defendants or either of them or all of them.

That the right, if ever the defendants had any right, to store, appropriate and impound the waters of Bully Creek have long since lapsed and become forfeited by reason of the fact that the said defendants have never, since the inception of the location or notices of location or appropriation by the said Milton W. Smith, done or performed any act or thing looking to the compliance with the law as regards the appropriation of water or the impounding or storing of waters of Bully Creek for the purpose of applying the same to irrigation and domestic uses.

That unless the defendants and each of them be perpetually enjoined, restrained and inhibited by this Court from interfering with the personal flow, as well as the flood waters of said Bully Creek, plaintiff's rights therein, as a superior appropriator will be greatly, in fact, irreparably impaired.

That the defendants and each of them are impetuous and unable to respond in damages for any injury that might be inflicted by them upon this plaintiff by their actions.

Wherefore, plaintiff prays for a judgment and decree of this court as follows:

I. That the said defendants and each of them, their agents, employees and attorneys, and all persons acting by, through or under them, or through those of either of them, be perpetually enjoined, inhibited and restrained from in any manner interfering with the flow of the waters of Bully Creek and its tributaries, and from in any manner asserting any rights to any diversion point or dam site, under the pretended locations as herein mentioned and set forth.

II. That this plaintiff be decreed to have a prior and superior right to all the flood waters of Bully Creek, and the prior and superior right to hold, store and impound the same and to divert and apply the same to irrigation and domestic purposes.

III. That plaintiff have and receive of and from the defendants and each of them their costs and disbursements of this suit, and such other and further relief as in equity may seem meet.

GEN. W. HAYES, Attorney for Plaintiff.

**PERSONALS**

Judge George Hayes returned from Portland last Monday after an absence of some days.

Mr. and Mrs. E. C. Smith left this week for a stay of three weeks' duration in Minnesota.

Commissioner C. W. Mallett, who sat with Judge Richardson in the county court last Monday to hear the petition for the formation of two new irrigation districts, returned to his home immediately after adjournment.

J. H. Coffman leaves Vale Thursday for two weeks spend Xmas friends at Shenandoah, Iowa.

John H. Hart who was formerly with the Vale Trading Company is now with the Empire Lumber Company.

F. B. Enz has commenced the construction of a pretty residence in Hope's addition.

H. O. Stacey has nearly completed the building of a new residence on his ranch.

Owing to a severe throat affection Wm. K. Lowrey is compelled to postpone his talk in the Methodist Church for one week. He will speak Dec. 19th on "An Experiment in Elector Making". Mrs. Dunlop and Mrs. Lee will sing. There will be a silver offering for the new hymnal.

Frank W. Clerk arrived in Vale last week. Mr. Clerk owns a ranch that is 14,000 acres in extent, several thousand acres of which are under cultivation.

Dr. J. J. Sarazin of Nyssa was in Vale last Monday and attended the High Line ditch hearing at the courthouse.

H. W. Bond of Weiser, the architect of the U. S. Bank and other buildings in Vale has recently made a stay of a few days.

Mr. and Mrs. Elwood Clark returned from Oakwell yesterday morning with the newly acquired other member of the family. The proud father says the little one was able to walk home from the depot almost.

**RALPH WEAVER IS CITY TREASURER**

W. J. Douglas sent in his resignation as City Treasurer to the Council last Thursday evening and that body, after accepting it with regret, agreed to the appointment of Ralph Weaver, of the U. S. National Bank, on the vacancy. The Mayor in appointing Mr. Weaver made complimentary references to that gentleman and the Council unanimously confirmed the appointment.

**FRANK BENEFIELD COMMITS SUICIDE**

Frank Benefield committed suicide last Saturday at John Sells' ranch near Westfall. No cause has been assigned for the act and Benefield, who was well known by several people in this city, is said to have been a very bright sort of a fellow and one who would never be suspected of suicidal tendencies. He was an employee of the ranch.

Highest cash prices paid for all kinds of furs. F. B. Glenn.

**Special Holiday Values**

Ask for anything in . . . **Men's, Young Men's and Boys' Wear**

AND WE HAVE IT

**THE BEST GIFTS ARE HERE**

**Boys' Knickerbocker Suits** Best line ever shown in Vale. Values as high as . . . **\$8.00**

Your Pick of Our Entire Stock for **\$5.00** Nothing better for the Boys Christmas

**Alexander's \$2.50 Shoes**

Have been the talk of Southern Idaho for years.

Goodyear Welt, Flint Oak Sole, fine grain Calf Tops, with large eyelets. Neat and serviceable. As good as any \$3.50 shoe of other brands on the market.

BUY A PAIR AND SAVE A DOLLAR.

**MORE DOLLAR SHIRTS** Just arrived and still selling for \$1.00. They are worth \$1.50 and \$2.00. Soft or Golf. Collar or Detached.

The values this fall are greater than ever, and no one can afford to let Christmas go by without a new suit or overcoat, when they can be had at these prices.



Jersey Ribbed Heavy Fleece Underwear, garment **50c**  
Heavy Ribbed Wool Underwear, per garment **\$1.00**  
Goodyear Welt Shoes in all lasts and leathers **\$3.00**

**MALHEUR CLOTHING COMPANY**

Wholesale and Retail Dealers in Men's Wear

**CITY TREASURER MAKES REPORT**

The following is the report of the financial condition and of the money received and expended since March 1st, 1909, by the Treasurer of the town of Vale.

To the Honorable Mayor and Common Council of the town of Vale:	
Cash received County Treas.	\$206.28
Cash received Fines License	1834.75
Total Cash	5541.44
Cash Paid Street Fund	707.00
Cash Paid General Fund	3442.81
Cash Paid Sewer Fund	743.15
Total Cash Paid	4914.99
Mar. 1 Cash on hand	154.80
Cash Received	5541.44
Total	\$5096.27
Bal. Cash on hand	7781.28

**Railroad Man Silent**

C. Stradley who is at the head of the location engineering department of the U. S. L. railroad arrived from Salt Lake this week but declined to make public the object of his visit. When asked if he came in connection with the extension of the road west he said he had made the location two years ago and that he could say no more.

**THOMAS ACQUIRES HOUSE IN BOISE**

C. O. Thomas has acquired a fine residence building in Boise in exchange for some property near Vale. The Boise house is valued at \$4,500.

This week Mr. Thomas has also put through a deal by which Mrs. Elizabeth Ford becomes the owner of a quarter block in Hadley's second addition. The price paid was \$200.

Another deal effected by him was the sale to Mrs. Rachel Humphrey of 4 lots in Edridge's addition for \$200.

He reports that the farm loan business shows a constant increase which fact shows that money is getting easier after the recent stringency. The money loaned by him and others on property around Vale is being used for improving the ground. One loan made by him of \$4,000 will enable the owner of the ranch to get water on the ground and put it on an orchard.

**The Wonderful Orchestion**

Now being installed by Eilers Piano House at Hunt & Carey's popular rink is the result of centuries of inventions. The automatic orchestra, electrically operated, which is being installed at the popular skating rink of Hunt & Carey is a marvel from many points of view. It not only plays a combination of instruments such as flute, oboe, violin, bassoon, trumpet, cornet, bass, as well as kettle drum, snare drum, triangle and cymbals, but plays them in perfect time so the instrument is invaluable for dances and skating.

More than this it will play anything from ragtime to the highest classic and all equally well.

**Killing Was Justifiable**

Lewis Franklin who shot and killed Frank Clarke last Thursday at Jordan Valley was cleared of blame by the Coroner's Jury at the inquest; as it was clearly shown that the act was committed in self defense.

Sheriff Bob Odell who was summoned from Vale on the evening of the killing had an exceedingly rough experience on the journey but reached the scene next day at noon and acted in his official capacity.

Highest cash prices paid for all kinds of furs. F. B. Glenn.

**G. W. HAYES ATTORNEY-AT-LAW**

Vale, Oregon

**S. D. Taylor G. M. Roberts Physicians & Surgeons**

Vale, Oregon

**Dr. C. C. Burrow DENTIST**

Vale, Oregon

**W. W. LOONEY Physician & Surgeon**

Vale, Oregon

**NOTICE TO WOOL-GROWERS.**

VALE, OREGON, Nov. 17, 1909.

BY THIS NOTICE all members of the Malheur and Harney County Wool-Growers' Association are formally notified of the Annual Meeting which will be held at ONTARIO, on

Wednesday, December 15, 1909,

For the purpose of election of officers for the ensuing year, and the taking up of any business that will benefit the Wool-Growers.

By our organized efforts we have maintained the tariff schedules on wool, have secured a sheep bounty law on predatory wild animals, and have before the Interstate Commerce Commission our case for a reduction of freight rates on wool to Eastern points, and will get a decision in a few days. There will be present many speakers of prominence on all the vital subjects affecting the industry. This Association will be favored at this meeting to take a stand for or against the leasing of the public domain for the coming Congress contains some kind of a grazing law. There are many other matters the sheep men must have a say in, to exist. The meeting at this time will enable us to bring our wants before the National Association, (which will be held at Ogden, Utah, on January 6, 7 and 8, of 1910), and to ask their co-operation to secure the same.

The Commercial Club and citizens of Ontario have given us the assurance that they will make it a social success and will promise plenty to eat and drink. In all, it promises to be the most important meeting ever held by your organization, and to one can afford to be absent.

By Order of the EXECUTIVE COMMITTEE. GEORGE McKNIGHT, President. ELWOOD L. CLARK, Secretary. [1-35]

**\$425.00 Piano Given Away**

Read the Advertisement on Page 4.

**Bayles & McDonald CONTRACTORS & BUILDERS**

Shop one door East from Enterprise Office

**C. E. Bayles Local Architect**

Office Drexel Hotel

**Watches For Xmas**

Over One Hundred Watches in stock to choose from, and the prices are right. Never before have the people had such an opportunity to buy watches at so low a price.

Also a fine line of Cut Glass, Hand Painted China, Diamonds and Jewelry.

... FREE ...

25-Year Waltham Watch given away during the holidays.



**O. W. PROPST THE JEWELER**

**THE DREXEL DRUG COMPANY**  
Pure Drug Druggists  
B. R. FRICK VALE, OREGON  
**DEPENDABLE**  
Druggists  
Pure Drug Druggists  
B. R. FRICK VALE, OREGON  
**THE DREXEL DRUG COMPANY**  
Pure Drug Druggists  
B. R. FRICK VALE, OREGON  
**DEPENDABLE**  
Druggists  
Pure Drug Druggists  
B. R. FRICK VALE, OREGON  
**THE DREXEL DRUG COMPANY**  
Pure Drug Druggists  
B. R. FRICK VALE, OREGON

**\$500,000.00 To Loan . . .**  
On Improved and Unimproved Real Estate, with water right. On partial payment options. Easy Terms.  
**C. O. THOMAS, Vale, Oregon**

I have a large list of Lands and City Property For Sale in Idaho and Oregon.

**Insurance . . .**  
Written in the leading old line companies.