

ROAD WAS VALID

Wallowa County Wins Suit to Open a Highway.

RIGHT ESTABLISHED BY USER

Homestead Without Patent Cannot See to Quiet Title—When Injunction Will Lie Against Trespasser.

SALEM, Or., June 22.—(Special.)—The Supreme Court today handed down opinions in two Eastern Oregon cases affirming the decisions of the lower courts in both cases.

Wallowa County vs. Wade.—Wallowa County, respondent, vs. Aaron Wade, appellant, from Wallowa County; Robert Eakin, Judge, affirmed. Opinion by Justice Bean.

This was a suit to enjoin the defendant from obstructing a public highway running through sections 24, 25 and 36, in township 1 south, range 4 east, in Wallowa County. The road runs from Joseph to Enterprise, and has been traveled by the public since 1882. In 1882, upon petition, the road was laid out and located as a county road, and was considered to be such. In 1901 sections 24 and 25 were taken by homesteaders, and section 36 was bought by defendant from the State Land Board. Defendant then built a fence across the road.

The Supreme Court holds that the laying out of the road and the continuous use of the road for 12 years is a sufficient acceptance of the grant from the Government under the act of 1866 giving a right of way for the construction of highways over public lands. That the continuous use of the road over the school section for more than 20 years established the highway, as against the state by prescription or adverse user, even if the proceedings of the County Court and the subsequent use of the road by the public did not constitute a dedication. The validity of the court proceedings is not decided, for the reason that it is shown that the road was legally established by user.

Moore vs. Halliday.—J. H. Moore, appellant, vs. T. W. Halliday, as administrator of the estate of J. H. Chandler, deceased, from Malheur County; M. D. Clifford, Judge, affirmed. Opinion by Chief Justice Moore.

This was a suit to quiet the title to certain real property, and to enjoin a threatened continuance of trespasses thereon. Plaintiff made homestead entry on the land in question in July, 1922, and established his residence thereon. He alleged that defendant, as administrator, claims some title to the land, but has none in fact. He alleged that defendant entered upon the land, removed hay and grain therefrom, turned his cattle thereon, and threatened to continue these trespasses. He further alleged that defendant is impetuous and unable to respond in damages. The relief demanded was a decree quieting the title and enjoining trespasses. In the lower court a demurrer to the complaint was sustained, and the plaintiff appealed.

The Supreme Court holds, as to the first cause of action, that since the plaintiff has not secured title to the land, he cannot maintain a suit to quiet title, and to enjoin an interference with his right of possession would lie, but it was not alleged that his possession had been disturbed.

As to the second cause of action, it is held that courts of equity will not enjoin a trespass, except to restrain irreparable injury to the substance of the estate, such as the cutting of timber, the eating of ore, etc. It is held that the cutting of grass is not such an irreparable injury to the property. The opinion further holds the insolvency of defendant is not sufficient ground for an injunction, and the other circumstances of the case do not warrant an exercise of equitable jurisdiction.

The demurrer also raised the question whether the two causes of the property joined, but as the court finds that neither cause of action was sufficient, the question of joinder is not decided.

BOYS ARRESTED FOR BURGLARY.

Three of Them Give Portland as Their Home.

OREGON CITY, Or., June 22.—(Special.)—Oliver Scott, Charles Smith, George Fraser and Claude C. Eilenbeck, four youths whose ages range from 14 to 15 years, were arrested in this city Sunday evening by Chief of Police Burns on the charge of burglarizing the general merchandise store of G. H. Beebe at Woodburn last Saturday night. Entrance to the store was gained by breaking into a rear window. A considerable amount of dry goods, clothing and shoes were taken. When arrested the greater part of the plunder was found in the possession of the lads. The quartet was returned to Woodburn today, where they will be given an examination on the charge. Eilenbeck claims that his home is La Fayette, Yamhill County, where the other three lads give Portland as their home and state their residences to be as follows: Scott, 234 Montgomery street; Smith, 404 North Eighth street; Fraser, 204 East Stephens.

FALLS DOWNS A MOUNTAIN SIDE.

Painful Accident to a Timber Lector in Tillamook County.

TILLAMOOK, Or., June 22.—(Special.)—Dr. J. R. Sausbury, from Wisconsin, and Dr. T. L. Carr, of Gray's Harbor, while looking over timber on the Wilson River road Saturday night, were overtaken by darkness, and Dr. Sausbury fell from a cliff 40 feet. One of his legs from his hip down is badly bruised and some bones are broken. He lay there all night, and would not allow his friend to come down to him for fear he might fall also. Dr. Carr lay on the top of the cliff until daylight Sunday morning, when they managed to get to a cabin about 20 feet away, where they are now.

The accident happened about two miles from Jim Harris' place. A force of men are working to clear a way to carry Dr. Sausbury out, which they expect to do by tomorrow night. The mountain is very rough and steep.

RUN OF FISH IMPROVES.

Pack at the Canneries Far Behind Last Season.

ASTORIA, Or., June 22.—(Special.)—The run of fish yesterday and today has shown considerable improvement, and the gill-nets which have been drifting near the mouth of the river have made good catches. The fish are of large size, and the majority are cold-storage plants. Now that the flood in the river is beginning to go down, the fish are making preparations to resume operations about July 1. The greater portion of the traps are closed down on account of the immense amount of drift in the river, and they are expected to begin fishing again in about a week. The pack thus far at the canneries is far behind last season, but the amount put up by the cold-storage plants is considerably in excess of the pack at the corresponding time in 1932.

PRISON IS FILLING.

Walla Walla Institution May Soon Be Short of Funds.

WALLA WALLA, Wash., June 22.—(Special.)—It became apparent today that the appropriation made at the last legislative session for the State Penitentiary

DASH THROUGH CITY

Runaway Freight Train Kills Four People at Spokane.

BREAKS AWAY ON A GRADE

Demolishes Dwelling-House, Wrecks a Laundry and Piles Up a Tangled Mass of Wreckage.

SPOKANE, June 22.—One of the strangest railroad wrecks in the history of the Northwest took place a little before daylight this morning, a short distance from the center of Spokane. A runaway train of 40 or more loaded cars without an engine rushed four miles down a grade through town, demolishing a dwelling-house, wrecking a laundry, killing at least four people, injuring nine others and piling up a tangled mass of debris estimated to be 50 feet high. The dead are: William Thomas, workman; James Sice, Jr., aged 5 years. Unidentified man. Unidentified body still partly hidden in the wreck.

Just how many cars made the long dash downhill is unknown, but the estimates run from 30 to 40, nearly the entire train being heavily loaded with soft coal. These cars were coupled together and left standing on the old Spokane Falls and Northern line, part of the Great Northern system, now used as a storage track. From Hillman street, where the cars were left, they rushed rapidly down Division street, in Spokane, four miles away.

About 3:30 o'clock this morning the heavy train began to slide slowly down the grade, and within a few minutes it was soon rushing through the city with a tremendous force. Every switch was clear and so far as known nothing impeded its progress until it struck an empty box car at S. F. & N. depot. In this car William Thomas and another man, supposed to have been a tramp, were sleeping. Showing this car ahead of it as a bumper, the runaway train swept on to Division street, where the track ended, but the train plunged forward, crossing the street, running over a rockpile and swinging along the south side of Harrison avenue.

Crashes Through Houses.

Nearly 50 feet from the end of the track stood a six-room house occupied by the families of John Sice and Mrs. Myers. Striking this house squarely in the center, the flying train smashed it to kindling wood. Still rushing forward, the cars took the rough ground for 300 feet farther, striking the frame building occupied by the Crystal Steam Laundry. This was not demolished, but was moved bodily, being shifted three or four feet west. Here the runaway train had spent its force.

Nine people were sleeping in the Sice house when the train struck it. How any escaped is a mystery. The house was broken, James Sice, the father, was pulled out of the ruins practically unharmed. The dead body of his son, James Sice, Jr., was found near by. Another child, Charles, and the baby, Viola, were found to be injured and were taken to the hospital. Of the three children of Mrs. Myers who were sleeping in the house, only one, Irene, was injured.

Mr. Kellher is an extensive dealer in timber and agricultural lands, and has sold thousands of acres of Oregon lands in the East. He has the reputation of knowing a good investment in lands when he sees it, and his opinion should be reassuring to any who are inclined to be afraid to buy or own property in Heppner.

THREATENS SEXUOR DORSEY.

San Francisco Woman Says He Used Her Money to Develop a Mine.

SAN FRANCISCO, June 22.—Mrs. Adelaide H. Waldron, of 838 Geary street, has gone to Los Angeles for the avowed purpose of compelling former United States Senator Stephen W. Dorsey, by compromise if possible, and by suit if necessary, to pay her the profits of a mining venture in which she says she invested \$50,000.

Mrs. Waldron says that about four years ago Dorsey had a prospect hole in San Diego County, which he called the Pacheco Mine, but no development work had been done on it, and as it stood it was practically worthless. Dorsey had great confidence in it, but no money with which to back that confidence. He managed to inspire Mrs. Waldron, and she advanced \$50,000, all of which went into development work, with the understanding that she should have a half interest in it. From time to time Mrs. Waldron received reports as to the progress of the work and assurances from Dorsey that the mine would certainly meet his expectations.

Then the next thing she heard was that it had been sold to United States Senators Jones and Pettigrew for \$50,000. She expected to receive half of that amount, but up to date she has not succeeded, though she declares she has made repeated requests and frequent demands upon Dorsey.

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Motion in the Libel Cases Against the Baker City Herald.

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case in which the court had held that a defendant in a libel case must file a bill of particulars of the charges which he expects to prove to be true in his defense.

At the railroad investigation tonight, a number of employees testified that the cars were hand-braked in the Hilliard yards and could not possibly have got away if they had not been released. They admitted that a car was done by the hoboes or some enemy of the road. Great Northern officials say their property loss will be about \$25,000.

MINERS SCALDED BY STEAM.

Three Men Dead While Fighting a Fire, and One Is Badly Injured.

TAMAQUA, Pa., June 22.—A result of two disasters which followed close upon one another in the No. 4 and No. 5 collieries of the Lehigh Coal & Navigation Company, in the Panther Creek Valley, three men are dead, one is dying and others are seriously injured. Late last night, while a force of men were fighting a mine fire, the action of the water on the burning coal, which rushed down the gangway, scalding a party of seven men, who were manning the fire hose.

Daniel Lewis, of Lansford, a miner, and John Fornore, of No. 4, have since died from their injuries. Richard West, of Coaldale, and John Black, of Summit Hill, mine bosses, and Fritz Labach, John Voth and Joseph Parker, laborers, of Lansford, are seriously injured. A fall of coal in a breast at the No. 5 colliery today released a body of gas which was ignited by the lamps worn by Daniel O'Brien and Daniel Collins, both of Lansford. O'Brien was instantly killed and Collins probably fatally injured.

BIG TIMBER DEAL MADE.

Portland Capital Invested in Charles K. Spaulding Logging Company.

OREGON CITY, Or., June 22.—A deal involving several hundred thousand dollars has just been consummated by which H. L. Pittcock, F. W. Leadbetter, president of the Columbia River Paper Company, and W. P. Hawley, assistant general manager of the Crown Paper Company, have purchased approximately a half interest in the Charles K. Spaulding Logging Company, owned by Spaulding and B. C. Miles. The object of the deal is to enlarge the scope of operations of the company, which owns a mill at Newberg, several steamboats and thousands of acres of timber lands. The capacity of the Newberg mill is about 30,000 feet daily, and this will be at least doubled, as the company wishes to increase its lumber output.

IN FAVOR OF THE EPPINGERS.

Judge DeHaven Sustains the Demurrer of the Warehouse Company.

SAN FRANCISCO, June 22.—Judge DeHaven today delivered an opinion sustaining the demurrer of the Heppner Warehouse Company, against the Eppingers, in the case of that company's claim for the value of a warehouse. The opinion was delivered in the bankruptcy proceedings in the case of that

CURES DYSPEPSIA.

A Wise Woman

Imperial Hair Regenerator

Imperial Chemical Mfg. Co. 125 W. 12th St. New York

EVERY BLADE WARRANTED

A Minute Spent

in brewing a cup of

Ghirardelli's

Ground Chocolate

will equip you with a day's health reserve.

The agreeable aroma and delicious flavor of GHIRARDELLI'S give it an irresistible fascination that will result in its daily use. There is no drink so good, pure or economical as GHIRARDELLI'S GROUND CHOCOLATE. Made in a minute by adding boiling milk.

Retains flavor and strength in hermetically sealed cans. Never sold in bulk.

DR. W. A. WISE, DENTIST, 100-213 FAIRING BUILDING, Cor. 24 and Wash St. Open evenings till 9. Sundays from 9 to 12. Or. Main 2029.

PAINLESS EXTRACTING

We do Crowns and Bridge Work without pain. Our 16-year experience in place work enables us to fit your mouth comfortably.

We have feeling as well as art. Dr. W. A. Wise, manager, has found a new way to extract teeth absolutely without pain. Dr. T. P. Wise is an expert at Gold Filling and Crowns and Bridges.

Extracting teeth where places or bridges are ordered.

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Keeley Institute

Cures Liquor, Opium and Tobacco Habits

The only authorized Keeley Institute in Oregon. Elegant quarters and every convenience. Correspondence strictly confidential.

case as a precedent, also one or two Southern cases, Judge Eakin has taken the matter under advisement.

Threatening Fire at the Dalles.

THE DALLES, Or., June 22.—(Special.)—A fire which broke out this afternoon in the old foundry, lately used as a stable by J. T. Peters & Co., destroyed that building completely and several thousand feet of rough lumber belonging to the same firm. A gale was blowing when the fire occurred, menacing the O. R. & N. Co.'s depots, the warehouses and flouring mills. The flames were checked before further damage was done. The loss, amounting to about \$200, is partially covered by insurance.

Took Landsman for Toothache.

LA GRANDE, Or., June 22.—(Special.)—William Ellis, an old and well-known mining man, was found dead from laudanum poisoning at the Thorne lodging-house Sunday evening. A coroner's jury was unable to determine the intent, but thought it was taken for toothache. Mr. Ellis owned mining claims at Sunrise City, Alaska, where he worked four summers.

Washington Postal Changes.

OREGONIAN NEWS BUREAU, Washington, June 22.—Bettie F. Magee has been appointed Postmaster at Harvey, Wash., vice Della F. Lewis, resigned.

A rural free delivery route will be established July 1 at Enumclaw, King County, Wash., with one carrier.

Have you friends coming from the East?

If so, send their names to the Denver & Rio Grande office, 124 Third street, Portland, Or.

Habitual constipation cured and the bowels strengthened by the regular use of

Dr. Williams' Pink Pills in small doses. Don't forget this.

A Dream

A Delight

A Satisfaction

5¢ Everywhere

The Largest Selling Brand of Cigars in the World.

The Band is the Smoker's Protection.

THE SMOOTH SMOKE

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CROWDS OF IMMIGRANTS.

Westward Movement Will Be Strong This Fall and Winter.

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The immigration movement is still active and will be very strong this Fall and Winter.

SALEM, Or., June 22.—(Special.)—"The immigration movement is still active and will be very strong this Fall and Winter," says A. T. Kellher, who has just returned from a three month visit in the Mississippi Valley states. "Because there is not much noise about it just now, you might think the Eastern people have lost their interest in Oregon, but they haven't. Every westbound train is loaded and when the special rates go into effect again this Fall there will be another rush of settlers. Your lists of real estate transfers from day to day show what is being done. The transients, however, are thousands of dollars now where they are counted to hundreds a few days ago. People are coming here, and they are buying."

"You have no idea what a splendid work the transportation companies have done in advertising this country. They have gone at it in the same spirit that railroads undertake any kind of work. They have put men in charge who know how to do it, and have spent all the money that was necessary. There has been no waste of either money or effort. They have been in the business about 10 years. The railroad companies have handled their advertising in a practical manner and have placed their literature in the hands of men who are likely to come to Oregon and who are wanted here. The people in the Middle West have heard about Oregon and they have heard about it in such a way that they are interested. They are talking about this state and many of them want to come here to live. They will come, too, and the population of both Eastern and Western Oregon will make a wonderful growth in the next few years."

"What effect will the Heppner disaster have on the settlement of Eastern Oregon?" Mr. Kellher was asked.

"None whatever. The Heppner cloudburst has been practically forgotten in less than two years. People are reasonable in their way of looking at such things, and they know that such a catastrophe is something that may come to any town, but comes but once in a thousand years. There are a score of towns in Eastern Oregon that might be similarly destroyed, but they never have been and never will be. There are a score of towns in the Coast of the United States that could be visited with just such a calamity as that which wrought such ruin in Galveston. A cloudburst may be said to be like lightning; it never strikes twice in the same place."

"If I had money to invest in that kind of property I would not hesitate to invest in Heppner. I have traveled all over Eastern Oregon and know every part of it. It is a good place to invest money. The same resources which made Heppner in the first place will rebuild it, and the town will be better than ever before."

"Would you buy property and build where the water washed away the houses?"

"Certainly would, and why not? If people are offering property cheap in the flooded district because they fear a repetition of the disaster there is a good chance for some one to make money by going there right now and investing."

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