



TO GET CANAL

Oregon City Works May Be Condemned.

FULTON TO FATHER BILL

He Hopes to Get It in River and Harbor Measure.

NATION HAS RIGHT TO BUILD

District Attorney Hall Reports There Are No Legal Impediments to Construction of Waterway on Opposite Side of River.

OREGONIAN NEWS BUREAU, Wash- ington, D. C., Dec. 12.—Based on a report of United States Attorney Hall, sent to Congress today by the Secretary of War, Senator Fulton intends to introduce a bill authorizing the Government to acquire by condemnation the canal and locks owned and operated by the Portland General Electric Company at Willamette Falls. The Board of Engineers, which made an examination of this canal two years ago, reports there is sufficient water in the river even at the lowest stage, to meet the demands of commerce and to supply power for the several manufacturing establishments now located at Oregon City.

District Attorney Hall, reporting on the legal questions, says if the Government desires to acquire this canal, "the measure of damage would be the actual present and prospective value of the locks, together with the damage suffered by depriving the owners of the right to take other commercial purposes."

Already, based on these reports, Senator Fulton has secured a promise from Representative Jones to endeavor to secure a provision in the river and harbor bill, now being framed, authorizing the purchase of the electric company's canal after condemnation. Representative Jones will base his demands on Senator Fulton's bill, which will probably fix the limit of the cost of the canal at \$500,000 or \$750,000.

While the reports submitted today offer the alternative of constructing a new canal on the opposite side of the river, it is believed the best proposition is to acquire the existing canal and rebuild it.

The Engineer Board which made the examination two years ago finds that only 2 per cent of the total low-water discharge of the river is now or will hereafter be required for navigation. Therefore, says the board, the use of water necessary for navigation would not injure manufacturing enterprises at present operated or in contemplation, provided the canal supplying power is entirely separate from the canal for navigation purposes. At high water, the proposition of water used by the canal would be absolutely inappreciable.

"If the United States purchases this canal and operates it under present conditions," says the board, "there would be interference either with navigation or manufacturing enterprises, but this interference could be obviated either by building a dividing wall to separate the navigation from the power canal, or by the necessary power being supplied electrically or otherwise to factories which now draw water direct from the canal."

District Attorney Hall says neither the Portland General Electric Company or any other person, except the United States, for the purposes of commerce, has any valid and existing right to "full, free and continuous use of the waters of the Willamette River for the use of manufacturing enterprises now located on their property." His report then continues:

"The United States has the absolute right to the entire flow of the waters of the Willamette River, and may, in the exercise of this right, close up one channel and divert the entire flow into another for the purpose of improvement."

"I am thoroughly convinced that if authorized by Congress the United States would have authority to construct at Oregon City Falls, between high and low-water mark, locks and canals and other improvements, and if it should result in injury to the riparian owners or to the canal and locks owned by private individuals, that, while their damage might be very great, they would have no remedy against the United States. If, however, it should become necessary in the construction of such work by the Government to utilize the land of private individuals above high-water mark, such land would have to be acquired by condemnation."

The Board of Engineer Officers which made investigation five years ago reported that the canal of the Portland General Electric Company was worth \$210,000. The canal originally cost \$214,000, and the right of way \$35,000. It would require \$385,000 to put the canal in complete repair.

This board selected two sites on the opposite side of the river where it believes the Government can build a new canal at a cost of not over \$450,000. To this board President P. F. Morey, of the Portland General Electric Company, offered to sell their canal for \$1,500,000, but the board considers this price excessive and recommends that it not be accepted.

This board also estimated the value of the Portland Electric Company's canal, on a business basis, fixing \$121,000 as the limit, calculated on its annual earnings, amounting to \$21,000. In consequence this board said: "Public interests will not justify the United States in acquiring possession of the present canal unless the total cost

shall not exceed \$450,000. If satisfactory terms cannot be arranged for acquiring the old canal, the board recommends the construction of a new canal at an estimated cost of \$450,000."

MAY BE BEGINNING OF END.

Fight for an Open River Has Been Waged for Five or Six Years.

The report of District Attorney Hall, and the possible action of Senator Fulton in presenting a bill authorizing the construction of a new canal across from the locks now owned by the Portland General Electric Company, is perhaps the beginning of the end of the long fight that has been led by the Portland Chamber of Commerce for an open river for the past five or six years.

The plan to open the river was started originally by the Chamber of Commerce and it was through its efforts that the Government was induced to send a committee of inspection to look into the feasibility of purchasing the locks. Owing to the great price asked for the property by the electric company the matter was allowed to lag by the Government until it was again revived by the efforts of a committee of the Chamber of Commerce consisting of five members of the organization. This committee made a searching investigation into the feasibility of the plan and reported that in its judgment the Government should be asked to take some immediate action for the good of the commerce of the Willamette Valley. The Chamber of Commerce thereupon passed resolutions which were presented to the Oregon delegation in Congress asking that the matter be led into the proper channels at Washington. The delegation agreed to do this and apparently has kept its promise.

CUSHMAN REFUSES HIM AID.

Young Man Twice Dropped at West Point Desires a Third Trial.

OREGONIAN NEWS BUREAU, Wash- ington, Dec. 12.—James H. McCool, of Walla Walla, twice appointed to West Point Military Academy, once dropped for failure in studies and again for violation of rules, was here today appealing to Representative Cushman to have him reappointed again. Having given him two trials, Cushman refuses to help McCool. McCool today reached the age limit, and is now forever ineligible for appointment to the academy.

Favors Opening of Lands.

OREGONIAN NEWS BUREAU, Wash- ington, Dec. 12.—Senator Gamble today made a favorable report on Representative Jones' bill opening to settlement the unallotted lands of the Yakima Indian reservation, Washington, on lines recently reviewed in these dispatches. Senator Foster will endeavor to have the bill passed this week.

North Yakima Is Favored.

OREGONIAN NEWS BUREAU, Wash- ington, Dec. 12.—At the request of Representative Jones, North Yakima has been designated as a point where civil service examinations will hereafter be held. Representative Humphrey today recommended the appointment of Dr. James Chisholm on the Board of Pension Examiners at Everett.

Richards Back in Washington.

OREGONIAN NEWS BUREAU, Wash- ington, Dec. 12.—Land Commissioner Richardson returned from Portland today. He does not care to discuss the land fraud cases, though he says a very strong case was made out against the parties convicted last week.

TAKE A NEW TACK

Attorneys For Defense File Pleas.

SEEK TO PREVENT TRIALS

Contend That Clients Cannot Be Placed in Jeopardy Again.

ONCE TRIED FOR CONSPIRACY

United States District Attorney Hall Will Contend That Two Separate and Distinct Crimes Have Been Charged.

There is a little shift in the efforts of the defense in the case of the United States vs. Marie L. Ware, Horace G. McKinley et al., which was to have come to a head yesterday afternoon, but which, owing to the non-appearance of Judge Bellinger, will have to be made at the opening of the case this morning.

Charles A. Hardy, representing Miss Ware, has filed with the court a plea of former acquittal, and this will be argued, or at least disposed of by the court, before the case now pending is proceeded with. Mr. Hardy in his plea holds that since Miss Ware was indicted by the grand jury for conspiracy to defraud the United States out of a part of its public lands, and was tried on that indictment and, upon motion of the prosecution, was acquitted, such procedure and such acquittal forms a bar against further prosecution on the same charge, under the rule of law which provides that a defendant cannot be placed twice in jeopardy for the same offense. In other words, the attorney contends that since Miss Ware was once tried and acquitted for the crime of conspiracy that she cannot, under the law, be tried again for the same crime.

Pleas to Be Argued Today.

Judge Thomas O'Day, representing the other defendants in conjunction with Lawrence F. Puter, will file a plea of former conviction this morning in behalf of S. A. D. Puter, Emma L. Watson and Horace G. McKinley. This plea will be substantially the same as the preceding one for Miss Ware, it being contended by the attorneys that since the defendants concerned were once convicted for conspiracy to defraud the Government out of its public lands, they cannot therefore under the law be again tried for that offense. District Attorney Hall, on the other hand, declares that the contention is nonsensical, and an obvious attempt to win protection for the defendants through a strained point of law. He cites the fact that in the previous case the allegation was not simply conspiracy to defraud the Government out of public lands, but "out of public lands situated in township 11 south of range 7 east." In the trial of the case the court would not allow any evidence tending to show conspiracy to defraud the Government out of any lands other than those in that township. The

conspiracy charged in the pending trial is also alleged to have been formed subsequent to the one upon which conviction has just been had and is for conspiracy to defraud the Government out of different lands. It is therefore evident, according to Mr. Hall, that two separate and distinct crimes, or conspiracies, have been charged, which makes the plea of the defense of no effect and void.

These contentions will be decided by the court this morning, and in the event of their being overruled by Judge Bellinger, the case at issue will be at once commenced upon.

Changes in Attorneys.

There has also been a shifting in the attorneys for the defense. Judge Martin L. Pipes and A. C. Woodcock, of Eugene, have withdrawn from the case. Both of the attorneys, in announcing their withdrawal to the attorneys for the prosecution, state that their regular and private business will not permit them longer to give their attention to the case now on trial. Judge Pipes was asked why he had withdrawn.

"I am under an avalanche of business," he replied. "You know I have other clients," he added, smiling quizzically, "and in justice to them I cannot see my way clear to allow my regular business to be neglected. For that reason I have been compelled to withdraw."

Charles A. Hardy, in behalf of Mr. Woodcock, states that the latter has been compelled to remain at home owing to the great accumulation of business at his office there. As it now stands, Mr. Hardy will represent Guy Huff and both L. F. Puter and Judge O'Day will represent the other defendants.

Guy Huff, who has been endeavoring to secure a bond of \$300 for the conspiracy case and one of \$400 for the charge of forgery hanging over him, has been unable to provide bondsmen satisfactory to the prosecuting attorneys and is therefore in jail. Huff was arraigned yesterday morning and pleaded not guilty to the charges placed against him in the indictments. He will, as the John Doe in a head yesterday case, come to trial this morning, while the charge of forgery against him will be tried at a subsequent date.

LEGISLATORS COME TO PORTLAND

J. C. Cooper's Term as Mayor Will Expire Before Legislature Meets.

Three members of the lower house of the Oregon Legislature came to town yesterday—J. C. Cooper, of Independence, Polk County, who, by the way, is Mayor of his town as well as lawmaker for Polk and Lincoln Counties; W. K. Newell, of Dillie, Washington County, who is also a member of the State Board of Horticulture, and who will be one of the chief guardians of orchard interests at Salem next month; and C. C. Kusey, of Wasco, Sherman County. Messrs. Dillie and Kusey are at the Perkins; Mayor Cooper is at the Imperial.

"How can I hold two offices at once?" responded Mr. Cooper to a persistent inquiry on that point. "Well," and his Honor consoled his embarrassment very prettily, "you see, it is this way," and proceeded to tell how it was.

It is known that the constitution of Oregon does not prohibit Mr. Cooper from sitting in the Legislature even while Mayor of Independence, for his station of Mayor is not a "lucrative office"; indeed, Mr. Cooper has not been drawing any salary whatever as executive head of the City of Independence. If he were Mayor of Portland, however, he could not sit in the Legislative Assembly. But, even if Independence did attach a rich salary to the office of Mayor, this would not disqualify Mr. Cooper, since his tenure of the executive seat will expire five days before he shall take his place along with the 99 other saints in the House of Representatives.

Mr. Cooper said that he had been too busy to think up bills for legislation just yet, but that he would go about that right away, for he had several ideas which he believed would serve well in the statutes.

WOMEN BATTLE

Army Canteen Supplies the Issue.

CONGRESS WILL BE FIELD

Members of the Army and Navy League on One Side.

W. C. T. U. ON THE OTHER

Congressman Hull, of Iowa, to Bring Forces Out in Open This Week by Introducing Bill to Restore Post Exchange.

WASHINGTON, Dec. 12.—(Special).—An historic struggle is about to begin between the women of the Army and Navy League and the Women's Christian Temperance Union, on the subject of the Army canteen. Washington will be the battlefield, because Congress is to be the final arbiter, but the opposing forces will be organized in every large center in the United States. It will be a battle to the death, on one side women who spend their entire time endeavoring to ameliorate the condition of the enlisted men of the Army and Navy, and on the other women who represent the cause of temperance or total abstinence in the most uncompromising fashion.

The struggle grows out of a resolution which Mrs. Kelson, widow of General John C. Kelson, an ex-Adjutant-General of the Army, introduced at the November meeting of the Army and Navy League, held in this city at the Church of the Covenant. The resolution was as follows:

Whereas, Through a misapprehension and a lack of appreciation and understanding as to the reasons why canteens or post exchanges were originally established at Army posts, as well as a misconception of the manner of conducting the sales of beer, and, whereas, a three years' test forbidding the sale of beer or light wines on any Government reservation has proven detrimental rather than beneficial to the enlisted men; and, whereas, the Women's Christian Temperance Union has influenced the Congress of the United States to abolish the canteen by the act of February 2, 1901; be it

Resolved, That the women of the Women's Army and Navy League, whose object has been for 17 years to work for the general welfare, the comfort and amusement of our soldiers and sailors, shall present to the next session of Congress a petition urging that the canteen or post exchange, with the same conditions as to restricted sale of beer and light wines as existed prior to February 2, 1901, be restored at an early date.

Mrs. Kelson's resolution was carried amidst tremendous applause. The president of the league, Mrs. George M. Sternberg, wife of the ex-Surgeon-General of the Army, asked if they would have any discussion of the subject or if there were any dissenters. More than a hundred women were present, but no one offered an objection—which is in itself a noteworthy incident, and one without parallel in the history of feminine gatherings at the National Capital.

The Army and Navy League not only passed the resolution, but it appointed Mrs. Sternberg and Mrs. Kelson a committee to secure the signatures of every member of the league and of other prominent men and women who favor the restoration of the canteen. The petition, it is asserted, will bear the name of the Secretary of War and of the entire Army staff, and it will be presented to Congress, probably about the middle of the present week, by Representative Hull, of Iowa, chairman of the House committee on military affairs. Appended to the petition will be the parts of General Chaffee's report to the Secretary of War, which bear on the restoration of the canteen. In this report, which was submitted about December 1, the Army chief of staff devotes about 14 pages to arguments in favor of Mrs. Kelson's crusade.

The Army and Navy League was organized nearly 18 years ago, and its members labor faithfully to elevate the enlisted men and to provide suitable amusements. In this city the league maintains a hospital and a training school for cooks, and a diet kitchen for invalid soldiers. The women who compose the organization are mostly wives, daughters or mothers of officers in the Army and Navy, and they consider themselves abundantly provided with experience to judge what is best for soldiers and sailors. To quote the words of Mrs. Kelson:

"We consider that the Women's Christian Temperance Union is not in the same position to judge what is best for the enlisted men. Its work in abolishing the canteen was the worst form of the intemperate use of authority. I speak with the authority of hundreds of women who work day and night for the soldiers whose camp was the worst form of the intemperate use of authority. I speak with the authority of a young man who has been sent to his ruin because he was not safeguarded as he would be in the post. Our hospitals are filled with men ill with diseases contracted from vile liquors and from the vile associations which naturally follow the intoxication caused by this species of intemperance. When the canteen was in force not a bed in our wards had such a patient. For three years the W. C. T. U. has been given a chance to show the results of its work. It has been the worst kind of a failure. Now we are fighting for the welfare of the enlisted men, and we will rally such a force around us that Congress cannot refuse to grant our request. In addition to our own forces we have such men as Archbishop Ireland working for the same end with all the power of the Catholic Church, and such men as Bishop Potter, who has been marshaling his forces. The question came up late to be considered at the annual meeting in Philadelphia, but the National officers stationed here are preparing a programme which will include work of every temperance center in the country. They believe they acted wisely in getting Congress to abolish the canteen, and they will bring Army men to support their arguments. Chief among the anti-canteen soldiers is General Miles, who recently set forth his views in a letter to Secretary Taft.

"It is with deep astonishment and sincere regret," said Mrs. Sarah D. La Petra, one of the most prominent temperance workers in Washington, "that we learned of the resolution introduced by Mrs. Kelson and of the steps which the Army and Navy League is taking toward the restoration of the canteen. We believe we acted for the good of the soldier, as well as for the cause of temperance, and we can rally around us power enough to make our work good."

Such is the shibboleth between these two powerful organizations, and public men are preparing to be roasted between two fires. Numerically the W. C. T. U. is infinitely more potent than the league. The temperance organization numbers into the hundreds of thousands, whereas the league has less than 1000 members. But the league members claim to speak as experts on the subject of what is beneficial for the enlisted men, and as such they will command respectful attention.

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LEARN IN SECRET

Detectives to Solve the Range Mysteries.

LIVE WITH THE MURDERERS

Governor Chamberlain Has Plan of Campaign.

NO FUNDS AT HIS DISPOSAL

Private Letter From Crook County Tells Executive New "Dead Lines" Have Been Established by Cattlemen Against Sheep.

SALEM, Or., Dec. 12.—(Special).—The creation of an emergency fund, which the Governor may use at his discretion, is the only remedy Governor Chamberlain sees for the range troubles in Crook and other Central Oregon counties.

Nothing has ever come of the Governor's offer of a \$500 reward last Spring for the arrest of the men who murdered Creed Conn at Silver Lake, or the reward of \$300 each for the arrest of the men who killed sheep in Lake County. Neither the Sheriff nor District Attorney, so far as known, paid any attention to the offer of reward, for neither even acknowledged receipt of the Governor's letter.

"The only way I can see to remedy the situation," said Governor Chamberlain today, "is for the Legislature to place money at my disposal so that I can employ Secret Service men to go to the neighborhood of the trouble and stay there until the guilty persons can be located, and evidence enough secured to convict them. To send out militia would do no good. The men who do the shooting may be in Crook County today and in Lake or Harney or Wasco tomorrow or next day. They would commit no offense while officers of the law were around. They travel long distances in a wild, thinly-settled country, and commit their crimes when there is no one near except a defenseless shepherd. They are masked and cannot be identified. The only way that I can see to bring them to justice is to send Secret Service men to live among them, learn their ways and follow their movements until they have evidence that will convict them. There is not now a single dollar which the Governor is authorized to expend for the purpose mentioned."

The Governor has recently received several personal and confidential letters from a resident of Crook County, telling him of the reign of outlawry in that section of the state. The name of the informant is not made public for the reason that the outlaws would burn his property, kill his sheep and perhaps assassinate him if they knew who made the complaint.

New Dead Lines.

According to the letters received by the Governor, the cattlemen have recently established new "dead lines" to be observed this winter, and have announced the intention to shoot all sheep found on the public domain in the territory which they have selected for their cattle. In some instances the territory they have selected includes land upon which sheepmen have grazed flocks for years unmolested.

The informant says that cattlemen have fenced whole townships of the public domain and hold it for rent to men who need it for the grazing. This man implores the Governor to come to the aid of the law-abiding sheepmen, for the coming winter promises to be worse than any previous time for outlawry of the kind mentioned. He does not point out anything in particular that the Governor could do to protect the owners of sheep, but believes that these men are entitled to some measure of protection from the civil law, which they pay taxes to support.

Governor Chamberlain says he will recommend in his message that the Legislature create an emergency fund that can be used in cases of this kind, or for any purpose that the Governor may deem advisable.

CONFERS WITH AGENTS.

A. L. Craig Discusses Plans for Handling Traffic During Fair.

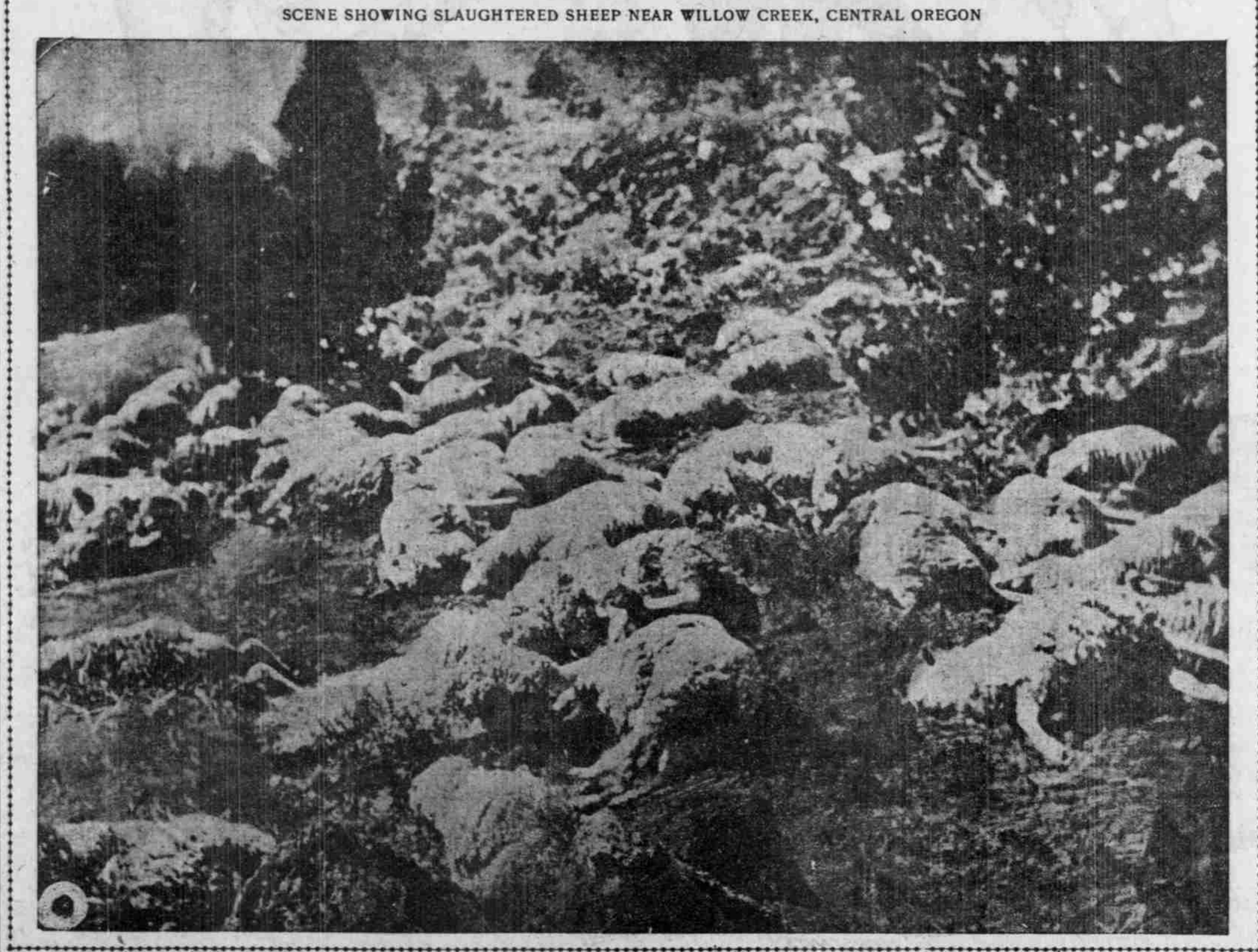
A. L. Craig, general freight and passenger agent of the O. R. & N., had a little reunion in his office yesterday, when he entertained 15 of the traffic representatives of the road from various districts.

Mr. Craig is trying to figure out just what to do with the people who want to see the Lewis and Clark Fair during the coming summer, and he has therefore called into consultation all of the general agents along the line of his road to ask their advice and learn from them the conditions that will govern the traffic from each section. When these things have all been gone over, some plan will be mapped out for serving the people of the O. R. & N. territory with the best possible accommodations in the way of excursions and train facilities that can be provided by the company during the fair.

Among those who attended the conference yesterday were: J. H. O'Neill and J. R. Nagel, traveling passenger agents; H. Burns, general agent at Walla Walla; C. W. Mount, general agent at Lewiston, Idaho; George J. Mohler, general agent at Spokane, Wash.; C. A. Newell, commercial agent at Walla, Idaho; and the following agents: W. E. Nixon, The Dalles; E. C. Smith, Pendleton; E. C. Moore, La Grande; W. P. Lawrence, Baker City; F. C. Hindle, Dayton, Wash.; and W. C. Wilkes, Moscow, Idaho.

Handsome American Building Opened

ST. PETERSBURG, Dec. 12.—A building erected by an American sewing machine company, the handsome structure in Russia, 11 stories high and built of granite, was opened today. It is the first building in the empire in which the American steel construction system has been used.



SCENE SHOWING SLAUGHTERED SHEEP NEAR WILLOW CREEK, CENTRAL OREGON