ROAD LOSES SUIT **AGAINST PORTLAND**

Attempt of Mt. Hood Line to Condemn Land on Bull Run Pipe Line Fails.

OPINION BY JUDGE M'BRIDE

Court Decides Company Did Not Proceed Regularly, Failing to Seek Right - of - Way From Council Before Suing.

OREGON CITY, Or., Jan. 29.-(Special.) The Mount Hood Rallway & Power Company lost this afternoon in its suit against the City of Portland to condemn right of way in the territory in which is located the Bull Run pipe line.

Judge McBride granted a motion of th defendant for a non-sult on the ground that the Mount Hood Rallway & Power that the Mount flood rankway & Fower Company had made no attempt to obtain the right of way from the City Council before bringing the sult for condemnation. This was the only confernion, as the attorneys agreed to the value of the land

involved and on nearly everything else.

The land covered by the proposed right of way is valued at only \$75, but it is necessary for the company to have a 100-foot strip on secount of the mountainous counwhich the road will traverse. Piatt & Platt appeared for the company, and the City of Portland was represented by City Attorney Kavanaugh and J. J. Fitzgerald. Mayor Lane and Richard Mon-fague were also present at the hearing and the former gave testimony.

MOTION BASED ON ONE POINT

Company Expected Now to Proceed Before Council in Regular Way.

City Attorney Kavanaugh said last night that his motion for non-suit was made on the one point referred to in the foregoing, and that while other points may eventually come up in the courts, they were not involved in the present cause at law. He also said he presumed the railroad people would now come be-fore the City Council and proceed in a more regular manner in seeking a right of way through city property, and accord-ing to representations made by the com-pany the granting of the right of way ald not interfere with the city's water supply. One of the reasons the company is said to have for wanting the strip asked for is to prevent any other company oc-cupying the lands in question.

TESTIFIES IN OWN BEHALF

(Continued from First Page.) some complaints had been made against his company for maintaining unlawful fences. Stelwer represented, said the witness, that these complaints were the result of spitework on the part of set-tlers who had some grievance against the officers of the company. Hall tes-tifled that he called Stelwer's attontion to the fact that the company had not the right to maintain fences even on its own land, if the fences so constructed inclosed Government land. Stelwer, continued the witness, expressed some doubt of this contention. and was shown a decision of the United States Supreme Court to that effect. Hall averred that at the time

trict Attorney, dated March 30, 1903, and addressed to the Attorney-General of the United States, was discussed. In this letter Hall had asked the Attorney-General to request the Interior Department to assign to him a special agent for the specific purpose of investigating a number of alleged unlawful fences in Crook, Grant. Klamath, Lake and Malheur Counties, emitting all mention of Wheeler, in which the Butte Creek Company was operating.

In your letter to the Attorney-Gen a your jetter to the Attorney-Gen-eral requesting the services of a spe-cial agent, how did it happen that you mentioned specifically only those five Eastern Oregon counties, omitting Wheeler?" asked Judge Webster.

Why He Omitted Wheeler.

"In the Fall of 1902," responded tall 'A. R. Greene, special inspector nder the Secretary of the Interior, ame into my office and reported that came into my office and regard by he had recently traveled from Burns to Princeville and had received informa-tion that one W. W. Brown had a large amount of Government land fenced up in the vicinity of Wagon The Moun-tain. I referred the matter to Greene, who turned the assignment over to a substitute, Edward Deady, who caused the Brown fences to be removed. This naturally made Brown angry, and he retailated by making complaints against various other settlers. I served notice at once on the settlers reported by Brown, and some of them removed their fences while others did not. It their fences while others did not. It was for the purpose of getting a special agent who should be under my direction exclusively to determine just who had not complied with my orders that they might be prosecuted, that I applied to the Attorney-General.

"My idea in mentioning only the counties of Crook, Grant, Klamath, Lake and Mallieur, was because those counties represented a district remote from districts where special agents were located.

tricts where special agents were located, and I wanted a special man to make the fovestigations in those counties. I also wanted the fence matter generally investigated without regard to any prescribed locality. The Government had always been lenient with settlers for improperly enclosing public land; it seemed to be the policy of the Government not to harass such settlers unless complaint was filed against them or unless by the construction of the fences other settlers were prevented from reaching the Government land inclosed."

Mr. Heney Interrupts.

"Whom do you mean by the Govern-ment?" interrupted Hency, "I mean both the Department of Jus-tice and the Department of the Interior," replied Hall,

"Well, whom do you refer to in the Interfor Department" "Binger Hermann was Commissioner

Was not Hitchcock Hermann's su-

Hall testified further that when Special Do it now. Attend Josentnal's great medical advice free, house-cleaning sale.

1963, Hall first suggested that Dixon go to Crook County, and when that official demurred and said he did not have time to make the trip to the interior of the state. Hall asserted that he told Dixon, of the Butte Creek Company, and remarked that this investigation could probably be made before it would be necessary for Dixon to return to Seattle.

Hard to Get Special Agents.

Hall explained at considerable length his correspondence with the complaining settlers of Wheeler County, his prelimi-nary examination yesterday being con-fined entirely to an interpretation of those letters as he understood them. He told a connected story detailing the work those letters as he understood them. Total a connected story detailing the work of the District Attorney's office, and insisted that his relations with the authors of the different complaints were only those of a diligent prosecutor. He maintained that the delay in the prosecution of the alleged offenders was the retion of the alleged offenders was the re-sult of his inability to get special agents to visit Wheeler County and make a re-port on the conditions, which was essen-tial before he could file either a civil or tial before he could file either a civil or a criminal prosecution. Before court adjourned for the day, Judge Webster announced that he would this morning take up another line of investigation. Just what that would be, counsel declined to intimate, but it may be a refutation of the alleged political dealings of Hall and the charge that he failed to prosecute partisan friends and associates, which has been outlined in the case presented by the Government. sented by the Government

W. C. Bristol Testifies.

The first witness for the defense yes-terday morning was United States At-torney W. C. Bristol, who contradicted a part of the Government's testimony which represented that Hendricks in 190 had appealed to Bristol, to whom he made overtures in the interest of a light sen-Testimony for the Government was to the effect that after Hendricks was convicted of subornation of perjury in August, 1906, he called on Bristol, and complained of his conviction and asked for some recommendation for leniency for some recommendation for leniency and that Bristol had informed him that he would have to see Heney. Bristol asserted that he had never had any conersation with Hendricks subsequent to Hendricks' conviction.

On cross-examination, Heney sought to refresh the memory of Bristol by showing him a telegram that was sent to Heney from Portland on August 10, bearing the signature of Bristol. The telegram represented that Hendricks was desirous of becoming a sittees for the sirous of becoming a witness for the Government and testifying against Hall and Williamson, and had asked that his sentence be postponed for a week until he could have, a talk with Heney, Bristol denied that he had ever sent such a message to Heney and charged that the dispatch had been forwarded by Irvin Rittenhouse, private secretary to Heney, and that he. Bristol, knew nothing of it until told by Rittenhouse afterwards. S. B. Huston testified that in a conver-

sation with Brownell at Oregon City, just prior to the general election in June, 1906, when Brownell was a candidate to succeed himself as State Senator, Brownell told him that Heney had promised to dismiss the indictment against him. The witness, however, testified that Brownel! did not say that the promise of dis-missal of the indictment had been made in consideration of anything from the Government, although Brownell had ex-plained that be had turned over to the Government his "political scrapbook" and his private letter files. On crossey. his private letter fles. On cross-ex-amination Huston admitted that Brownell had not admitted to him that he had the promise from Heney directly that the adjustment would be dismissed.

May Charge Heney With Delay. Captain J. A. Sladen, clerk of the Fed-ral Court, was called and gave the dates eral Court, was called and gave the and the number of land-fraud indictments that were returned. The record was also introduced showing that Heney was appointed Special Deputy District Attorney December 19, 1994. The obvious purpose of presenting these facts was to show that Hency had been slow in pro-secuting the different cases. Considerable documentary evidence was

Considerable documentary evidence was also offered during the morning session by the defense. The indictment of February 8, 1905, charging Brownell with subornation of perjury, was offered to show that Brownell had been indicted for suborning others to commit perfury or at least to make such openings in the fences that would afford a free passageway to the Government lands within the enclosure.

The efforts of Hall to get a special agent to go to Wheeler County were then detailed and the letter of the District Attorney, dated March 30, 1903, and addressed to the Attorney-General of the United States, was also this letter Hall as was also this letter Hall as was also the had been indicted for suborning others to commit perfury and not for certifying to bogus applications for surveys, of which Greene professed to have evidence against Brownell and which constituted the grounds for Hall's alleged intimidation of Brownell. The indictments against George Sorences of the United States, was also the had been indicted for suborning others to commit perfury and not for certifying to bogus applications for surveys, of which Greene professed to have evidence against Brownell and witch constituted the grounds for Hall's alleged intimidation of Perjury.

UNFIT PLACE FOR HUMANS

Douglas County Grand Jury Criticizes Juli-Six Indictments.

ROSEBURG, Or., Jan. 29.—(Special.) -The grand jury finished its labors today, after a nine-day session, returning six indictments, two for selling liquor without licenses, three for robbery and one for burgiary.

The Yellow Creek tragedy two months since, in which Hiram Snook and Manse Kincald lost their lives at the hands of Louis and King Carlisle, was investigated, 38 witnesses being examined, Nothing was found disagree-

examined Nothing was found disagreeing with the former verdict of the
court, which justified the killing.

In its report, the jury condemned the
condition of the County Jall as not a
fit place in which to confine a human
being. This is particularly interesting
in view of the fact that George Putman, editor of the Medford Tribune,
was confined in this full and after. was confined in this jall and after-ward, in his own and Portland papers, scathingly denounced his treatment at the hands of Douglas County officials.

SCHOOLEY WILL FORGERY

Big Crawford Estate Goes to Widow and Son.

SCRANTON, Pa., Jan. 29.-The jury in the Schooley-Crawford will contest today icclared the paper presented by George B. Schooley as the last will of James L. Crawford, the millionaire coal operator, to be a forgery in their opinion.

They found in favor of Mrs. Crawford, the widow, and her son, to whom the property was left by Mr. Crawford. More than \$1,000,000 was involved

Coming Back to Pay.

SPOKANE, Jan. 22.—C. C. May, formerly president of the Big Bend National Bank of Davenport, Wash, who was reported to have absconded, writes from Boston, Mass, under date of January 21, and declares he is coming home in a few days. "I am no quitter," declares May, "and will continue until every depositor is paid every cent due him."

Cashier Found Not Guilty.

"Yes, he was over Hermann."

"Well, do you mean to tell me that it wan Hitchcock's policy to be leulent towards—2 Oh. I guess I am setting a little ahead of my course," concluded Heney, and the further questioning of the witness by the Government's prosecutor was abandoned.

Hall tentified further that means are casting but one ballott.

CANNUT LOSE ON

Mrs. Baumgartner Need Not Pay Even if Suit Goes Against Her.

HUSBAND IS NOT LIABLE

Complaint Does Not Establish Woman Is His Agent-To Collect Damages Sult Must Be Brought in an Oregon Court.

SEATTLE, Wash., Jan. 29 .- (Special.)-Gentle but reckless woman may seat herself at the helm of an automobile and send the car on a juggernaut course with dire results to pedestrians and others, and her husband is not liable for dam-

and her husband is not liable for damages as the result of a civil action on the part of the injured.

At least such is the decision of Superior Judge Gilliam in the Superior Court today during the trial of a case brought to recover \$15,500 damages from Mr. and Mrs. Fred P. Baumgartner, of Portland.

In September last Mrs. Baumgartner, who was visiting her mother in this city.

who was visiting her mother in this city, struck and knocked across the street E. H. Evans, an employe of the Western Union Telegraph Company. She was arrested and later discharged under \$15,000 rested and later discharged under \$15,000 bail. Later the criminal case was dropped but Evans brought suit for damages. In court this morning John Francis Dere, attorney, moved to dismiss the aution so far as the husband is concerned, and, after considerable argument, Judge Gilliam granted the motion, holding that there is nothing in the complaint to establish the fact that the woman was in any way the agent of her husband, as he was in Portland at the time of the accident. The fact that the woman owned the machine, according to the judge, did the machine, according to the judge, did not matter, as, he held, she might have hired the machine. A motion to have the case against the woman dismissed met with fallure, and the case went to the jury this evening. A sealed verdict will be returned tomorrow morning.

According to the interpretation of the law in this state, the judgment will not the couple, and unless the woman has properly of her own the judgment will be worthless. At any rate, in case of a judgment for the plaintiff, action to collect will have to be brought in the Oregon courts, and, all told, a very pretty legal question is involved. There was much contradictory evidence as to the speed of the machine when the accident occurred. Councilman Crichton testified that the machine was traveling at least 15 miles an hour and that it was wobbling. Other evidence was to the ef-fect that the plaintiff was much at fault.

STEAM BURSTS FROM ROADBED

Laborers Are Frightened by Vapors From Hot Springs.

NORTH YAKIMA, Wash., Jan. 29.— (Special.)—Professor E. L. Ainsley, who has just visited the district traversed by the Chicago, Milwaukee & St. Paul Railthe Columbia, reports that a number of foreign laborers abandoned their work because of volumes of steam pouring because of volumes of steam pouring from crevices in the rocks of the roadbed where heavy blasting had been done. They feared a volcanic eruption at any

Professor Ainsley accounts for the clouds of steam by the presence of a series of hot springs. The odor of the steam is similar to that of hot springs in various places throughout the Northwest. A majority of the foreigners who quit their jobs have gone from that vicinity.

TRIES TO ESCAPE FROM JAIL

Swede Hobo Makes Break but Wind Soon Gives Out.

ALBANY, Or., Jan. 29.-(Special.)-Gus Johnson, the Swede hobo, confined in the city jail awaiting trial on a burglary charge, made an unsuccessful break for liberty this morning, and ran almost four blocks before Sheriff Smith captured him. He had lain all night in the corridor wait-ing for the chance.

ing for the chance.

Johnson is the man who held up William Follis in the latter's home near Kingston Christmas eve and later terrorized
that part of the county by his peculiar
actions. Since being placed in the county
jail here he has caused the officers considerable trouble and was detected last
week trying to make a key from the
handle of a spoon.

Hides Poison in Her Hair.

NORTH YAKIMA, Wash., Jan. 28.— (Special.)—Mrs. J. W. Burnett was arrested last night, at the request of her children, charged with attempting to kill herself, but was released after a bottle of poison hidden in her hair had been or poison hidden in her hair had been taken from her. She took poison recently, but her children applied antidotes and saved her life. Despondency over hard work and domestic trouble appears to be the explanation of her effort to end her life. Her husband recently served four months in jall here.

Leaves for Better Salary.

ABERDEEN, Wash., Jan. 28.—(Special.)

—City Engineer H. W. Troutman, whose resignation was presented to the Council two weeks ago, was accepted tonight.

Mr. Troutman has accepted an offer of \$2000 a year from the city of Bellingham.

He received \$1800 a year here.

If It's Quality

You Want, Columbia **Tailoring** Fills the

And fills it well-and economy is also a big factor in the Columbia proposition. Take advantage of our Special Mid-Season Free Trousers Offer-with still another added inducement in extra value-

\$25 to \$28 Suitings, including the extra free trousers, for a very limited time longer,

It's decidedly worth getting in on.



GRANT PHEGLEY, Manager. ELKS' BUILDING

Seventh and Stark

wedded here tonight to Miss Florence Blagen, daughter of N. J. Blagen, head of the Grays Harbor Lumber Company. The wedding was an elaborate affair Clifford Warren, of Portland, was best man. The groom's parents and others from Portland were present. They will be at home at Alexandra Court after February 5.

EUGENE GETS DISTRICT FAIR

Making Plans to Have Annual County Fair-Investigating Sites.

EUGENE, Or., Jan. 29.—(Special.)-It has been definitely decided to hold the second Southern Oregon district fair in Eugene this Fall and the Lane County directors, consisting of H. F. Hollen-beck, J. M. Wilkings and F. M. Wilking will go to Roseburg Monday to co arrangements with the other repr tives of the district. Eugene will be en-tified to the district fair once every three years, but arrangements are now being ade by which an annual county fair

A committee from the Commercial Club in co-operation with the district directors has been at work during the past few days investigating proposed sites for the new fair grounds. In the past fairs have been held in Merrian's Park, a little too far from the city, and the committee has found two desirable locations, the Hud-delston tract in West Eugens and a part of the Blair tract in Northwest Euge Definite decision has not been made, ho

NORTHWEST BREVITIES.

Halsey, Or.—An officer from Chemana came here to identify two Indian boys, who had run away from the Chemawa Indian School. The officer said there were several others who had run away.

School. The officer said there were several others who had run away.

Princyllie, Or.—About 100 users of the west half of the Blue Mountain forest reserve are in session to allot the range for this year. The department is represented by Leon K. Knett, of Washington, D. C. Colfax. Wash.—Colfax Chapter. No. 8. Royal Arch Masons, recently conferred the degree upon a class of three candidates whose combined weight was \$40 pounds. These were Sheriff Ratliff, 370 pounds that the second the charge of which is not provided of murder in the second degree on the charge of killing David Ray Zeigler in November. The motion for his release on a \$3000 bond pending an appeal will be determined in a day or so. Churchill's family is in quarantine with the smallpox.

Loss in Indianapolis \$1,000,000.

INDIANAPOLIS, Jan. 29.-Fire in the warehouse of Henry Coburn & Co. early today caused a loss of \$1,000,000, with insurance of \$575,000. Over one hundred firms with goods stored in the warehouse are losers. Marion County had stored \$100,000 worth of voting machines, on which there was no insurance. Six firemen were slightly bust men were slightly hurt.

I. L. Smith of Sheridan.

Portland Man Weds Hoquiam Girl.

HOQUIAM. Wash., Jan. 29.—(Special.)—William Harold Staiger, of Portland, was

HEALS

blood. This vital fluid has become infected with some germ or poison which prevents the place from healing. This infection may be the result of an inactive, sluggish condition of the system leaving the refuse matter in the body to be absorbed into the circulation instead of throwing it off through the usual channels of nature. Another cause is the weakening or polluting of this life-stream from hereditary taints, or from the effects of a long spell of sickness, leaving disease germs in the system. When the blood is in this condition a sore cannot heal because the impurities with which the circulation is filled are being constantly discharged into the place to irritate and inflame the tissues and further disease the surrounding flesh. The only treatment that can do any good is one that removes the cause, and for this purpose nothing equals S. S. S. It begins at the fountain head of the trouble and drives out all germs, impurities and poisons, and then the place, being supplied with rich, pure blood, heals naturally and permanently. Local applications assist in cleansing the place, but a cure can only be affected through a purification of the blood. Book on Sores and Ulcers and any THE SWIFT SPECIFIC CO., ATLANTA, GA.

Pianos, Organs, Etc. at Your Own Price

End of Sale to Come Saturday—You'll Have to Hurry

The sale of accumulated pianos, more or less used, which has been in progress at Eilers Piano House during the past nine days, is rapidly coming to a close. Prices have never been quoted so low as those at which the many instruments in this sale have been ticketed, Scores of instruments have been selected by buyers from every section of the city, as well

as from almost every quarter of this state and Washington.

But the assortment was so large that there is still a splendid variety to choose from.

It matters little what amount of money you desire to invest in a good piano, or what make or tone or style you wish, you are sure to find it here in our Annual Clearance Sale at a price which we'll guarantee much lower than elsewhere. These are plain, honest statements of facts, worthy of your earnest consideration. We don't ask you to take our or any one else's mere say-so. We know that every other dealer makes these same claims. But remember, statements and claims often look different when stood in a row with downright facts. Investigate for yourself, compare prices.

Bear in mind, too, that everything will be found exactly as represented and satisfactory in every respect or your money cheerfully refunded.

PIERSON-In fair condition, \$18 GARDNER—In very good order, \$42
ARION—Exceptionally good tone, \$47
LINDEMAN—The famous "cycloid," \$54 STEINWAY-In excellent condition, \$68

GEORGE STECK-Beautiful rosewood case, in fine shape, \$75 STEINWAY-Very fine, \$108

WEBER-Magnificent. \$126 CHICKERING-Genuine rosewood case, in thorough repair. 395 CHICKERING-Genuine rosewood case, \$235 DECKER-Fine ebonized case, \$210

CONOVER-An excellent instrument and a splendid bargain at \$110 LUDWIG-Like new, one of the fanciest styles, \$175

SMITH & BARNES-Discontinued style; big reduction from actual worth, \$195 SWICK & CO .- Nearly new, \$88 COLLARD & COLLARD, \$47

NUGENT-Fine condition, \$118 KIMBALL-Beautiful quarter-sawed oak, \$238 SINGER-Beautiful mahogany case, \$156

STEINWAY-The much-advertised Vertegrand, \$218 KRANICH & BACH-A make too well known to need an indorsement here; only \$90

BAUS-Very handsome mahogany case, good tone, \$198 DECKER-One of the largest sizes, handsomely ebonized case, \$190

WESLEY-A very satisfactory piano at the very moderate price, \$137 MARSHALL & WENDELL-Largest size, beautiful

colonial case, regular \$400 style; case slightly damaged in shipment; only \$250 NEW ENGLAND-Large size mahogany, \$105

Here Are Means to Remedy That "Silent Piano"

MELVILLE CLARK APOLLO-With 37 rolls of music (the music alone is worth the price) \$65 ANGELUS-Orchestral type, with phrasing levers,

good as new, \$98
ANGELUS—Another one just like the above, \$98
ANGELUS—Mahogany, good playing order, \$75
ANGELUS—The very latest type, \$110

PIANISTA, \$85 CECILIAN PLAYER—Oak case, good as new

GENUINE PIANOLA-Almost new; discontinued style, \$162 We will include a year's subscription to our

circulating library with the above Pianola.

Organs Also Must Go

DAMEL P. BEATTY-Solid walnut case with beautiful pipe top, this organ has 22 stops and was originally advertised as worth \$150, now \$45 BRIDGEPORT-11 stops, goes now for mere song,

BRIDGEPORT-Another one, an equal bargain, \$28.50 KIMBALL-A fine organ, splendid condition, sold

for \$130, now \$72
PACIFIC QUEEN-Very elaborate walnut exhibition case, with large French beveled plate mirror, originally sold for \$150, now \$78

inal cost \$100, now \$58 KIMBALL-Piano-case style, fine mahogany finish, original cost \$175, now \$78

BURDETT-Fine walnut case, shows no wear; orig-

KIMBALL-Fine quartered oak case, original cost \$125, now \$54 AEOLIAN SELF-PLAYING ORGAN-One that everyone can play, originally sold for \$300, now

PELOUBET REED PIPE ORGAN-Solid walnut case, 14 stops, just the thing for your church,

Remember, these few instruments listed here are but a small portion of many bargains on hand, and you can be reasonably sure of finding among them all just exactly what you wish. But you must hurry—the end of the great sale is now in sight—only a few days more. Payments \$3, \$6 or \$7 a month secures choice of the above.

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Mr. Smith and Mrs. Merchant, of Eastern

Oregon; Mrs. Flora Hinman and Mrs. Etta Kane, of Portland; Elmer Smith, of Nerchant, of Mrs.

Smith and Mrs. Merchant, of Eastern

Oregon; Mrs. Flora Hinman and Mrs. Etta Kane, of Portland; Elmer Smith, of Nerchant, of Nerchant, of Eastern

Oregon; Mrs. Flora Hinman and Mrs. Etta Kane, of Portland; Elmer Smith, of Nerchant, of Nerchant, of Eastern



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