

THINKS MARQUAM WILL WIN IN END

John Manning Engaged to Fight for Recovery of Property.

LEGAL WARRANT FOR HOPE

Attorney Declares His Client's Cause Is Just in Equity and Sustained by Law—Third Trial of Suit in Supreme Court.

That P. A. Marquam will eventually win his long-contested suit for the recovery of the Marquam building, is the belief of John Manning, formerly District Attorney. He said last night that he has been employed as Marquam's counsel, and is associated with W. D. Fenton and E. B. Watson. He indicated that other action additional to the notice of appeal, filed in the Circuit Court, might be taken in the case, but declined to say at this time what it will be. In answer to the question whether his employment as attorney for Marquam is not significant, and whether it might lead to sensational developments, he replied, "I know about all there is to know about the Title Guarantee & Trust Company."

This will make the third time that the Marquam case has been taken to the Supreme Court. Suit against the United States Mortgage & Trust Company, the Title Guarantee & Trust Company, the Oregon Company and the Thurburn Ross was begun by Marquam the first time in 1905. When an attempt was recently made to reopen the case Judge Cleland decided that Marquam had no cause for suit. The appeal is from his decision. Should the Supreme Court decide that Marquam has a cause for suit, the case will probably go to a Circuit Court jury.

In an interview with an Oregonian reporter, Mr. Manning said yesterday: Says Marquam Has Been Wronged.

"It is true that I have been retained by Judge Marquam to assist in regaining his property, and I am going to do my level best to accomplish that end. I have been quite familiar with this case from the beginning and have shared in the almost universal belief of the members of my profession, not only in this city, but throughout the state, that Judge Marquam has been deeply wronged. And I have recently gone over the entire grounds, as you can see by these notes, only to find my opinion confirmed and wonder at the results so far.

"With all due respect, I think the late Judge Sears entertained the right view of this case and believe that it was shared in by his three associates on the Circuit bench and that unless this case shall prove an exception to the general rule, 'the right must finally prevail.' Judge Marquam will win out yet. This is not a case in which the natural equity must yield to harsh rules of technical law, as some suppose. Both natural equity and technical law are on Judge Marquam's side, and I am confident that, as I think can be demonstrated to every man of ordinary intelligence.

The decision of Judge Sears, turned on a single point. The vital question, in view of the Supreme Court, was whether the warranty deed and declarations of trust constituted a mortgage or trust, in the sense of the law. The court lays down the proposition that an absolute deed to a third party intended to secure the payment of the grantor's debts, is a mortgage, and as the deed in this case was so intended, concludes that it was a mortgage and not a trust, and, therefore, not within the rule of equity which prohibits a trustee from acquiring an interest in the property placed in his hands in trust without the owner's consent. See Marquam vs. Ross, 47 Or. 374, 378.

Trust Deed Not Mortgage.

"But the proposition is too broad. It is not universally true that an absolute deed of property to secure the payment of the grantor's debts is a mortgage, and the grantee in possession under it, a mere mortgagee in possession, and not a trustee. If the deed is given to secure the payment of the grantor's debts by himself, and that is all there is of it, it is certainly a mortgage, and not a trust, as every lawyer will concede. But if the deed is given to secure the payment of the grantor's debts by the grantee, out of the property, or its income, or by any use therefrom, it is not a mortgage, but a trust, as every lawyer knows. The test is whether the deed is given to secure the performance of the grantor's personal obligation to pay his debts by himself, or to secure their payment by the grantee by means of the property included in the deed. In the first case it is a mortgage, and in the second a trust deed. This distinction is established by every decision on the subject and in none more clearly than by that in the case of Ladd vs. Johnson, 32 Or. 186, rendered by Mr. Justice Bean.

Judge Marquam's case belongs to the last class. The warranty deed and declarations of trust are given to be paid by the Title Guarantee & Trust Company, out of the income and if necessary out of the 'properties'—and the proceeds which will be said to come from rents, issues and profits or from sales," as recited in the supplementary 'declarations and agreement of trust' of November 27, 1896, which converts such 'properties' into a 'trust fund' and the property into 'trust properties' for the payment of these debts.

Judge Bellingier's Opinion.

"The pleadings as well as evidence show that Judge Marquam had no means left to pay anything on these debts—was not expected to pay anything, and never asked to do so. He was 'all in' so far as financial means or credit were concerned. The late Judge Bellingier directly decided that this deed and declarations of trust, in this instance, constituted a trust and not a mortgage. In Title Guarantee & Trust Company vs. Northern Counties Trust, 22 Fed. Res. 821, and the Supreme Court cited this decision with approval in the case of Ladd vs. Johnson, 32 Or. 186, which was almost an identical case.

"But I think I have said enough to explain my position. Judge Marquam has clearly the right to present these questions to the Supreme Court again in his present suit, and I cannot help feeling hopeful of the result."

PLAYING HARD FOR DELAY

Portland General Dislikes to Give Up Profits From Locks.

SALEM, Or., Sept. 30.—(Special.)—The Portland General Electric Company, which owns the locks at Oregon City, is evidently playing hard for delay in the suit brought by the state against the company to determine the right of the state to a share of the profits of the locks. The case was decided by the Supreme Court last May against the company. Ever since then the attorneys

for the company have been securing extensions of time in which to file a petition for rehearing. In the regular order of things the petition would have been filed within 20 days after the decision, or on June 2. The last request was that the time be extended to November 1 but the Supreme Court denied the request and set the time for filing at October 15.

After the petition has been filed it must be considered by the court and finally passed upon before it will be known what the final result of the case is. When the last request for an extension was made Attorney-General Crawford objected, for he desires that the case be ended before the Legislature meets so that there will be no room for question as to the right of the state. The decision of the court was that the present owner of the locks holds the same subject to all the conditions of the original grant, one condition being that the company shall pay to the state 10 per cent of the net profits of operation. Attorney-General Crawford brought suit for an accounting as to these profits.

Supreme Court Cases Set.

SALEM, Or., Sept. 30.—(Special.)—Clark J. C. Moreland, of the Supreme Court, has set cases for trial in that court as follows: October 11, 2 P. M., Clark vs. Boosey. October 14, 10 A. M., Davis vs. Chamberlain; 2 P. M., Webb vs. Hattala. October 15, 10 A. M., Coffey vs. Smith, three cases; 2 P. M., Coquille Milling & Manufacturing Company vs. Johnson.

NEED FUNDS FOR CAMPAIGN

DEMOCRATS SLOW IN OPENING PURSES FOR BRYAN.

Chairman Thomas, However, Says He is Pleased Because Some Republicans Are Subscribing.

Raising money for the Multnomah County Democracy is not the easiest task on earth, according to Chairman George H. Thomas. Whether the Multnomah County Democrats are broke or just a little bit skittish about delivering their money, Mr. Thomas is not prepared to say. Nevertheless, he says he is quite happy over the results shown so far, because most of the dollars that are finding their way into the treasury are from Republican voters.

"If we had \$1500," said Mr. Thomas yesterday, "we could carry the county like breaking sticks. I am not discouraged, even if the largest subscriptions thus far have been only \$25, and there have been only a few of these. We are plucking up a dollar here and a dollar there, and I would only be too glad to print the names of those who subscribed, but a great many of them are Republicans and refuse to make public their donations or be known other than as cash."

Mr. Thomas takes the subscription of Republican money as a hopeful sign. In fact he is so joyful over the fact that when one of the wealthiest Democrats, a man who is credited with having "all kinds of money," donated only \$25 and refused to have his name inscribed alongside of the donor, "I sit around Democratic headquarters and the man had two reasons for not wanting his name mentioned. One was that he was too modest to do it, and the other was that he did not want his brethren to know just how little he gave."

It was announced yesterday at headquarters that John H. Stevenson, ex-Deputy District Attorney and former newspaper man, would stump Eastern Oregon for Bryan. Mr. Stevenson will go into the sage brush country and be one of the Bryan spellbinders.

WANT PAY FOR CAMP

Washington N. G. May Sue to Obtain Pay Said to Be Due.

TOM REYNOLDS TRANSFERRED

Comes to Portland After Long Wells Fargo Service.

Salem Statesman. After being a resident of this city off and on since 1857, and for the last 18 years agent for the Wells Fargo Express Company in the local office, "Uncle" Tom Reynolds has received a transfer to the Portland office and it is said there goes with it a well-deserved increase in salary.

Mr. Reynolds is one of the most well-known citizens of Salem. In 1857 he arrived in Salem after serving a year as Army messenger at the Dalles. He immediately took a position with the Statesman. At that time A. Bush was editor. It was here he learned the printing trade, temporarily deserting it for another year in the Army in 1858. After leaving the Army he spent several months on The Oregonian, working as a printer, but was appointed Deputy Sheriff under J. J. Murphy in 1863 and returned to Salem.

Excavating Proves Fatal.

SEATTLE, Sept. 30.—John Orstul, an Italian laborer, 30 years old, and his son, Dominio, 22 years old, were caught under ten tons of earth in a collapsing excavation wall at Third and Madison this morning and the old man died on the way to a hospital. The son escaped with severe bruises. This is the eighth death of a similar character in the city during the past six months.

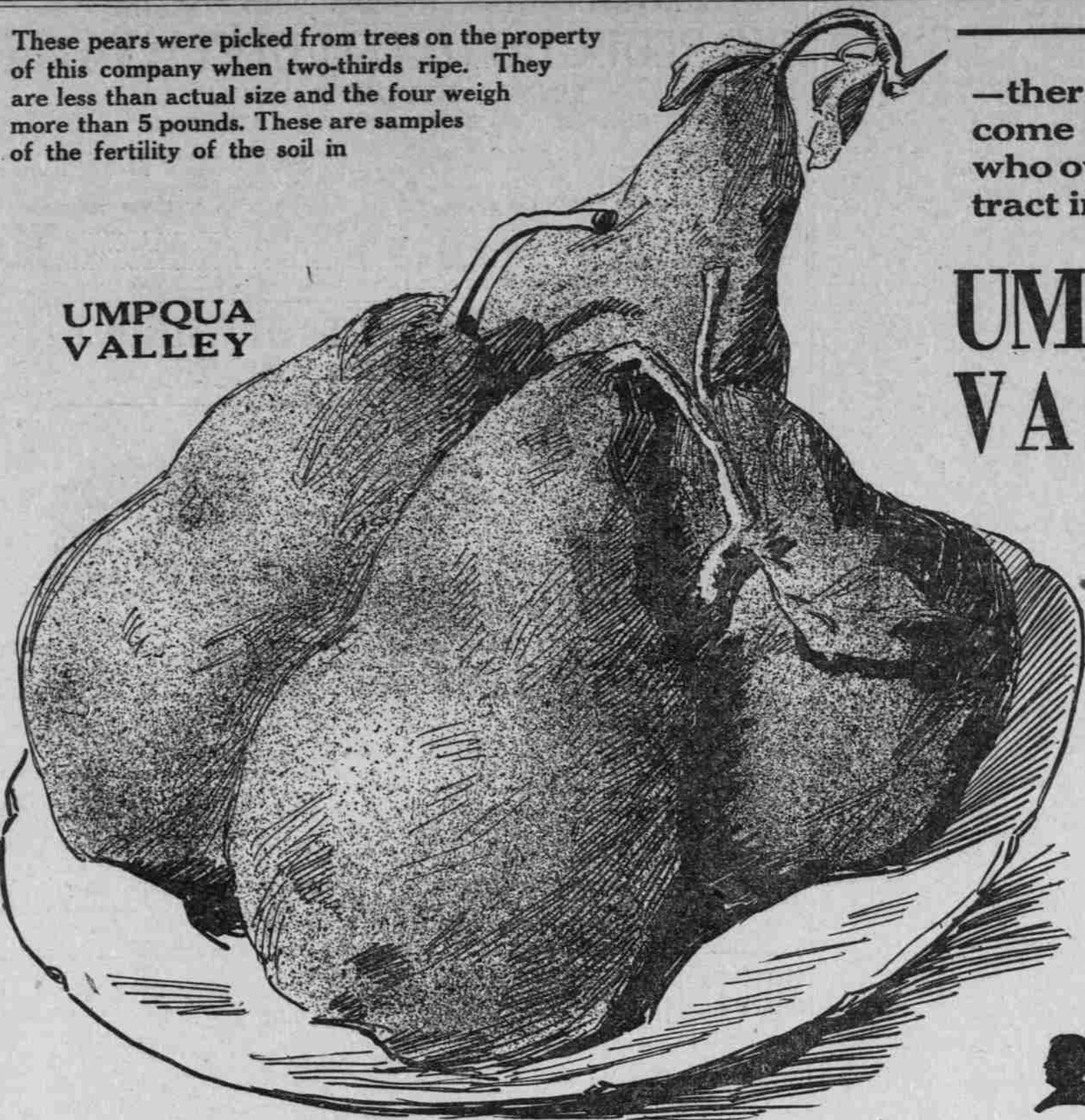
MADISON BRIDGE IS SHAKY

No More Cars With Trailers to Be Run Over Structure.

Beginning this morning no more cars with trailers will be run across the Madison-street bridge. An order to this effect was issued yesterday by the city engineer.

These pears were picked from trees on the property of this company when two-thirds ripe. They are less than actual size and the four weigh more than 5 pounds. These are samples of the fertility of the soil in

UMPQUA VALLEY



—there's a life income for the man who owns a 10-acre tract in the

UMPQUA VALLEY

The Roseburg Home Orchard Tracts are located in the Umpqua Valley, the richest, earliest and most productive valley in the State of Oregon. The scenic environment is magnificent and the climate is unexcelled anywhere. Rainfall only 35 inches per year and irrigation unknown. Fruit raised here commands a premium in every market. Fruits are not only two weeks earlier, but the apples and pears develop a higher color and possess a more delicious flavor than in any other section of the Northwest. Soil is a sandy loam, and is all river bottom land. Drainage perfect. Pure water and an abundance for domestic use. Less wind than any part of the world. Tropical fruits of every kind save citrus. Originally known as Garden Valley.

WHAT IT MEANS TO YOU

The purchase of 10 acres of this land now, before the price goes soaring, at our low price of \$150 per acre, easy terms, means a life income of from \$4000 to \$5000 a year to you when the trees we will set out this Fall come into bearing. Buy and pay for your tract now and live in luxury the balance of your days. It means home, fortune and independence for you. NOT A SINGLE ACRE OF THIS LAND WILL BE OBTAINABLE FOR \$150 per acre after this week.

COUPON
W. C. Harding Land Co.
80 Fourth St.
Please tell me all about your ROSEBURG HOME ORCHARD TRACTS and inform me how I can join your party of 10 people, leaving Saturday, AT NO EXPENSE TO ME.
Name.....
Address.....

HOW WE DO IT

We offer this land at \$150 per acre, upon the easiest kind of terms. We will set it all out to trees this Fall at actual cost. We will attend to the development of the orchard, if you wish, for three years. Meanwhile, we will set out such vegetables as will net the largest profits between the trees. This will be at our expense. We will cultivate the soil, plant and harvest the product, sell it for you and turn over one-half the net profits to you. WE WILL TAKE 10 PEOPLE DOWN TO THE PROPERTY SATURDAY. Will you go?

W. C. HARDING LAND COMPANY, INC.

80 Fourth Street Board of Trade Building—Ground Floor Main 5465, A 3229

fect was issued yesterday by the County Commissioners.

"We are afraid the old bridge will not stand such heavy traffic as has been going over it all Summer," said Webster last night, "and for that reason have felt that the order was necessary."

The Estacada cars, which on Sundays sometimes run in four-car trains, will be the most seriously affected. The order will also affect the heavily-loaded Mount Scott trains and those of the Oregon City line. As the Oaks has now

closed for the season, the cars on that line will not be affected.

Disappears, but is Found.

ALBANY, Or., Sept. 30.—(Special.)—Leaving a note stating that she would never return and that it would be useless to search for her, Mrs. W. T. Anderson disappeared from her home in East Albany early this morning. Her absence occasioned considerable alarm until she was found about 10:30 o'clock

four miles north of Albany, having walked that distance. Mrs. Anderson left a six-months old baby and other small children at the house. Her mind seems to be in a normal condition but she will give no reason for her action.

Bute, Mont.—What apparently was the tail of a comet, very distant, was witnessed in the heavens of this city from about 9 o'clock until 10:30 Wednesday, when clouds obscured further observation. The streak showed no vibrations. The phenomenon was also observed in Missoula.

SAYS IT MUST MAKE GOOD

PRESIDENT CAMPBELL TELLS OF UNIVERSITY'S DUTY.

Outlines Expenditure of Recently Acquired Appropriation Before Large Assembly.

UNIVERSITY OF OREGON, Eugene, Or., Sept. 30.—(Special.)—President Campbell addressed the students this morning in Villard Hall at the regular assembly hour. He outlined briefly the disbursement of the recently secured appropriation. Forty-six acres of land were purchased this Summer to provide for the expansion of the University. The library, "the heart of the institution," as President Campbell called it, came in for a good share of the money. He mentioned the large increase in the working force, the growth of the correspondence department, the changes in the faculty, the new buildings, and dwelt at length on the marvelous growth in the registration, which at present is close to the 500 mark, or about 100 more than this time last year.

"The necessity of making good our promises is a very serious responsibility," said President Campbell. "The state gave us the appropriation and 'making good' should be the keynote of the year's work." He emphasized the need of well-trained men in all activities and especially pointed out the seriousness of the first year's college work and the need of a capacity for sustained effort and regularity in habits.

Miss Morgan, of the music department, rendered a piano solo. The attendance was probably the largest at any opening assembly in the history of the institution. The first regular meeting of the student body occurs next Wednesday.

Technical Point to Be Decided.

Upon the question of whether or not the Presidential election is a general election hangs the placing of the Mount Scott annexation question on the ballot at the election next month. Judge Gantenbein of the Circuit Court, issued an alternative writ of mandamus yesterday directing County Clerk Fields to place the question on the ballot, or show cause Friday morning why he should not. Deputy District Attorney Thad W. Vreeland will represent Mr. Fields when he appears for court Friday. O. N. Ford filed the petition for the writ. Charles Stout and George F. Martin will represent him.

September Work of Juvenile Court.

During September 27 children were taken before the Juvenile Court, 29 being boys and seven girls. Three were taken before Judge Gantenbein for burglary, four for larceny, one for smoking cigarettes and two for vagrancy. Five were incorrigible and one was guilty of destroying property. It

was found necessary to send two to the Oregon State Reform School, two to the Boys' and Girls' Aid Society and three to the Frazier Detention Home. One was remanded to the Circuit Court and 12 were placed on probation. Warning was given to three, their cases being dismissed after three months. Cases were dismissed for want of evidence. The ages of the children were as follows: Ten years and under, 9; 11 to 13 years, 4; 14 to 15 years, 4; 16 years, 5; 17 years, 2. The nine children who are classed as dependent were brought in to court because of family troubles, carelessness and indolence. Letters of warning were sent during the month to 22, and 17 cases were investigated but not brought into court.

GRANGE FAIR A SUCCESS

Admission Included Dinner and Yankton Was Very Busy.

ST. HELENS, Or., Sept. 30.—(Special.)—The fair held at Yankton, four miles from St. Helens today, was the first exhibit of agricultural products and stock in the history of Columbia County. It was managed and financed by the local grange of the Patrons of Husbandry and was a remarkable success in every particular. The exhibits in every line were excellent and the display of the horticultural products was worthy of special commendation.

A novel feature of the fair was that the admission price included dinner, and the resources of the community were taxed to feed the throng of nearly 600 who gathered at the tables. All premiums were paid in full as soon as the awards were made. In addition to the hall display, there was a fine showing of stock and poultry. The success of the venture will probably lead to the organization of a fair association to conduct an annual county fair at some convenient point.

BLACK DRESS GOODS.

Black dress goods and silks on sale today at wholesale prices. The most complete stock of high-grade fabrics in the city. McAllen & McDonnell, Third and Morrison.

Owls Again in Difficulties.

SEATTLE, Sept. 30.—Charles H. Wood, former grant secretary of the Grand Nest of Owls, this morning brought suit in the Superior Court against that organization for \$146.33, alleged to be due for services. Members of the Owls say this action at law is the culmination of the series of financial troubles which have beset the order since its inception and that it may sound the death knell of the brotherhood.

NEED A NEW SUIT?

Want it Tailor Made? For less than ready-made? Read this afternoon's papers. COLUMBIA WOOLEN MILLS CO.

OREGON VETERANS IN MANILA CELEBRATE ANNIVERSARY OF ARRIVAL OF THE SECOND OREGON REGIMENT IN PHILIPPINES.

The above photograph was received yesterday by Colonel Charles E. McDonnell. Under the picture the following is printed: "Let us forget." Those of us who are left celebrating at Manila, P. I. on June 19, 1908, arrival of Second Oregon Volunteer Infantry, at Cavite, P. I. on June 30, 1898. The six musketeers 10 years after landing are (reading from left to right): Top row—Captain J. Frank Case, Chief Engineer Sewer and Water Works Construction of Manila, P. I.; First Lieutenant George N. Wolfe, Director of Insular Prisons, Manila, P. I.; First Lieutenant Albert J. Brazee, manager of the Philippine Plantation & Commercial Co., at Masbate, P. I. Lower row—Captain H. L. Heath, general manager of the Philippine Plantation & Commercial Co., of San Francisco, and the Portland Cordage Co., of Portland, Or., and Seattle, Wash.; Major Phillip G. Eastwick, manager International Banking Corporation, at Manila, P. I.; Captain Elmer O. Worrick, owner and manager of the Morene Hemp Estate Co., of Dait, Province of Ambos Camarines, P. I.

