

SEEKS TO PROVE ITS SURVEY PRAR

Oregon Trunk's Contention Set Forth by Argument in Injunction Suit.

CAREY SPRINGS SURPRISE

Counsel for Hill Line Submits Affidavits From Two Men Reputating Their Previous Affidavits in Interest of Harriman.

Included in the counter affidavits filed in the Federal court yesterday by counsel for the Oregon Trunk in the hearing in the Deschutes Injunction suit, were two by Scott E. Gordon and George Alexander. These young men also had subscribed to affidavits in the interest of the Deschutes Railroad, certifying that no part of the survey for the Oregon Trunk was made between February 24 and April 3, 1906. These affidavits were read in court Tuesday, but yesterday Judge Carey, after a hearing, declared that something of a surprise when affidavits from both of these men, executed subsequent to the date of their first statements, were submitted. In these, the young men, who were members of the original surveying crew, which operated for the Oregon Trunk in the Deschutes Canyon, declare their positive knowledge that a great deal of the surveying was performed by the Oregon Trunk officials during the months of February and March, 1906. This constituted a complete repudiation of the essential fact to which they swore in their first affidavits.

Judge Carey spoke for over three hours yesterday and presented the contentions of the Oregon Trunk people, who assert a priority of right for their survey in the southerly 60 miles of the Deschutes Canyon. He charged that the Deschutes Railroad Company, the Harriman road, was not organized until February, 1906, or after W. P. Nelson, one of the incorporators of the Oregon Trunk, had completed his surveys up the Deschutes River. The southerly 60 miles, explained Judge Carey, were surveyed by the Oregon Trunk done between October, 1905, and January, 1906, while the survey for the first 40-mile section was made early in 1906. Later this survey was checked over, between February 24 and April 3.

Oregon Trunk Surveys Appropriated In support of his application for a permanent injunction against the Harriman road, Judge Carey pointed out that the maps of survey of the Oregon Trunk for the 60 miles involved in the suit had received the approval of the Secretary of the Interior, while the maps of the Harriman people for the same distance have not been acted upon for the reason he charged that the Harriman operatives were only trespassers and properly should be enjoined from interfering further with the survey of the Oregon Trunk in view of the fact that it had received the approval of the Interior Department.

Judge Carey insisted the approval by the Secretary of the Interior of the maps of survey for the Deschutes Railroad was essential before that road could have any standing in the Federal court. Counsel took the position that the Secretary of the Interior is final and conclusive and not subject to modification. The position of the Harriman people was declared inconsistent for the reason that it had no right to appear in a court of equity when the issue involved in the hearing was pending before the General Land Office. The charge was that the survey of the Oregon Trunk is irregular, Judge Carey said that mistakes in a survey are not regarded vital when a bona fide intention is shown by the company to build a line of railroad. This evidence of good faith, alleged counsel, always had been manifested by the Oregon Trunk from the time of its incorporation.

Legality of Corporation Discussed. Judge Carey argued at considerable length to show that the Oregon Trunk was properly incorporated and entitled to transact business in this state. He said the company was formed under the general incorporation laws of the State of Nevada, and that the articles of incorporation were wide as to the scope of business activities authorized. He charged the charge of the opposition that the Oregon Trunk was not entitled to do business in this state at the time it made its survey, not having the filing of articles of incorporation with the Secretary of State. Judge Carey said there was nothing to prevent a railroad company from acquiring a survey of the land prior to its incorporation so long as the actual time indicated for making the survey, when submitted to the Interior Department, did not conflict with intervening rights.

Defending the regularity of the Oregon Trunk survey, Judge Carey said that the grant to public lands does not attach to a railroad until the map of survey has been approved by the Interior Department. In the case of the Oregon Trunk, he pointed out that its proposed 60-mile section were approved by the Secretary of the Interior in the Summer of 1906, over two years after the company had filed its articles of incorporation with the Secretary of State and was qualified to do business in this state. Counsel insisted that the Deschutes Railroad was without any rights in the land. The question of the legality of the incorporation of the Oregon Trunk and the regularity of the proceedings by which it acquired the grant of its survey, he said, should be raised by either the United States or the State of Oregon and not by the defendant Harriman road.

Cotton Concludes Argument. W. W. Cotton concluded his opening argument shortly before noon yesterday. He alleged that the Harriman interests were the only people who seriously contemplated building a road into Central Oregon. He charged that the survey for the Oregon Trunk was so irregular that if adopted as final it would be responsible for any other company to construct a railroad up the Deschutes River. He questioned the legality of the Oregon Trunk incorporation and its authority to operate in this state, declared that the survey for the 60 miles which had been approved by the Interior Department was not made during the time represented in the affidavits of the officials of the company and charged that fraud was practiced by the Oregon Trunk in securing the approval of its maps by the Secretary of the Interior. Judge Carey expects to conclude his argument before the noon adjournment today. He will be followed by his associate, J. B. Kerr, and Mr. Cotton will

NEW TEACHER SELECTED

Professor Edward A. Thurber to Succeed Dr. Carson at U. of O.

UNIVERSITY OF OREGON, Eugene, Or., Aug. 18.—(Special.)—Professor Edward A. Thurber, of the Department of Education of the University of Missouri, has been elected head of the department of

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MISSING GIRL HERE

Custodian Refuses to Turn Her Over to Japanese.

HE REVILES TOT'S MOTHER

Caretaker, Portland Hotel Cook, Explains Case to Police—Juvenile Court Takes Charge of Little Mildred Waldorf.

The mysterious disappearance of Harry E. Hallock, formerly of Astoria, with Mildred Waldorf, the 5-year-old daughter of Mrs. Beads Brown, of Astoria, who, with the child left, that place four weeks ago on route to Boise, Idaho, where the little girl was to be delivered to her grandmother, was cleared up yesterday morning. Hallock appeared at a police headquarters and gave an explanation, which exonerated him of any wrong.

According to Hallock's story he is well acquainted with Mrs. Brown and agreed to come to Portland with the child and work until either he or Mrs. Brown acquired sufficient money to defray the child's expenses to the Idaho city. Since that time he said, he has been employed as night cook at the Hotel Portland and the little girl has been under the care of Mrs. J. Oliver, of 600 Fourth street. Two Japanese, I. Kinosa and F. K. Nobuyee, who were commissioned by Mrs. Brown to get the child from Hallock, will return to Astoria without her as a result of Hallock's refusal to turn her over to them. Acting Chief of Police Moore ordered the girl sent to the Juvenile Court after Hallock's statement that her mother is not a proper custodian.

Patrolman Barze, who was detailed by Acting Chief Moore to investigate Hallock's care of the child, reported that from what he could learn the little girl had been treated in the most considerate manner, being dressed well and provided with a good home.

SALOONS MUST BE SEEN

Spokane Relentless in Enforcing New Law.

SPOKANE, Wash., Aug. 18.—(Special.)—In spite of the decision of the City Council in the case of Wilmont, the police department will insist that all partitions, screens and other devices, be removed from saloons entirely. We shall insist that the law be lived up to strictly in all other cases.

The above statements were made by Police Commissioner Carl W. Tuerke. "In some places I notice that they have glass partitions, but that the view is obstructed by means of large placards. These will have to be removed."

Reception Today for Mrs. Jewett. Mrs. Cornelia Jewett, president of the Women's Press Club of Illinois and editor of the Union Signal, official organ of the W. C. T. U., who has been the guest of Mrs. A. W. Unruh, a prominent business woman of the local union, will be the guest of honor at a reception to be given by Miss Anne S. Monroe at her home in Woodstock this afternoon. Mrs. Jewett came to the Coast as delegate to

the National Editorial Association's recent convention in Seattle. While there Mrs. Jewett acted as correspondent for several Eastern papers, covering the sessions of the National Council of Women and the Woman's Suffrage convention. Mrs. Jewett leaves tonight for San Francisco.

Keelo Votes Bonds. KEELSO, Wash., Aug. 18.—(Special.)—At the special election yesterday, the voters of Keelo voted 402 for bonds called for the purpose of voting on the bond issue of \$25,000 for the purchase of a fair grounds, ball park and city park, and the erection of a new city hall and fire department house. The voters decided to grant the council the right to issue these bonds. The vote was about two to one in favor of the bond issue. The city hall will be erected on the site recently purchased by the city. The park will probably be purchased from the Catlin estate at West Keelo.

The smelter production of lead in the United States in 1908 was 458,223 tons, valued at \$2,015,000 and 418,860 tons in 1909.

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