### THE MORNING OREGONIAN, FRIDAY, AUGUST 20, 1909.



# HAS NO RIGHTS Hill's Lawyers Consume All **Day Attacking Deschutes**

Road's Standing.

ASSERT HARRIMAN

## **OBSTRUCTION IS CHARGED**

Legal Battle for Control of Valued Possessions in Central Oregon Territory Continued in Federal Court - Many Affidavits.

Fortified with more counter affidavits, ounsel for the Oregon Trunk spent all day yesterday in the Federal Court defending the legality of their incorporation and urging the sufficiency of their survey for the southerly 60 miles of their proposed railroad up the Deschutes River. Judge C. H. Carey concluded his argument for the Hill road just before the noon recess, and was followed by his associate, J. B. Kerr, who spoke for three hours in the afternoon. Mr. Kerr will close this morning and will be followed by W. W. Cotton, who will con-clude the argument for the Deschuter MI Railroad, the Harriman extension. Cotton seld last night that it would take him about two hours to complete the presentation of his side of the con-

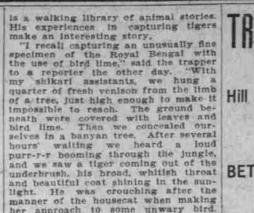
### Harriman as Obstructionist.

Before concluding his argument yester-day Jugge Carey made the charge that the Harriman people in their occupancy of the Deschutes Canyon were obstructionists, doing everything in their power to impede the Hill forces in their opera-tions. Counsel alleged that the attitude of the Harriman forces was such as not to indicate any serious intention on their part of constructing a railread, but rather to retain control of the Desclutes Canyon and prevent the entrance into Central Oregon over that route by any other company other company

substantiation of this direct charge Judge Carey submitted an affidavit by Johnson Porter, who has charge of field construction work for Porter Bros., in which Porter swore that Construction Engineer Brandon, of the Harriman lines, has told him that Brandon was not proceeding with any serious construction work, but was directing his activities to make such a showing that the Deschutes make such a showing that the Deschates Railroad might control the right of way situation up the Deschutes River into Central Oregon. In his affidavit Mr. Porter further deposed that the plans and specifications issued from the en-gineering department of the Harriman line did not contemplate a modern and efficient railroad, but rather what would amount to a logging road.

#### Have Practicable Surveys.

Another affidavit was presented from T. C. Hanaford, engineer in charge of field work for Porter Bros. in which Hanaford swore that in checking up the old survey of the Oregon Trunk he had no trouble in following the line by the no trouble in following the line by the maps filed and approved, the grade stakes as a rule being found intact. Later in the day further affidavits by George E. Nelson, brother of W. F. Nel-son, original incorporator of the Oregon Trunk: C. L. Smith, and C. R. Crosswell, chief emphases of the Sondrame Portland chief engineer of the Spokane. Portland & Seattle Railway, were submitted, in which the general character of the surhich the general character of the sur-ey by the Deschutes Railroad was at-tacked as indefinite and insufficient in the fact that each of the Duff con-tingent has a lengthy criminal pedi-



He seemed nonplussed that he could not get at the meat. After a moment's pause he gathered up his long back and sprang high into the air, but without success. Uttering an angry growl of disappointment, he made an-other attempt. All at once the great brute realized that something unusual hed hermoned to big fact and loss. He had happened to his feet and legs. He raised his paws and saw a lot of leaves

sticking to them. "Showing signs of annoyance, he tried to rub the leaves away by pass-ing his paws over his head and against his cheeks. He succeeded in getting most of the leaves off his feet, but they adhered to his head, ears and jaws. These he attempted to remove by using his paws, but he only added more, by this time covering his ores. Then he tried rubbing his head along the ground, temporarily blinding him-

"By this time be had lost all patience and thought only of freeing himself. Springing into the air, dashing himself against the trees, scraping with his huge paws, growling, howling and screaming, he finally exhausted himself screaming, he finally exhausted himself and sank upon the ground. In this condition he was covered with meshes of strong netting and rolled into a heavy iron-bound temporary cage. Today he is one of the finest specimens of the Royal Bengal in the big me-magerie of the Ringling Brothers' cleans"



POLICE BELIEVE NOTORIOUS

Tip Received From East That Pro-

The recent depredations committed various parts of the city and which

smooped down upon the city from all parts of the country. All day yester-day the police toiled in their efforts to locate the Duff gang of confidence men and bunco-workers. Under the leadership of Hugh Duff, a notorious crock, eight of the lik are

Scattle. The cleverness with which the holdup of the Union-avenue saloonkeeper was accomplished early Tuesday morning bore the earmarks of profes-sionalism. This crime, the police claim, was perpetrated by a pair well versed in their vocation, and are supposed to be part of the gang of culprits which

brellas; latest style handle \$1.50 isition of the Oregon Trunk by Hill,

### No Standing in Court.

vital particulars.

Mr. Kerr, who followed Judge Carey, gave an exhaustive resume of the points raised by his associate in support of the contentions of the Oregon Trunk as to the sufficiency of Rs survey. Mr. Kerr in-shied that the controversy involved only a question of property rights and not an adjustment of the rights as between the two contending railroads. He reiterated two contending railroads. He reiterated the statement of his associate that the Oregon Trunk, by the approval of its maps of survey, covering the upper 60 miles, had acquired from the Government title in fee simple to a strip of land 200 feet wide and 60 miles in length. He asserted further that the Deschutes Rall-road, which was without any standing in the court, was seeking to deprive the Hull coad of its property rights desnite Hill road of its property rights despite the fact that the Harriman road did not undertake to make a survey of the upper undertake to make a survey of the upper part of the Deschutes canyon until the Fall of 1908 or three months after the maps of the Oregon Trunk had been ap-proved by the Secretary of the Interior. He cited authorities and decisions to show that the Deschutes road possessed absolutely no title, priority of survey or priority of location to the 60 miles of disputed territory.

#### Harriman Has No "Rights."

Mr. Kerr renewed the contention of the Hill people that no property rights are acquired to public land until maps of survey are approved by the Interior De-partment. For this reason, averred coun-sel, the Harriman representatives were entirely without property rights for the reason that their maps of survey had not there acted upon. Counsel insisted fur-ther that the Secretary of the Interior, being constituted a special tribunal with judicial powers concerning all matters relating to the disposition of public lands, his rulings are final and conclusive and

annot be annulled. It was contended by Mr. Kerr that the receedings by which the Oregon Trunk proceedings by which the Oregon Trunk had acquired its survey were regular in every respect. If any fraud was practiced by the Oregon Trunk in obtaining an ap-proval of its survey, said he, the fraud was not of such a character as to call for any inquiry, particularly at the in-stance of the Harriman people, who were "strangers and trespassers having no privity with the United States."

#### Rooney's Heirs Suc.

Patrick Booney, administrator of the estate of Fred J. Rooney, deceased, yes-terday filed suit in the United States, Court against the Portland Railway, East Sixth street, in the exemplification of the Austin side-degree, said by mem-bers of the W. O. W. order to be the best ever seen. Austin and Hoy and several Light & Power Company for \$7500 damother Spokane men will arrive in Port-land this afternoon. The occasion of the meeting tonight is ages. The plaintiff charges that young Rooney was struck and fatally injured the celebration by the camp of the fact that it has secured more than 100 new members in the last few weeks, increasone of the defendant company's by one of the defendant company s strestcars at Third and Main streets, Au-gust 27, 1907. It is alleged that the street-car was traveling at the rate of about 12 miles an hour, in violation of the city ordinance, and that it was provided with defective brakes and fenders. ing its membership from 1300 to 1400. The banquet hall has been arranged to seat 600 and after the side degree is exemplified, a feast will be served.

# TIGER CAUGHT WITH LIME. Trapper With Ringling Circus Tells How Royal Bengal Was Snared.

Probably the most difficult of all wiid-animal trapping is that of a well-developed Bengal tiger. There is with Ringling Brothers' Circus, which ex-hibits here next week, a trapper who recently returned from Calcutta with a consignment of Asiatic animals. He

Jack Austin and J. F. Hoy, leaders of

MEETING.

Jack Austin,

tingent has a lengthy criminal pedi-gree, consequently their "muga" are kept as a precautionary adornment in the rogues' gallery, and it behooves them to give the local authorities a wide berth. It was learned from authoritative sources late yesterday that a member of the Duff gang was given a "quiet" tip as to the intention of the police to round the gang up. It is probable that himself and colleagues will not tarry longer here, and they will make an effort to put as much distance between the Sources Kalama and Tacoma. of the Duff gang was given a "quiet" tip as to the intention of the police to round the gang up. It is probable that himself and colleagues will not tarry longer here, and they will make an effort to put as much distance between themselves and the local police as posthemselves and the local police as pos-

the Northern Pacific between Kalama and Tacoma. Delay on the part of the Union Pacific to inaugurate its Portland-Seattle train ærvice is understood to be due entirely to its inability to assemble the necessary equipment for that zervice. It is even in-timated that the Harriman road has sac-rificed its through service to Puget Sound temporarily in order to install its spe-cial through limited train between this city and Chicago. W. O. W. WILL CELEBRATE

Lodge to Make Merry Over Big Increase in Membership.

To Scattle September 1.

It is learned unofficially that an extra the Washington Woodmen of the World, will preside tonight at the W. O. W. Hall of the Multnomiah Camp No. 77, 112 effort will be made by the Union Pacific officials to start a preliminary service to the Sound, under its agreement with \* HE WILL PRESIDE AT W. O. W.

to the Sound, under its agreement with the Northern Pacific, on September I. There is a possibility, however, that the service cannot be started that soon. It all depends on the ability of the system to assemble the required equipment, and it is possible that the service may not be installed before next Spring. At any rate, the assurance is given from an un-official source that this service will be established eventually.

stablished eventually. The threatened battle between the two The threatened battle between the two systems for passenger traffic between the East and the Pacific Northwest did not develop until after the Union Pa-cific had contracted with the Northern Pacific for the joint use of the latter company's track between Portland and Puget Sound, and for that reason will not serve to block the arrangement, which is generally known to have been which is generally known to have been

Where Is John F. Stevens?

Where is some F. Suevens, Neither John F. Stevens, personal rep-resentative of J. J. Hill, nor his asso-olates here in Portland will confirm the report that Stevens, early this week, vis-ited the McKenzie Valley, in Lane Coun-ty. It is known that Mr. Stevens was in Portland last Sunday, and he was in-terviewed by newspaper men Tuesday. He was also in the city Wednesday and yesterday, so that if he visited Eugene at all it was on Monday. It is gener-ally suspected that the purchase by Hill, through Stevens, of a controlling Inter-

through Stevens, of a controlling inter-est in the Oregon Trunk indicates his determination not only to invade Centra Oregon, but to build eventually a railforegon, but to build eventually a rall-rond to San Francisco, with lateral lines across Oregon. Coos Bay being one of his objective points within the state. His mission in visiting Eugene undoubtedly was to determine the feasibility of the McKenzie River as an outlet from Cen-tral Oregon for the construction of a road into the Coos Bay country. The Willamette Valley Company, of which A. Weich is president, owns valuable water power sites along the McKenzie River and a right of way up the McKenzie Val-ley. It would not be regarded surpris-ing, if Hill really intends to build to Coos Bay, that his personal representa-tive may even now be negotiating with the Weich interests for their right of way in the McKenzie Valley.

way in the McKenzle Valley.

Ladies of Maccabees to Meet.

Ladies of the Maccabees of Portland and vicinity will hold a convention Tues-day, August 24, in the L O. O. F. Hall, at East Sixth and East Alder streets, when various matters of importance to the order will be considered. Minnic

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Aydelotte, supreme chaplain: Alice B. Locke, state commander of Colorado; Nel-lie M. Lambson, state commander of Washington, and Alice Porges, state commander of Oregon, will be in attend-ance. The morning and afternoon ses-sions will be for members only. The public, however, will be admitted to the might session. night session.



MULTNOMAH WRESTLER WILL COMPETE IN CALIFORNIA.

Probably Only Winged M Athlete to

Enter Games at Portola Festi-

val in October.

Edgar Frank, the crack 125-pound wrestler of the Multnomah Club, is to be

given a chance to demonstrate his prowess next Fall preparatory to his trip to Athens next May, when he will engage in the Olympic contests. Frank will wrestle in San Francisco in October at the Portola festival. Frank Walkins, chalr-man of the athletic committee at the M. A. A. C., says that in all probability Frank will be the only athlete sent from the Multnomah Club to the Portola fes-

the Anishman club to the resepcts, tival. This featival, which in some resepcts, corresponds to the Rose Carnival held in Portland, includes athletics of every va-riety. Track games have been arranged and it was hoped that Forrest Smithson could be sent to enter the high hurdles, and while there is a remote possibility that this will be done it is thought that when the these season weather condithat this will be done it is thought that towing to the late season weather condi-tions will not allow adequate training fa-clifties. As Smithson is now after a world's record in the high hurdles, it is thought unwise to send him under any other than the best conditions.

Frank will have some hard competition in the south, where he will be pitted against the best athletes of California. His record is so well known as a wrestler that comment is almost unnecessary other than to state that since 1991, when a stored graviting he has not with but the started wrestling, he has met with but one defeat at his weight. He will not attempt to go out of his class in Call-fornia as there are several of the best 125-pound men of the country there and a string of victories will add much to his setting as a wrestler preservery to the

cating as a wrestler preparatory to the Olympic championships.

Today is positively the last day for dis-count on East Side gas bills. Read "Gas Tips."



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Fined \$50 for Assault. Andy Powell was fined \$50 by Circuit

Andy Powell was fined \$50 by Circuit Judge Gatens yesterday, having pleaded guilty to a charge of simple assault. The trouble occurred over a dog fight, Powell being knocked down and in turn strik-ing Floyd P. Brown, his supposed as-sailant, a blow which broke Brown's glasses and cut his eye. Powell paid his fine at once.

