DEFENSE TO SUIT

Railroad Seeks to Show Rates Give Only Fair Return on-Investment.

OFFERS EXPERT WITNESS

Engineer Pope Testifies Regarding Cost and Present Value of lines

Commission

Hearing.

Resisting the demand of Portland mer-chants for reduced distributive rates eastward over its lines, the O. R. & N. yesterday began the introduction of defensive testimony before the members of the interstate Commerce Commission, in session in the Federal building. Corcrative of the opening statement of roborative of the opening statement of W. W. Cotton, general counsel for the Harriman system, J. B. Pope, civil engineer, of San Francisco, the first witness called by the railroad, testified that to reproduce the lines of the O. R. & N. in the States of Oregon, Washington and Idaho would cost \$89,665,722, while the original cost, according to estimates submitted by witness was \$63,244,892.57. submitted by witness, was \$63,244,892.57.
On this foundation, it is the contention of Mr. Cotton that existing distributive

rates changed Portland shippers render the railroad company only 7 per cent on its first investment, to say nothing of the actual present value of its property.
On cross-examination, J. N. Teal, who appears as attorney for the complainant, the Portland Chamber of Commerce, sought to show that the estimates of the cost of duplicating the various roads in-cluded in the O. R. & N. system, as sub-mitted by Mr. Pope, were badly inflated. In this connection Mr. Teal called attention to the fact that Mr. Pope had esti-mated the cost of untreated ties at 52 cents each, while the report of the O. R. & N. on file with the Interstate Com-merce Commission showed that the same

an average price of 26.2 cents each.

Mr. Teal gained the admission from the witness that the estimated cost of re-producing the system, as presented by Mr. Pope, contemplated an entirely new including equipment, with no atlowance for depreciation.

ties were purchased three years ago at

Road Prosperous Since Reorganized.

"The O. R. & N. owns raircads in Oregon, Washington and Idaho," said Mr. Cotton in his opening statement to the Commission. "The bulk of the roads of which this system is comprised was built 20 years ago and many sections were constructed in isolated sections, in 1893-4 the Oregon Short Line acquired \$14,000,000 of O. R. & N. common stock which it has held ever since. The O. R. & N. has been fairly proeperous ever R. & N. has been fairly prosperous ever since its reorganization in 1896. Its bonded indebtedness has never exceeded \$22,000,000 on its 1400 miles of railroad and it has paid on an average 4 per cent on its preferred stock. The dividend of 79 per cent which was once de-clared represented the earnings during a period of 12 years of operation. For the last 14 years, the earnings of the road have averaged \$4,200,000 annually. "The actual cost of the road in money

en about \$60,000,000. The O. R. & N. did not receive a land grant. Its capital stock was paid for in money with the exception of \$5,000,000 of common stock which was turned over to the the property. The original capitalization of the company, including stocks and bonds, was \$57,000,000.

"Last year the property, which is now worth between \$30,000,000 and \$20,000.

600, sarned about \$5,000,000 in the face of rate reductions. Allowing for the expenses of normal maintenance, the earnings for the year were reduced to \$4.200,000 or 7 per cent on a 30-year-old property without allowing for increase in values. This amounts to less than in values. This amounts to less than if per cent on the reconstruction value of the road, without taking into consideration the advantageous position of the towns with which the road is doing ountness. We will also submit statistics showing that the average rate on four the construction of the constructio is a less rate per ton per mile for a similar distance than that of other roads with which the O. R. & N. has been compared by the complainant in this

Engineer's Estimates of Cost.

Mr. Pope testified that he was a civil engineer of 23 years' experience, and with from seven to 21 assistants had spent 18 months in determining the original cost of the O. R. & N. lines and what it would cost to reproduce the same lines today. Mr. Pope said that the figures on which he computed the original cost of the different roads were obtained largely from the auditor's records. This estimated cost. aggregating \$53.244,892.57, was distributed among the following items: Lines in Washington, \$17,352,350.19; lines in Oregon, \$33,257,827.73; Columbia Southern, \$1,253,775.68; Columbia River & Oregon Central, \$1,253,775.68; \$789,349.28; Umatilia Central, \$342,013.28; lines in Idaho, \$3,441.060; waterfront and other real estate, \$1,250,000; Oregon, Washington & Idaho, \$1.885.482.24; Elgin extension, \$1.764.446.77; betterments, \$575.610.34; betterments, \$298.252.15.

The cost of reproducing the same lines today, aggregating 1404.93 miles, according to the figures submitted by Mr. Pope, would be \$89,005,722. This total is made up of the following figures: Construction, including interest and discount, stocks and bonds, \$25,894,762; rights of way and real estate, \$6,275,870; terminals way and real estate, \$6,70,80; tellinand, buildings, yards, shops and equipment, \$4,176,961; rights of way and real estate, \$6,439,829; total cost per mile, \$61,900. Adding to these items solidification of roadbed, material on hand not included, and correction for difference in gradient makes a second of makes a (earth), aggregating \$2,582,217, makes a grand total of \$8,65,722, and increases the cost of the road per miles.

cost of the road per miles to \$63,822.

Included in the foregoing estimate of present-day values of this railroad property are the valuations placed by the rail-road company on its terminal properties in Spokane and Portland, as follows: Spokane Union Depot, Spekane, \$3,196,445; Northern Pacific Terminal Company, Portland, \$2,045,966; O. R. & N., Portland, including Albina shops, real estate and docks and warehouses, \$7,355,209; total,

No Deduction for Earnings.

In estimating the present value of the railroad system, based on what it would cost to reproduce the different lines, the witness, on cross-examination by Mr. Teal, said that he had not made any de-Tesl, said that he had not made any deductions in his estimate as an allowance for the earnings of the road while its construction was in progress, for the reason that the economical rebuilding of the system would require at leaf four years. For the same reason, the witness admitted that he had included in his estimate an item of 5 per cent interest for two of the four years, the average length of time he considered the money would be in use.

Mr. Teal further obtained from the wit-

ness the admission that a deduction of about 19 per cent had been allowed in computing the estimate from the sale of about \$50,000,000 of bonds which the rebuilding of the system would require. Mr. Pope explained that he had not included the original cost of the construction of abendoned sections of the different roads, atther to his estimate covering the first either in his estimate covering the first cost of the roads, or what would be re-quired to replace them.

cost of the roads, or what would be equired to replace them.

Answering Mr. Pope's contention that it would be at least four years before the O. R. & N. system of 1400 miles could be reconstructed and the property placed on a paying basis, Mr. Teal remarked that the Chicago, Milwaukee & St. Paul completed its road from North Dakota to Tacoma in three years, while President Earling, of that road, had announced publicly that when the line was completed to Butte it was earning a fair return on the investment to that point.

Replying, Mr. Pope said that the Chicago, Milwaukee & St. Paul had estabilished a new record for rapid railroad construction in building its Pacific Coast line, a record that could not be equalled by Western roads.

by Western roads.

Accuracy of Figures Questioned, Mr. Teal repeatedly questioned the ac-curacy of the figures on the cost of re-producing the railroad system as sub-mitted by Mr. Pope. Included in the items presented by Pope and relating to the cost of the Columbia Southern was an item of 1302.507, declared to have been paid by that road in the acquisition of rights of way. Mr. Teal challenged the correctness of this item as a cash trans-action, remarking that the great bulk

sction, remarking that the great bulk of rights of way were subscribed to insure the building of this road, which, he said, was acquired subsequently by the Union Pacific system for only \$300,000.

"Is it not a fact, Mr. Pope," inquired Mr. Teal at one stage of the cross-questioning, "that your estimate of the cost of reproducing the lines of the O. R. & N. system in the state of Washington was about \$5,000,000 greater than the estimate of the engineer employed by the Washington Railroad Commission?"

"I do not know what the figures of the

Washington Railroad Commission?"
"I do not know what the figures of the Washington engineer were." roplied Mr. Pope, "So far as that is concerned, I do not think he was competent to pass on the value of railroads and equipment. All the knowledge he has of railroads was gathered during his ebployment as chainman or transitions with some such and the some such and the some such as the sound such such as the sound such as the sound such as the sound such as th n or transitman with some sur-

"What do you suppose he thinks of you?" came back Mr. Teal.
"I am sure I don't know," replied the witness. "I know one thing and that is that he left the State of Washington so as to keep from being questioned by me regarding the estimates he had pre-

The examination of Mr. Pope was not The examination of Mr. Pope was not concluded until just before adjournment for the day. Other witnesses for the O. R. & N. will be called this morning. The Chamber of Commerce concluded its case just before the noon adjournment yesterday. Henry Hahn, president of Wadhams & Co.; Henry A. Connor. manager Pacific Coast Biscuft Company; E. H. Parker, traffic manager Marshall. E. H. Parker, traffic manager Marshail-Wells; A. C. Callan, manager Pacific Hardware & Steel Company, and J. C. Luckel, president Luckel, King & Cake Soap Company, also testified. The testimony of each tended further to show the extent to which Portland's jobbing the extent to which Portland's jobbing trade is being curtailed through the en-forcement of existing freight tariffs as applied to distributive rates.

JUDGE WOLVERTON TO HEAR FOUR CASES THERE.

Southern Oregon City to Hold Its First Session of United States Court Thursday.

that distinction. Yesterday a trial jury was drawn to deliberate on four cases to be tried by Judge Wolverton in Med-October II at 10 o'clock in the morning.
Three of the cases to be tried by Judge
Wolverton in the Southern Oregon city are damage suits against the Southern Pacific Railway Company, one of which has been hanging fire for the last four years. The other is entitled La Molna-Lumber & Trading Company against Silby, a suft over lumber wherein the plaintiff seeks \$16,625 and costs.

Damage suits against the Southern Pa-cific to be heard are us follows: George W. Light, who seeks \$20,000 damages for W. Light, who seeks \$20,000 damages for personal injury, the complaint having been filled in 1900 and a new trial granted; the D. W. Hazle case and the suit filled by Mrs. H. C. Colby in Jackson County wherein \$7500 is sought for the death of her husband in a railway accident.

The panel drawn by Judge Wolverton yesterday includes 26 farmers, two capitalists, two miners, a liveryman and a printer. The men selected are:
Lewis knipps.

Raiph Billings.

Raiph Billings.
Sam Howlet
Howlah Pardes,
Fred Smith,
Thomas Riley,
Will Kerby,
T. E. McKoln,
L. B. Hall,
Thomas Young,
J. O. Grimes,
J. O. Griffin,
C. H. McCann,
E. H. Maddox,
Thos. Gilligan,
Tyson Beall,
L. McColm, Lewis Enipps, Benton Bowers,

TERRY NOW SELLING BOOKS

Former Deputy Marshal, Alleged Wife Beater, in Eastern Oregon.

L. Terry, ex-Deputy United States Marshal, who fied Portland nearly two years ago, following a charge of wifebeating preferred against him by Mrs. Terry, is said to be selling law books in Eastern Oregon. As his alleged offense has almost run the statute of limitations it is not believed the arm of the law will reach out for him.

If apprehended, Terry will most probaby face another charge, as some time ago Marshal Reed was asked by the Chi-cago authorities to arrest Terry on a charge of, decamping with funds and documents the property of the Democratic state central committee of Illinois Terry was accused by the committee of ingratiating himself with the Democrata and suddenly disappearing instead of

ILLEGAL FENCE COSTS \$254

William Jacobs, of Boise, Sentenced.

Cases Easy for McCourt. Little difficulty is experienced by United States Attorney McCourt in prosecuting the numerous feacing cases which, for many months, have encum-bered the Federal docket. Most of the recent defendants pleaded guilty and it is presumed that those still awaiting trial will follow the same course. Yes-terday William Jacobs, of Boise, Idaho, admitted maintaining an illegal fence and was fined \$150 and costs.

Jacobs fenced 2500 Malheur County acres

Reinstein and Breslauer Are Cleared of Forgery Charge in Fifteen Minutes.

AUDITOR'S OFFICE SCORED

After Announcing Findings, Foreman Takes Occasion to Criticise Manner in Which Public Records Are Kept.

It took a Circuit Court jury just 15 minutes yesterday afternoon to acquit erymen, of the charge of mutilating the McKenna liquor petition in order to keep it off the ballot at the last city election. In the same period the jurors made up their minds that responsibility for the mutilation lay with the office of City Auditor Barbur. W. H. Nunn, the foreman, was instructed to announce the jury's criticism of the Auditor's office. After the verdict had been delivered,

would like to say that I have been in-structed by the jurors, as citizens, to say that it is the sense of the jury that the records in the Auditor's office were kept in a most carcless and negligent manner and that as citizens and taxpayers we enter our protest against the manner of keeping public records as shown in the trial of this case."

Consider Charges Groundless.

This announcement and the prompt redict made it clear the jury viewed the charges as groundless in view of the alleged careless manner in which the Auditor's office is operated in respect to keeping records. They evidently ac-cepted the assertion frequently empha-sized during the trial by Attorney John F. Logan, representing the brewerymen, to the effect that anyone at any time might have mutilated the McKenna petition and that Reinstein and Bresiauer ought to be tried for insanity, rather than forgery, if they mutilated the peti-tion on the night of April 19, when the document was already known to be de-

It was not until 2:30 P. M. that the ass got to the jury. Despite the limitations placed on the closing addresses, the attorneys talked over time and the court's charge to the jury was long. An early verdict was predicted by those who had been attending the trial for the state's case was filmsy in many regards.' So, little surprise was occasioned when the jury returned at 2:50 o'clock with

its finding.
Four ballots were taken. On the first, eight stood for acquittal, one for con-viction and three were blank, ind. a. ng that the three would vote with the majority. The next ballot is said to have been 11 for acquital and one for convic-tion, the third ballot the same, and me fourth ballot unanimous for acquittal.

Lawyers Give Arguments.

The whole forenoon was consumed in building card houses and sweeping mem down. Deputy District Attorney Vree-land summed up the case of the prose-Next Thursday will be United States
Court day in Medford and will mark the
first time that city has been honored by
that distinction. Yesterday a trial jury
was drawn to deliberate on four cases
to be tried by Judge Wolverton in Medford, the panel being ordered to report
October II at 10 o'clock in the morning. oratory in their efforts to impress the

jury.
When the 12 men retired the evidence they had to weigh was this, in essential points: The McKenna petition was mu-tilated sometime around April 19. On she night of April 19, the accused men had access to the petition at the City Hall. Breslauer and Reinstein had the petition to themselves for two hours. Reinstein borrowed a pencil and eraser from Depu-ty City Auditor Lotan, who admitted

ty City Auditor Lotan, who admitted the brewerymen to the vault. On the other hand, Reinstein and Breainuer insisted that they went to check over the petition to verify the reports that it was surcharged with forgeries. that it was surcharged with forgeries. They were already cognizant of the existence of innumerable forgeries. They entered the building openly and left without any effort at concealment. They spoke to friends of the visit. The petttion was easy of access and might have been mutilated by almost anyone at almost any time.

PERSONAL MENTION.

I. Whimster and wife, of Aurora, Ont., M. Finley and wife, of Spokane, are registered at the Cornellus.

 Burpee, a constructing engineer, of Cellio, Or., is at the Cornellus. Charles Zeigler and wife, of Chicago, are guests of the Oregon Hotel. L. G. Gray and wife, of Decatur, Ill., have a suite at the Cornelius.

M. A. Newberger, a prominent citizen of Los Angeles, is at the Perkins. W. F. Laraway and wife, of Hood River, have a suite at the Perkins. W. F. Taylor, identified with mining interests in Alaska, is at the Perkins. J. M. Leighton, a Government official at Washington, D. C., is at the Seward. George C. Salch, a prominent merchant of San Francisco, is at the Oregon Hotel. Mr. and Mrs. F. El Cass, of Schenes tady, N. Y., have a suite at the Portland. G. S. Mann, a prominent merchant of Chicago, is registered at the Oregon

H. A. Fairchild, a member of the State

The doctor says you have got to take Cod Liver Oilif so, why not take it in the easiest and best form-why

Scott's Emulsion

That is what the doctor means. He would not force you to take the crude oil when he knows the Emulsion is better-more easily digested and absorbed into the system -and will not upset the stomach like the plain oil.

FOR SALE BY ALL DRUGGISTS Send 10s., name of paper and this ad. for our beautiful Savings Bank and Child's Sketch-Book. Each bank contains a Good Luck Penny. SCOTT & BOWNE, 409 Pearl St., New York

Restorative Treatment for Nervous Men

Coming from a source of unquestioned authority on the allments of men it is presumed to be infailible, while the profession generally endorse the ingredients and prescribe them in many different forms of various diseases. The following formula is highly efficient in quickly restoring in nervous exhaustion, melancholia, a nxiety, timidity in venturing, dizziness, heart palpitation, trembling limbs, insomnia, thinness, cold extremities, tired-allin feeling and general inability to do those natural and rational acts upon which depends a man's success and happiness in social and every-day life.

The instructions for mixing at home secretly so that no embarrassment may be felt, are as follows: First get three cunces of syrup sarsaparilla compound and one ounce compound fluid balmwort; mix and let stand two hours. Then add one ounce compound essence cardiol and one ounce tincture cadomene compound (not cardamom), and mix all together. The directions are to take one teaspoonful after each meal and one when retiring, until bounding health and full strength are restored. Even a few weeks will witness mo a twonderful results.

Astonishing nervous force and equilibrium follow the treatment, no matter how serious the case.

This contains no oplates whatever and may also be used by wemen who suffer with their nerves with absolute certainty of prompt and lasting benefits.

Railroad Commission at Olympia, is reg-istered at the Oragon Hotel.

J. G. Woodworth, a prominent railroad official of St. Paul, is attending the rate hearings. He is at the Portland.

Miss Helon Worrell, formerly of Port-isnd, now of Medford, is the guest of her coustns, the Misses Crook, South Mount Tabor.

George E. Black, Pacific Coast manager of the M. J. Brandenstein Coffee Company, is registered at the Oregon

Mr. and Mrs. R. R. Hoge have left for an extended visit to Eastern points, where Mr. Hoge will attend a number of mestings of the National Steel interests.

Dr. S. C. Slocum and family returned Tuesday night after an absence of one year abroad. They spent most of the time in London, Dublin and Vienna. H. R. Krohn, a banker of Davenport, Ia, is in Portland, visiting his brother, Professor Robert Krohn. He notes great progress in Portland since his last visit. L. F. Weaver, local manager of Studebaker Bros. Co., returned yester-day from the annual meetings of his company at South Bend, Cleveland and

J. M. Hannaford, vice-president of the Northern Pacific Railway, with head-quarters in St. Paul, is attending the rate hearing here this week. He is a guest of the Hotel Portland.

Charles F. Gunther, a prominent manufacturing confectioner of Chicago, arrived in the city yesterday, after a visit at the A-Y-P Exposition. He is a guest of Lewis M. Head during his solourn

Colonel Z. S. Spalding, Hawaiian sugar manufacturer and capitalist, arrived in this city yesterday. He is the guest of the Perkins Hotel. During his sojourn of a few days here, Mr. Spalding will oversee the construction of his sky-scraper, which is under way at Third and Washington stream. Washington streets.

Dudley Watson Moor, a capitalist of Toledo, is a guest of the Oregon Hotel. Mr. Moor, who is accompanied by Mr. Graham, of Detroit, is looking over the Oregon country with a view to invest-ments in this field. They have secured valuable Hood River fruit lands as an inlative investment.

Dr. G. Orlo Jefferson and wife, wh started on an extended tour of the world, are at present in New Orleans. They will spend some time in the United States before going abroad. Their itin-erary includes cities of the Continent and England, as well as of Egypt and Palestine They will take in the "Pas-Palestine. They will take in the "sion Play" at Oberammergau. The tor expects to be gone over a year.

CHICAGO, Oct. 12 .- (Special.) -- Northwest people registored at Chicago hotels: From Portland-Mrs. M. C. Starr, at the Congress; Mr. and Mrs. R. F. Robinson, at the Majestic; Mr. and Mrs. R. R. Hoge, at the La Salle. From Hood River-Mr. and Mrs. A. A. Jayne, at the Grand Pacific

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Our proposition is one that will stand the most rigid scrutiny and the closer you delve into all of the results of apple culture in this valley the better we will be pleased.

The profits from orchards in the Umpqua Valley are so large that without a thorough investigation a careful, hard-headed business man might suppose that our statements are exaggerated.

Actual results speak louder than words and when we claim that full bearing orchards will pay a

Net Annual Income of \$500 Per Acre

we are underestimating rather than exaggerating the results, as a number of orchards have paid as high as \$1000 per acre.

When possible, we always prefer to have prospective purchasers visit our tracts and see for themselves what others have done and what we are doing.

No possible investment that can be made offers the same certainty of handsome results without the slightest risk.

Our terms are a cash payment down, then monthly, quarterly or

W. C. Harding Land Co., Portland, Oregon: Please send full particulars about ten-acre or chard tracts to: Street......

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semi-annual installments. plant and care for the orchards for three years or more, as desired.

Make arrangements to visit our tracts with us-leaving Saturday evening, back in Portland 7. A. M. Monday.

W. C. HARDING LAND CO.

BOARD OF TRADE BUILDING

Corner Fourth and Oak Streets, Portland, and Roseburg, Oregon,

CHANGES IN SECOND STORY TO BE MADE AT ONCE.

Edward Killfeather Awarded Contract-Chambers to Be Rebuilt for Judge Bean.

Within two days the second floor of the Federal building will be in hands of car-penters and electricians, the contract for improvements having been awarded yes-terday to a Portlander, Edward Kill-feather, of 427 Third street. Appointment of Judge Bean to the United States bench nade additional room in the postoffice

this extra space that changes will be

Judges Gilbert and Wolverton have abandoned their private chambers to provide one spacious room for Judge Bean and to effect the change the re-Bean and to effect the change does no re-moval of a lavatory, tearing down of two partitions and enlarging of a window will be entailed, aside from the electrical work. Contractor Killfeather's bid of Sicil was accepted, the work to be com-pleted by November 5. Herbert Hunting-ton, who superintended the construction of the Postoffice Courthouse and Customof the Postoffice, Courthouse and Customhouse at Tacoma, will have supervision
of the work, an order to that effect havins been received by Postmaster Young.
As the Postoffice building is now arranged there is but one courtroom for
all the Judges and even after the change
is made in the second story, for most
cases but one courtroom will be available. To offset this inconvenience it is
planned to move the railway mail clerks
to the grand jury room, that their old
quarters may be used as a courtroom for of the Postoffice, Courthouse and

cases which will not require the attendance of many people.

The postoffice inspectors will probably occupy the room now set aside for the lafesaving Service, which will be moved to the petty jury room.

Lebanon Resident Dies.

ALBANY, Or., Oct. 13 .- (Special.)-Mrs. John Wither, of Lebanon, died today at Newport, where she had been spending several months for her health days. Mrs. Wither was a native of England, 60 years of age. She came with her husband to Lebanon 20 years ago. She leaves a husband and four children-William Wither, of Boise, Idaho; Mrs. Scott, of San Francisco. cisco, Cal., and Miss Mae Wither, of

Turkish baths, Mrs. Turney, 231 Drexel bidg., 2d and Yamhill.

