# FLOODS EXCEPTED

Federal Judge Strongly Coincides in Doctrine of Beneficial Usage.

USUAL FLOW CONTROLLED

toded Force Is Given to Decision of State Courts on Subject-Use of Overflow Denied to Irrigation Concern.

In holding that riparian rights per-tain only to the usual flow of the waters of a stream and not to the flood waters. The United States Court yesterday gave added force to judicial declarations of the state courts on irrigation questions. The court coincided fully with the doc-trine of beneficial use of waters. The litigation just ended was between the Eastern Oregon Land Company and the Willow River Land & Irrigation Company, the latter company being en-

the Willow River Land & Irrigation Company, the latter company being engaged in the construction of a dam to impound flood waters of Willow River at a point about 30 miles above Vale, in Malheur County, and on lands alleged to be of a mineral character.

The dam is on land which was part of The Dailes military wagon road grant running from Boise, Idaho, to The Dailes, the tille to which passed by purchase to the Eastern Oregon Land Company. In the patent secured from the United States a reservation appears to the effect that any known mineral land, or any land upon which mineral may hereafter be found, shall be reserved by the United States. the United States.

#### Flood Waters Used.

Both parties to the suit own lands in the vicinity of Willow Creek which are subject to irrigation, the Wilow River Company being engaged in construcing expensive reclamation works, while the Eastern Oregon Company heretofore has relied upon flood waters overflowing its holdings and thus placing the land in condition to raise valuable crops. Its

holdings and thus placing the land in condition to raise valuable crops. Its lands being parallel to the river, the Eastern Oregon Company asserted a riparian right to the use of the flood waters of the stream and denied the right of the Willow River Company to impound them at its dam.

Dennis Brogan and associates bought land in 1988 in the Willow Creek Valley and organized a company to irrigate it. They found that mining claims had been located on either side of Willow Creek at a point suitable for a dam, and the Brogan Company bought the claims, proposing to create a reservoir and carry the water conserved from floode out over lands which were found to he suitable for cultivation. In addition Brogan assorts that he has secured all the established water rights on the stream. In doing so he visited the farmers who had made locations along Willow Creek and had used the waters for Irrigation for many years and bought both their water and land. In that way the Willow River Land & Irrigation Comtheir water and land. In that way the Willow River Land & Irrigation Com-pany asserts that it has secured all the water in the stream at all times of the

#### Flood Waters Excepted.

The Eastern Oregon Land Company then asserted its right to use the water of the stream for such lands as it might own along its banks, but admitted that no claim had been made with the State Engineer until after other filings had

schemes came into being.

Judge Bean ruled that the Eastern
Gregon Land Company had no claim to
flood watera because of their being uncertain in character and time of appearance and confined the company's claims to such portion of the natural flow of the scream as had been benefi-cially applied to its lands, a question to be determined by the district water superintendent and the State Engineer.

#### PERSONAL MENTION.

J. N. Finnie, of Spokane, is at the P. K. Smith, of Yambill, is at the

L. S. Hill, of Cottage Grove, is at the O. I. Peterson, of Astoria, is at the

William Gerig, of Medford, is at the A. R. Davis, of Coolidge, Wash., is at

J. F. McNaught, of Hermiston, is at

L. R. Farris, of Kalama, Wash., is G. D. Woodworth, of Hood River, is

at the Perkins. B. W. Johnson, of Corvallis, is regis tered at the Oregon.

E. R. Bryson, of Eugene, is regis-tered at the Cornellus. John Thomsen, of Baker, Or., is registered at the Portland. Rev. G. J. Dickson, of Pendleten, is

registered at the Ramapo. I. G. Hill, a lumberman of Cottage Grove, is at the Imperial.

Mr. and Mrs. G. W. Ford, of Pendle ton, are staying at the Oregon. Mr. and Mrs. Hugh Jenning, of Ken-drick, Idaho, are at the Lenox.

Mr. and Mrs. C. H. Doncaster, of Aberdeen, are staying at the Lenox. Mr. and Mrs. E. O. McCoy, of The Dailes, are staying at the Portland. Mr. and Mrs. Fred R. Mellis, of Baker, Or., are staying at the Imperial. C. W. James, superintendent of the State Penitentiary at Salem, is at the

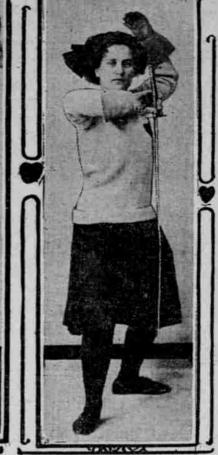
Mr. and Mrs. A. H. Davenhill, Mrs. F. M. Able, Mrs. Adele Love and Mrs. A. L. McCue, of Ashland, are staying at the Perkins.

#### WIDE, LONG BERTHS.

On Great Northern Shore line express Portland to Puget Sound and Vancouver, E. C., 11:30 P. M., dally, from Hoyt-street station, Eleventh and Hoyt streets, Other trains leave 10 A. M. and 5 P. M. Tickets sleeping and parior car reserva-tions, city ticket office, 122 Third street and at depot.

PORTLAND WOMEN WILL COMPETE IN FENCING EXHIBITION BEFORE PENCING CLUB TONIGHT.





Fencing Club to Give Interesting Programme Tonight.

SWORDSWOMEN WILL MEET

Experts at Old-Time Art Vie Their Skill at Entertainment Under Auspices of Portland's New Organization.

One of the most novel as well as interesting attractions in the line of athletics will be the fencing tournament to be staged at the Women of Woodcraft Hall, Tenth and Taylor streets, tonight. This sport is a new one, as far as public interest is concerned, but tonight's exceptional programme is expected to create an interest in the game which will make it one of the most attractive Winter sports this sea-

Professor Lampert, an expert swords-man, who has been in charge of the Portland Fencing Club's classes since that flourishing organization was in-augurated several months ago, will di-Engineer until after other filings had been approved.

In passing upon the merits of the claims, Judge Bean held that the title to the dam site was in the Willow River. Company because of the reservation of mineral land by the United States and because of the proof submitted that the land been worked for mineral for geveral years before the Irrigation.

However, one of the most unique fea-

tures of tonight's exhibition will be the fencing contest between Miss Lydia Dammeler and Miss Lillian Resiand, two women who are experts with the folis, and this match is already at-tracting widespread attention even among those totally unfamiliar with the art. The interest undoubtedly means that the attendance at tonight's means that the attendance at tonights tournament will be flattering enough to perpetuate fencing in Portland in the future. Professor Lampert has worked hard and faithfully in the effort to establish this sport here and indications point to a successful consummation of his ideas tonight.

The entries for tonight's meet are as follows:

Individual amateur foll championship, for rize of gold medal—Lieutenant R. Sears, f Vancouver, Wash.; Mario Montrezzs, fagnus Norstad, Charles E. Barteau and ames D. Paul, of the Portland Fincing July; Gaston Moch, Montesano, Wash. Dueling sword championship—Mario Montesan, Charles E. Barteau, Magnus Nortenand and James D. Paul, all of the Portland recipied Club; Gaston Moch, Montesano, Wash. Exhibition contests with folls, dueling scord and sabres—Maior, Carl Gueling word and sabres—Maior, Carl Gueling

b. Wash, chibition contests with foils, dueling the and sabres—Major Carl Guetav von ffstein. Hill Military Academy; Propr H. A. Comeau, Aberdeen, Wash; Propr Charles Lampert, Portland Fencing les' foll championship, for silver medal Lydia Dammeter, Portland Pencing Miss Lillian Rosland, Portland Fenc-

PROFANE LANGUAGE CHARGE IS MADE BY POLICEMAN.

Citizens Going About Business Have First Right to Thoroughfares.

Says Prosecutor.

An ordinance prohibiting all street speaking was urged in Municipal Court by Deputy City, Attorney Sullivan yesterday morning as the only solution fo frequent and vexatious prosecutions of persons accused of exceeding the limits in using the privilege of the streets.

"The first right to the streets is to those who are going about their business, earning their livelihood," said the prosecutor. "and they are hampered and annoyed by the advocates of all sorts of opinions, religious and politi-

Harry Lloyd, a Socialist, and Adolph Auerbach, his lieutenant, were on trial autroach, his lieutenant, were on trial, on a charge made by Patroliman Burke, alleging profane language. C. E. S. Wood appeared for the defense and made an argument for unlimited free speech. His address was followed by a slight attempt at a demonstration by the partisans of the defendants on the benches.

and at depot.

Early and at depot.

Union Buys Ellensburg Site.

OREGONIAN NEWS BUREAU. Washington, Nov. 10.—The Secretary of the Treasury today authorized the purchase of a public building site at Ellensburg. At the corner of Fourth and Ruby sireets, owned by A. L. Crum, for \$1000.

Light attempt at a demonstration by the part is an effect of the defendants on the benches.

Lioyd and Auerbach were arrested last Friday night for obstructing the streets. They were fined \$150 by Judge from going out. In the smaller tributary streams, however, the catch of silver-taxwell the next morning and appealed. Lioyd devoted his remarks Saturday night largely to an attack upon the police, and Burke was urged by indignant citizens to arrest him. The officer was resisted and kicked by friends

of the speaker and was forced to draw his revolver to secure a passage to the police station. Burke, answering a question of the attorney for the defense, denied emphatically that he had been instructed by his superiors to drive the Socialists from the streets. Attorney Gleason, of counsel for the defense, told the officer that it was the duty of a policeman to be hooted and shot at, quoting Mayor Gaynor, of New York, to that effect.

Judge Taxwell took the case under advisement until this morning.

Y. M. C. A. HAS NEW PLAN Several Features Added to Regular

Sunday Programme.

Sunday programmes at the Young Men's Christian Association are to be conducted on a new planafrom now on. Several additional features have been added by R. W. Perkins, religious work director. It is expected that the new arrangement will add considerable interest to the weekly exercises and serve to increase the attendance, which is already large. The series of meet-ings each Sunday will be known as the

Triangle Club.

The programme next Sunday will begin at 3 o'clock with a concert in the lobby by the Y. M. C. A. orchestra, relobby by the Y. M. C. A. orchestra, recently organized under the leadership of Miss Cornelia Barker. It will be concluded with a trombone solo, after which the auditorium meeting will begin at 3:39 o'clock. Rev. Boudinot Seely, pastor of the Rose City Park Presbyterian Church, will be the speaker, his subject being "The Will and the Way." From 4:30 to 5:30 Bible classes will be conducted, and these will be followed by a fellowship supper. A feature of the supper will be the "Y-o-graph," consisting of the exhibition of some well-known picture each Sunday and a discussion of the lesson taught by it. The picture next lesson taught by it. The picture next Sunday will be "Breaking Home Ties."

## GREENWALD'S BODY FOUND

Harbormaster Says Dock Was Lighted on Both Decks.

Five minutes after P. J. Kelly of the Ironworkers' Union began work with grappling hooks at 11 o'clock yesterday morning, the body of Matt Greenwald, drowned Wednesday night, was recovered and at ones conveyed to the morgue. From marks on the body it is presumed that Greenwald struck a ballast log in his descent and was probably instantly killed.

Harbormaster Speler yesterday made a thorough investigation of the circum-stances. He says that three lights were burning on Martin's upper deck and that gangway lights were shown on the that gangway lights were shown on the lower deck, where passengers were boarding the vessel, Geo. W. Elder. Captain Thomsen, of the steamer Eu-reka, which was lying astern of the Elder, said that he knew nothing of the drowning until late in the evening, but that during the time he was on the dock the customary lights were burning, while there was additional illumination through the fact the saloon deck of the Elder was fully lighted.

Funeral arrangements will be made by the Ironworkers, of which Greenwald was a member.

#### CONTRACTORS SPURN TASK

Strata of Rock Under Council Crest Balks Work on Sewers.

A strata of solid rock underlying a portion of the surface of Council Crest, has caused the contractors for the sewer in that district, the Jacobsen-Bade Company, to ask the Executive Board to free it from its contract. The street committee of the Executive Board yesterday asked the City Attorney if it would be legal for the Board to revoke the contract, and he said that if the members could be assured that no property owners objected to the revocation, it might be made without any legal hindrances.

J. P. Sharkey, representing much of the interested property, agreed to get written approval from the property owners and present it to the Executive Board by this afternoon. If the contract is revoked, new bids for the work will be solicited.

### GALE DELAYS FISHERMEN

Catch of Silversides in Tributary Streams Is Good, However.

ASTORIA. Or., Nov. 10.—(Special.)— Pishing has been rather slack in the Lower Columbia River during the past

## A Year's Music Lessons Without Cost

TWe are offering a year's music lessons with every piano sold. In some cases two years' music lessons.

¶You can take these lessons with any of 25 of the leading music teachers in Portland. You can choose the teacher you like the best.



IYou can buy any piano on easy terms—just as soon as you make your first payment on your piano, you can begin taking lessons. These lessons will cost absolutely nothing, not one cent. ¶You get this year or two years' course of lessons, as the case may be with every single piano sold—there are no strings to this offer.

You can choose from any of the following pianos:

Weber Piano \$525, \$600, \$650, \$725. Weber Grand Piano \$800, \$1250. Fischer Piano \$400, \$500. Kohler & Chase Pianos 350, \$375, \$400, \$425. Wheelock Pianos \$350 to \$450. Hoffman Pianos \$225, \$275. Kohler & Campbell Pianos \$275, \$350.

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## We want every one to know Kohler & Chase, the oldest piano house on the Coast.

That is why we are making this introductory offerthe most liberal ever made by a piano house. We have won a reputation everywhere throughout the State of California for honest piano selling. We have been in business there for sixty years. We are giving these music lessons to introduce ourselves quickly in Oregon.

Which Teacher Do You Prefer? MAIL THIS COUPON TO Kohler & Chase, Washington and West Park:
Please send me particulars as to your music scholarships. I prefer to take lessons with the following teacher: (Write in name of teacher here.)

This involves no obligation on my part.

Washington and West Park Kohler &

Oldest Piano House in the West

Washington

ASSOCIATION NOW NEEDS HIGH-WAY COMMISSIONER.

Publicity Manager Says Oregon, as Result of Election, Will Have Best Roads in Country.

With an amendment to the constitution providing for road construction in counties and bonding the counties for the cost of the same, a general statewide good roads meeting will be held in the near future, according to Phil Bates, publicity manager for the Good Roads Association. The matter is to come up at the next meeting of the officers of the society. L. R. Webster, chairman of the association, has the power to call a state convention, but he prefers to leave it to the officers and have a general discussion as to the lines to follow with the call. "The situation in Oregon is changed," said Phil Bates, "with the adoption of

the amendment to the constitution. means, in my judgment, that Oregon will have the best road system in the country. All that is needed is for everyone to put his shoulder to the wheel and

push the good work along to a successful conclusion. To attain this we need a road engineer who may be styled a highway commissioner. He will have supervision of all the work and is the

"To give the movement the proper petus we must have a state convention It should be held as soon as possible This convention will draft the measure for presentation to the Legislature. The way is open for real work and it is only a question of time before Oregon will have occasion to be delighted with the action of its voters last Tuesday."

PULLMAN MAKES MONEY Report to Railroad Commission

Shows Big Profit in Oregon. SALEM, Or., Nov. 10.—(Special)— According to a report filed with the State Railroad Commission by the Pullman Car Company, gross earnings lety. L. R. Webster, association, has the te convention, but he to the officers and cussion as to the lines call.

Oregon is changed."

with the adoption of the constitution. It is eart that Oregon will the sent that Oregon will the sent that Oregon will

Portuguese East Africa, province of Mo-tambique, is developing its rubber industry

Long

Then treat your hair well. See that it is properly fed. Growth of every kind demands proper food. Starved hair splits at the ends, turns prematurely gray, keeps short and dry. Then feed your hair. Feed it with proper food, a regular hair-food. Feed it with Heavy Ayer's Hair Vigor. Thus help nature all you possibly can toward giving you rich, heavy, luxuriant hair. Askeyour doctor about your hair and about Ayer's Hair Vigor. Follow his advice.

Does not Color the Hair

## Reduced Rates to Los Angeles

\$10.35 SECOND CLASS

\$21.50, \$23.50, \$26.50 FIRST CLASS To San Francisco \$5.00, \$10.00, \$12.00, \$15.00 ALL RATES INCLUDE MEALS AND BERTI

NEW S. S. BEAVER Sails 4 P. M. Sunday, Nov. 13 SAN FRANCISCO & PORTLAND S. S. CO. H. G. Smith, C. T. A., 142 Third St. Phones: Main 403; A 1402.

## Gold Dust Compare Our Prices

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It cleans everything worth cleaning—from cellar to attic. It does more than clean-it sterilizes, kills germs and drives out every impurity, making everything it touches sanitarily safe.

The use of GOLD DUST requires little effort from you -the powder does most of the work-all the hard part of it-without your assistance. You simply direct it.

GOLD DUST is the greatest aid the housewife has to home-purity, real economy and labor-saving.

Let the GOLD DUST Twins show you the easy way to do house-



"Let the GOLD DUST TWINS do your work

#### For Dyspepsia You Risk Nothing by Trying

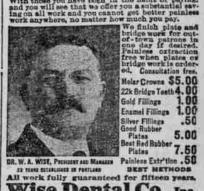
This Remedy. We want everyone troubled with in

digestion and dyspepsia to come to our store and obtain a box of Rexall Dys-pepsia Tablets. They contain Bismuth-Subnitrate and Pepsin prepared by a process which develops their greatest power to overcome digestive distur-bance.

bance.

Rexall Dyspepsia Tablets are very pleasant to take. They soothe the irritable, weak stomach, strengthen and invigorate the digestive organs, relieve nausea and indigestion, promote nutrition and bring about a feeling of comfort.

If you give Rexall Dyspepsia Tablets a reasonable trial we will return your money if you are not satisfied with the result. Three sizes, 25 cents, 56 cents and \$1.00. Remember you can obtain Rexall Remedies only at The Owl Drug Co., Inc., Cor, Seventh and Washington Streats.



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## "I am all right now, thanks to Dr. Miles' Heart Remedy."

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"I was troubled with heart disease, and after reading about Dr. Miles' Heart Remedy, I got a boitle. Before I got the Heart Remedy I had to sit up most of the night, and felt very bad at my stomach. Whatever I would eat made me feel worse, and my heart beat very fast. But thanks to Dr. Miles' Heart Remedy, I am all right now. I eat good, sleep good, and feel like a new man, although I am almost 68 years old. I have been a soldier in the late war of the rebellion, and was badly wounded." CHARLES HOLMES, Private Co. B. 54th N. V. Infantry Volunteers, Walton, Delaware Co.

### Dr. Miles' Heart Remedy

is kept in thousands of homes as a friend always to be relied upon in time of need.

Sold by all Druggists If the first bottle fails to benefit, your money is returned. Ask any Druggist. MILES MEDICAL CO., Elkhart, Ind.