

ATTORNEY GENERAL TO REPRESENT STATE IN THE PUBLIC LAND CASE

At Request of Governor Will File Brief in Utah Company Action.

FUNDAMENTALS AT ISSUE

Question of Common Wealth's Sovereign Rights to Water Power Resources Concerned in Litigation.

Salem, Or., Jan. 27.—Attorney General Brown has announced that he will file a brief in the case of Beaver River Power company of Utah, against the United States, thereby complying with a request of Governor Withycombe. The case originated in Utah and it involves important power questions affecting the public land states. The power company forwarded to Brown a suggested brief for the case. "The brief will outline the law as this office understands it," said Attorney General Brown, when asked whether he would take the side of the power company in the controversy. He also said that when his brief is finished it will speak for itself. Brown will appear in behalf of the state as amicus curiae or friend of the court.

Fundamentals Are Concerned.
"In these cases there are presented certain fundamental questions of constitutional law affecting the sovereign rights of the state of Utah and necessarily and to the same degree the sovereign rights of each of the so-called public land states, including the state of Oregon," says the governor in his letter to Brown. "The proper solution of the issues presented upon these appeals is of direct interest to each of the public land states, and in the hope that the state of Oregon may be of assistance in reaching such just and proper solution I have requested you, as attorney general of the state, to apply for permission to file a brief as amicus curiae in behalf of the state of Oregon."

The governor says that the appeal in the Utah case presents, as he understands it, the "broad question of the right of the United States to exercise governmental or police powers in the public land states, by virtue of its ownership of land therein not used or required for governmental purposes, but held in a proprietary capacity, and the right of the United States by its executive officials, to decide and determine the manner and conditions upon which state waters shall be utilized and developed, and in particular the manner and conditions under which the right to the use of flowing water in said public land states shall be applied to public uses, or to prevent such utilization entirely."

Other Questions Raised.
Continuing the governor says these are among the questions raised:

"The right of the United States to levy and collect a tax upon water rights in the public land states, or upon the use of such water rights for beneficial uses as recognized under the laws of the several public land states; the right of the United States to exercise a supervisory control over the development and application of the waters of the states to uses recognized as public uses under the laws of such states, and the terms and conditions upon which such beneficial uses shall be administered by the persons or corporations developing the same under the laws of the states."

The governor refers to senate joint memorial No. 6, passed by the last legislature, relating to the subject, quoting it in full, and says further:

"I would also call your attention to the resolutions adopted at the western states water power conference with the affirmative vote of the delegates appointed by the legislature of the state of Oregon, which are already in your possession. "Also in this connection reference may properly be made to the speeches in congress of Representative C. N. McArthur of the Third congressional district of Oregon on the so called Ferris bill, on January 9, 1916, and of Congressman N. J. Sinnott of the Second congressional district on January 8, 1916, on the same bill, in both of which speeches the legal rights of the state of Oregon upon the various legal and constitutional questions above mentioned were decisively asserted."

Favors State Rights.
"The state of Oregon by its legislature and its other chosen representatives has clearly and decisively asserted itself on these issues in favor of asserting the sovereign rights of the state of Oregon at all times where these issues are under consideration. In these circumstances it seems to me proper and fitting that I should take steps to see that the state of Oregon assert its rights upon this occasion wherein for the first time these issues are to be clearly presented to the supreme court of the United States for their final determination by that body. "I therefore request that you give this matter your prompt consideration, to the end that the interests of the state of Oregon may be adequately represented before the supreme court."

Desertion Is Charged.
Salem, Or., Jan. 27.—Mabel Banick has filed suit for a divorce against Albert Banick, alleging that the defendant deserted her about January 5, 1915, and has failed to support her. They were married April 9, 1914, and have one son.

Stewart Left Estate to Family.
Salem, Or., Jan. 27.—His widow, sons and daughters are the heirs of Daniel A. Stewart, whose will disposing of \$1220 of real and \$15,950 of personal property was filed in the county court.

Looses His Whiskey; Pays Fine.
Salem, Or., Jan. 27.—E. J. Martin, who was arrested in a rooming house on a charge of disorderly conduct, paid a fine of \$15 and five gallons of whiskey found in his room were confiscated by the police.

To Give Play for Poor.
Salem, Or., Jan. 27.—Local talent will stage "The Fortune Hunters" at the Grand theatre February 2 and 4, the profits to be devoted to the relief of the worthy poor of Salem. The entertainment will be under the auspices of the Salem Social Center.

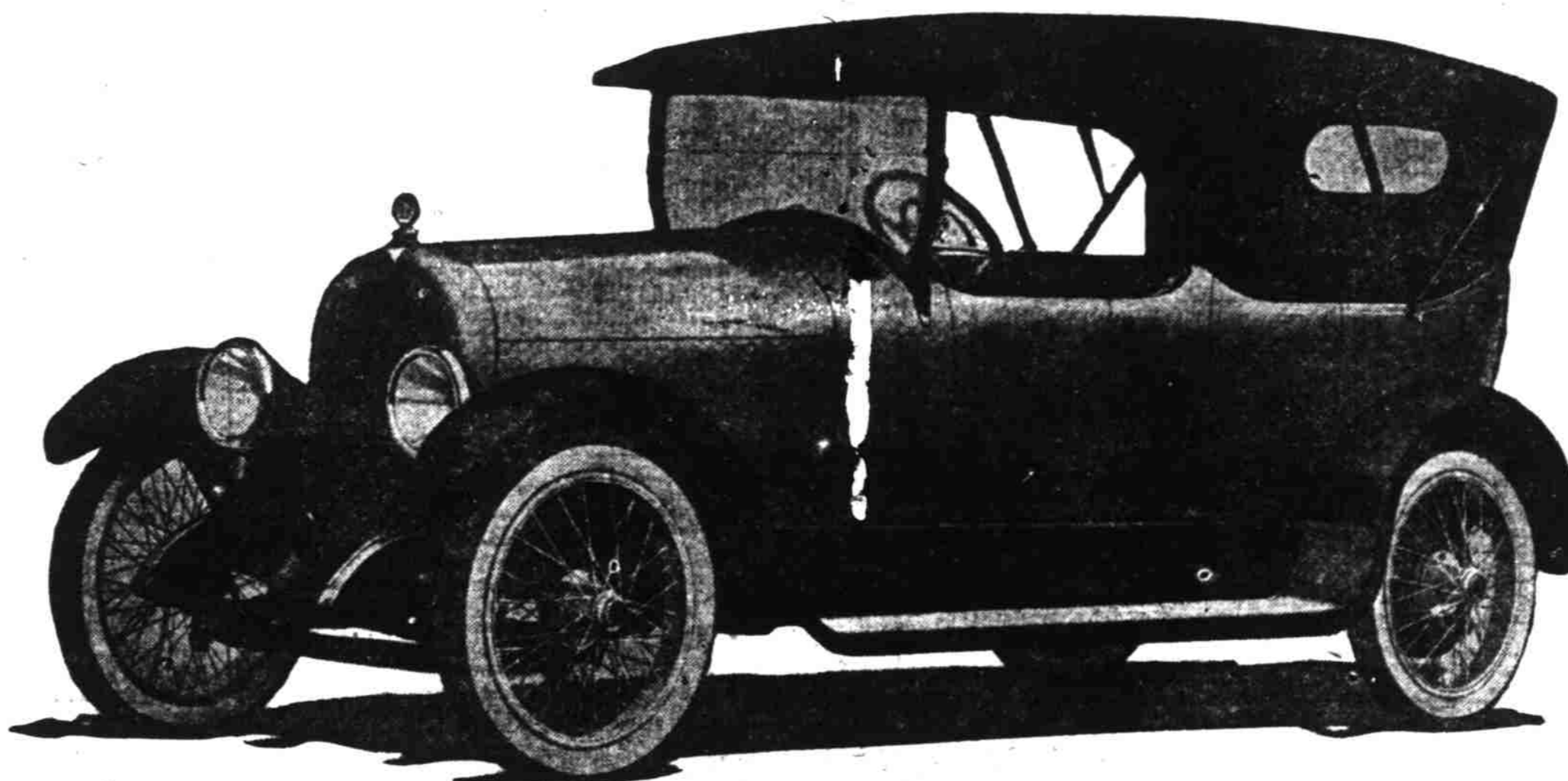
Lytle Goes to San Diego.
Salem, Or., Jan. 27.—State Veterinarian Lytle, accompanied by his wife, is on his way to San Diego, Cal., where he will seek recovery from an attack of the grip. His condition caused alarm for awhile but he has been considerably improved of late.

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