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## The Times-Herald.

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### Wanted—An Idea

For a man who can do anything, call on me at my office, 107 Franklin Street, Burns, Oregon.

## THE O'NEILL CASE.

### The Effects of the Supreme Court's Decision as Viewed by Mr. King.

(Ontario Advocate.)

From an interview with Mr. W. R. King, one of the attorneys for Francis O'Neill in the road land case recently decided by the Supreme Court adversely to O'Neill Mr. King while in Ontario in effect said:

"The Supreme court in the O'Neil case reversed the lower court and had ordered a new trial. As to the advisability of trying the case again we are not fully decided, but are inclined to the opinion that it does not conclusively settle the case against Mr. O'Neill. It holds that it is error to instruct the jury that a person may recognize the title as being in the government and at the same time acquire title by adverse possession; but does not necessarily hold that an attempt to file upon the land is a recognition of such title in the government. It only holds that this instruction is error. In justice to Judge Clifford however, who gave the instructions, I will say that this instruction is exactly as given by Judge Bellinger in the U. S. Circuit Court in the case of the Dalles Road Company vs. Cole which was held to be a correct instruction by the U. S. Circuit Court of Appeals at San Francisco. We therefore have sustained our theory of the law Judge Clifford, Judge Bellinger of the U. S. Circuit Court and three judges of the U. S. Circuit Court of Appeals, and I might add that every state thus far passing on this question sustains this position, except Oregon. No decisions in point are cited by the Oregon Supreme Court sustaining their view in this case, hence they stand alone in their position in favor of the road company and against the settlers, so far as we are able to determine from an examination of the decisions of the courts of the various states on the subject. The Cole case was begun in the U. S. Courts and O'Neill case in the state courts. The same points arise in both cases, but Mr. Cole wins and Mrs. O'Neill loses. In my opinion the decision of the supreme court is certainly bad law. For example a mere squatter or trespasser who never attempted to file on the land, can acquire title by adverse possession, while the settler in good faith, who has taken the precaution to file on land must lose providing it was his intention to acquire title from the government and thereby recognize the government's title. If such is to be the construction to be placed upon this decision it offers a premium on fraud while it imposes the penalty of losing the land upon one who acts in good faith and honesty of purpose providing he should be mistaken as to the government being the owner. We expect to ask for a rehearing of the case. The rehearing may not be granted but I think the court will some day change its position, as the decision is too much against public policy to stand long as a precedent. The decision in the O'Neill case does not affect any one who may have been in possession of road land more than ten years, except those who may have filed upon the land, or attempted to file; and is not even conclusive as to all those cases, as each case stands more or less upon the circum-

stances and facts relative thereto. "The court held in our favor on other points raised in the case. In fact the road company lost on the principle points relied upon for a reversal, such as letters written by Mr. O'Neill offering to buy the land—the court holding that as to whether it was his intention to recognize the road company's title is questions exclusively for the jury, to be determined from the testimony."

### Cowboy Race.

The racing at the fair in Boise the last of the month will be an attractive feature to all who love sport. One of the events will be a 10-mile cowboy race, for which a purse of \$200 is hung. Each rider is to have five horses and is to change every mile. No race horses are to be permitted in the event, and no jockeys shall ride. This race will be for "blood." A number of range riders are getting strings of cow horses together for the event, and there promises to be a lively contest.

### Annual Teachers' Institute.

The Teacher's Annual Institute will be held in Burns beginning on Wednesday the 11th day of Oct. State Supt. J. H. Ackerman will be present and expects a full attendance of our teachers. Teachers remember the law requiring your attendance at the annual Institutes is strict and my instructions from the State Supt. are strict, so to have trouble your better plan is to attend. The institute will be conducted in accordance with the directions of Mr. Ackerman. W. C. Byars, County School Supt.

### University of Oregon.

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First terms begins Sept 18 1899. Excellent courses in Ancient and Modern Languages, Sciences, Mathematics etc. Graduates from the 10th grade and from all accredited schools admitted without examination. Students not fully prepared to enter, can take studies in which they are deficient, in the Eugene City High School. For catalogues and further information, address the President or Hon. J. J. Walton, Sec. Eugene, Oregon.

### From the Canyon News.

Tommy Britten went over to Sumpter on a business trip last Tuesday.

George Cattanach went over to Slivies valley Monday morning to visit with friends for a few days.

Miss Cora Cates passed through town on her way home in Portland after an extend visit with friends at Burns.

Bob Martin has gone over to Long Creek to be in attendance at the race which commences on the 15th of September.

Mrs. W. H. Kelley, of Burns, formerly of Canyon City, is visiting with friends and relatives in this town and John Day.

Jack Donagan, the hustling young tallon man from Burns, passed through town last week on his way home from Portland.

Mrs. Robt. Martin, who had the misfortune to break her limb in a runaway accident a few weeks ago, is able to be about on crutches.

Everybody is making preparations to go to Burns next month to witness the baseball tournament. Canyon City will no doubt be well represented.

The baseball boys are practicing hard for the coming contest and are expected to carry off the honors

at Burns if hard work will do it. Almost every day they play a practice game on the grounds above town and are improving rapidly.

A very valuable volume is "Hills, Manual of Social and Business". It is a large quarto, handsomely produced as far as externals are concerned, but not less attractive and desirable on account of its content for from its pages the self-instructing student can become familiar with all the forms in general use and almost everything a person should know in this practical age. Des Wilson Jr Agent The Dalles Ore.

### Additional Locals.

A recognized authority—The Weekly Oregonian.

D. A. Cawfield is up from the Narrows on a visit to his son John and family.

The little son of Mr. and Mrs. A. J. McKinnon is improving from his attack of sickness.

—THE TIMES-HERALD and Oregonian for \$2 in advance.

Born—To Mr. and Mrs. John Harper, last Wednesday night a girl. Mother and child doing well.

The little son of Mr. and Mrs. H. C. Leonard who was quite sick the latter part of last week, is much improved.

John Cardwell and F. S. Miller accompanied by their wives have returned from their trip to the mountains.

King & Hook are now putting a new residence for J. S. Bowen on his ranch on Poison creek. It is remembered Mr. Bowen lost his home by fire last fall.

The Weekly Oregonian and this paper give you all the news of home, state, the Northwest and the nation.

The hunting party consisting of Joe Tucker J. G. Sartan, Sheriff McKinnon, Geo Sizemore, Mr. Staples and Thos Jones, returned last Wednesday evening and report a good time. We understand there was only deer killed.

J. F. Mahon was in this week and after being informed that he was the cause of our losing one of our best subscribers and making an enemy of a staunch friend, he looked rather blue. He finally said: "Oh I'll fix that with Pat"

The teachers of our county should make it a point to attend the annual institute in Oct. State Supt Ackerman will be here and no doubt will give some very valuable instructions and give our pedagogues some points they can't afford to miss.

B. T. Waggoner of Suplee came in last Saturday and proved up on his ranch. He was accompanied by his mother and from here started to Arizona by team, where he expects to locate for the present. Mr. Waggoner took 20 head of large horses with him to sell and will write THE TIMES-HERALD the prices received, also the outlook and condition of the horse market in that section.

C. L. Rothell, president of the Crab Orchard bank, Neb., is here buying one and two year-old steers and by paying good prices has succeeded in getting quite a number already, although many of our stockmen are not yet through buying while others are gathering for the purpose of selling to Mr. Rothell. This is the gentleman who came to this county last fall having found an issue of THE TIMES-HERALD at some railroad point stating that some "fever" stock man had not disposed of their beef. Mr. Rothell is loving for himself and therefore does not need the difference in price generally given to "middlemen," but gives our stockmen the full market price.

Call up 'phone 10 for job printing on short notice.

D. W. Deffenbaugh left this morning for his home on Trout Creek, Oregon.—Winnemucca Silver State.

J. Q. Cawfield and family have moved into their residence in Burns in order to send their children to school.

General Manager Gilcrest of Miller & Lux's Nevada and Oregon ranches arrived in town yesterday.—Winnemucca Silver State.

There will be preaching at Harney, Sunday Sept 10, at 11 o'clock a. m. and in Burns same day at 8 p. m.

J. C. Templeton.

Joel H. Smith, brother of H. C. Smith the brick mason, accompanied by Ed Hamerley, arrived in Burns last week and are now at work on the brick yard.

The best way to buy anything is to borrow it first. Get a package of *Schilling's Best* tea of your grocer. He pays you your money back if you don't like it. "It is a startling fact that almost without exception, the adulterated teas are dangerous to health. Some of them are actually poisonous." —N. Y. Herald.

Yes; some—not all. But that isn't the point. You drink tea because you like it—not because it is good for you. The wholesome tea is also the best-tasting. *Schilling's Best*—at grocers' in packages.

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