

## COURT RULING AGAINST ROAD

### Union Pacific Wins Fight Against New Construction, Central Oregon.

Portland.—The Union Pacific will not be compelled to build a cross-state railroad from Crane in Harney county to Crescent Lake in the Cascades, according to opinion handed down Thursday by the federal circuit court of appeals, an en banc decision prepared by Judge Rudkin.

The opinion enjoined the interstate commerce commission from enforcing its order that the U. P. build this 185-mile extension, at an estimated cost of \$16,000,000.

The opinion is concurred in by Judge Wilbur of the court of appeals and Judge McNary of the district court, before whom the motion to enjoin was argued recently.

Two important and controlling questions are involved in the case, said Judge Rudkin. One is the authority of the interstate commerce commission to order railroad extensions, and second, the sufficiency of the testimony to justify or support the order if authority for it be found.

On the questions of the authority of the commission the opinion construed the transportation act to mean that the authority of the interstate commerce commission may be limited to such extensions as are reasonably necessary to reach communities and industries which the carrier has professed to serve or according to an undertaking which it has expressly or impliedly assumed.

"Such construction," said the opinion, "will give full effect to the purpose of congress and make the act conform to the practice then prevailing in many of the states."

"When the act is thus construed the order in question exceeds the authority of the interstate commerce commission and is void. Its enforcement must therefore be enjoined."

Intervenor on the part of the government were the Oregon Public Service commission and the Idaho Public Utilities commission.

The Southern Pacific company intervened in behalf of the O.-W. R. & N. company.

On the part of the railroad company it was argued that the extension would not develop sufficient business to justify the estimated expenditure of \$16,000,000 and furthermore that it was not a public necessity and would disrupt transportation systems now existing.

## Oregon Senate Passes Power Measure By the Pronounced Vote of 23-1

Salem.—The upper house of the Oregon state legislature passed Senator W. E. Burke's administration bill calling for repeal of the statute requiring issuance of certificates of public convenience and necessity to public utilities.

The vote was 23 to 1 with one senator recorded as absent.

Senator Burke declared the present law had resulted in powerful monopolies and had allowed larger utilities to curtail service and increase rates. He said the law had permitted the "telephone corporation to charge excessive rates and build up larger reserves" and that under it the railroads were attempting to "corral" the truck business in Oregon.

Repeal of the law was advocated by Governor Julius L. Meier who in a statement said it "bottles up public utility development, stifles competition and prevents outside capital from entering this state for development."

Ruth Garrison to Plead  
After nearly 11 years of confinement in the insane ward of the Washington state penitentiary, at Walla Walla, Ruth Garrison will be permitted to go to Seattle to make another fight for her freedom. Miss Garrison poisoned Mrs. Douglas Storrs in 1920 out of jealousy for her husband, and was acquitted of the murder "by reason of insanity." For years she has been trying to obtain her release on the ground that she is not insane, but her efforts have been blocked on the contention that there has been no showing that her mental condition has changed since she was committed to prison.

Would Keep Home Open  
"Ten thousand dollars would keep the Stubblefield home for children open." W. G. MacLaren, general superintendent of the Pacific Protective Society, said in an interview. "I am here in the interests of my society, with the hope that I may assist in finding some way to keep the Stubblefield home open and operating independently and it would seem that if the Walla Walla citizens and business men would get back of the home and assist in its financing, it would be possible for the doors to be kept open and the work continued."

Even though the court should view the intangibles tax as another form of "income" tax as was argued by supporters of the tax, the court points out that "still a discrimination would exist between the individual and the corporation. The former would be taxed at the rate of 5 per cent upon his gross income from intangibles and would also be subject to a further tax upon his net income from all other sources while the corporation would escape both of these taxes and be subject only to the excise tax."

"It seems to us," the opinion concludes, "that if the legislature did not intend that these three acts should reach different subjects of taxation it would not have entitled them with different names and would have written them in one act."

Justice Kelly and Campbell, who were not members of the court at the time the previous opinion was handed down, did not participate in the opinion.

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## INTANGIBLES TAX REFUSED HEARING

### Supreme Court Maintains Law Discriminatory—Operates Against Individual.

Salem.—Rehearing of the intangibles tax case, petitioned for by Attorney General Van Winkle, and by several other attorneys as "friends of the court," was denied by the supreme court in an opinion by Justice Rossman. In an opinion several weeks ago the court held the tax act of 1929 to be unconstitutional because of its discriminatory nature.

The opinion, it is pointed out here, clears the way for legislation on this subject which has been held in abeyance pending the court decision on this point.

In his opinion Justice Rossman reiterates the position previously taken by the court to the effect that the intangibles tax act discriminated as between individuals and corporations. The tax, the court holds, "operates to the disadvantage of the individual."

The tax as enacted by the 1929 session, the opinion points out, "operates upon its subject matter—intangibles property—more directly than the ad valorem tax on real property. It clips from a bond a part of the interest coupons as effectively as if the state performed the physical act."

It is these circumstances together with the others mentioned in our previous decision which have brought us to our conclusion that this statute imposes a tax upon property."

The court disclaims any intention to overrule a previous opinion of the court dealing with the income tax act. The validity of this act was decided in the case of Standard Lumber company vs. Pierce.

"No such thought was in our minds," Justice Rossman declared. "Quite to the contrary we referred to that decision with approval. We believe that an obvious distinction exists between the situation brought before this court in that suit and the circumstances disclosed by the instant case. The statute there in question was conceded by all to be an income tax statute and hence this case was not called upon to determine its nature."

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## To Clarify the Present "Gasoline Cowboy" Law

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Fish wagon peddlers are excluded from the provisions of the act. A bona fide producer of livestock must be in possession of the meat food animals or poultry he proposed to slaughter at least 30 days immediately prior to the slaughter or if he desires to sell to a retailer he must obtain a producer sale tag. A peddler license is required if he wants to peddle his own meat. A poultry tag is required if more than ten birds are sold at any one time.

The bill makes it unlawful for anyone other than a bona fide producer of meat food animals to transport any unstamped carcass or dressed poultry unless the person selling or transporting has in his possession a certificate of sale.

Assist Income Tax Payers  
To assist income tax payers in making out their returns, Clyde G. Huntley, collector of internal revenue, has made arrangements for deputy collectors to be at the federal building in Pendleton February 1 to 16 inclusive and February 26 to March 16, inclusive, where any information pertaining to making out returns may be had.

Milton Pioneer Found  
James R. Huffman an aged pioneer of Milton, who had wandered from the home of his son, Friday afternoon, was found in an unconscious condition lying beside the power plant flume south of Milton, Saturday afternoon. He had fallen from the flume while attempting to cross it. He was removed to a hospital at Walla Walla.

Will Hold Convention  
The Woodman of the World, Head Camp protest committee will hold a convention in the Portland, Oregon, council chamber, city hall, on February 9 at 9 a. m.

## High School Notes

**Classes**  
The biology class is studying about all types and growth of bacteria. All pupils who are taking typing are keeping records of their work and are trying to make them as good as possible. These records are posted on the board and provide an incentive for competition.

**Student Body**  
The customary student body meeting which is held once a month was held Friday morning. A financial report was given and Mr. Bloom gave a short talk about the coming Vaudeville. A few songs were sung and the meeting was adjourned.

**Faculty**  
Miss Cornelia Tomes was a weekend guest of Mr. and Mrs. Bloom. Miss Tomes teaches at the Hawthorne school in Pendleton.

**Music**  
The Glee Club sang two numbers, "Woodland Calls" and "Grandfather's Clock," Monday night for the W. C. T. U. meeting at the high school auditorium. The band played "America" and "Abide With Me." Both the Glee Club and the band are progressing rapidly and they will appear many more times before the school year is over.

**Society**  
The Girls League met last Tuesday and enjoyed two piano solos played by Esther Berlin and Marjorie Montague.

**Mac-Hi Defeats Athens**  
The Mac-Hi quintet defeated the Athens locals, Saturday evening, January 31, on the Athens floor by a score of 35-24. Athens took the lead with Jenkins making a foul shot but were soon overcome by the Pioneers. Both teams played a man to man game and checked closely. Each team threatened to score at any moment. The Athens boys were out to win and gave the Pioneers a close run. Both teams played clean. Crowley of Athens was high point man making 10 points. The line-up for Athens was: Crowley and Jenkins, forwards; Huffman and Rogers, guards; Hansell, center; L. Jenkins, McCullough, Weber, and Moore, substitutes.

**Grade News**  
The 5th grade is studying the New Netherlands and is making a sand table project of the lives and industries of the country along with their study.

The 7th and 8th grade boys' and girls' basketball teams drove to Adams Thursday and defeated the Adams grades in both games.

**Personals**  
Roland Richards was in Walla Walla Sunday.  
Fred and Walter Singer motored to Echo Sunday.  
Wayne Banister was a Pendleton visitor Sunday.  
Solista Pickett was in Pendleton Sunday.  
Marjorie Montague and Bernice Wilson went to Pendleton Sunday.  
Leland Jenkins went to Helix Sunday.  
Vineta Weaver shopped in Pendleton Saturday.

## Trans-Atlantic Mail Will Not Go On Zeppelins

Washington.—Transoceanic mail flights of the near future will be by plane rather than by dirigible.

Postmaster General Brown made that clear in a discussion of the McNary-Parker bill asking air mail contracts for Zeppelin ocean mail operators, as compared with the projected plane route to Portugal by way of Bermuda and the Azores.

The dirigibles, Brown said, had not proven themselves as speedy, as manageable, or as capable of keeping to schedule as planes.

**Deer Fast In Tree**  
While working in the woods east of Joseph last week, Kenneth Blevans came on a tragedy of the forest. He was attracted to the edge of the thicket where his dog was barking, and there found a deer on the ground, one antler caught fast in the branches of a fallen tree. The buck was released and Blevans tried to revive it but it was beyond help. Snow indicated he had been in a battle with another buck before being caught in the tree.

**Urges Aid For Stanfield**  
Senator McNary, has introduced a bill providing for rehabilitation of the Stanfield Irrigation Project. The bill would appropriate from the reclamation fund \$100,000 and authorize the secretary of the interior to purchase the canal system, place the irrigation system in good operating conditions and loan to the Stanfield Irrigation district as much of the money as the secretary deems necessary to liquidate its indebtedness.

**Has Important Position**  
Mrs. Margaret Richardson Gallagher, who held the position of cataloger and supervisor of books for county branches and schools at the Umatilla County Library in Pendleton from February 1917 to November 1918, has been appointed to the librarianship of the Junior College of Connecticut, according to announcement of E. Everett Cortright, president of the college.

# When It Comes To Repairs:

## Who Wants an Imitation?

WOULD you call on your local merchant and ask him for "imitation" sugar, or raisins, or coffee? Would you ask him to sell you a pair of shoes made of something "just as good" as leather? Or a suit of clothes "made for" a man, whether or not it fits you?

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## Northwest Wheat Real Problem Says Milnor

Oregon, Washington and Idaho produce a "burdensome surplus" of wheat in the opinion of George S. Milnor, president of the grain stabilization corporation.

Milnor, together with C. E. Huff, president of the Farmers National Grain corporation, was in Portland Monday to confer with representatives of the organization.

Northwest grown wheat does not have sufficient outlet, Milnor said. Shipped to the east, freight rates increase the price until it costs more than grain east of the Rockies. The outlet across the Pacific is not attractive because prices there are lower than the cost of production.

**Convicts Captured**  
Lee Duncan and Dan Flynn, who escaped from the Oregon penitentiary were captured in a school house basement at Jefferson, when the janitor, smelling the odor of tobacco, informed the town marshal. The convicts were found under a woodpile in the basement and returned to the penitentiary.

**More Time for Bridge**  
The Butler bill, extending time for beginning construction of the proposed bridge across the Columbia at Arlington, passed the house and has been sent to the senate.

## OREGONIAN HEADS MOHAIR INSTITUTE

A. C. Gage, of Portland, Ore., editor of the Angora Journal, and internationally known mohair authority, who has been named director of the newly-established Institute at Chicago that will carry on researches in the uses of fabrics made from the fleece of mohair goats.



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