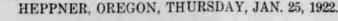
Oregon Historical Society, Public Auditorium

THE GAZETTE-TIMES

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In Opinion of Justice Brown of Su reme Court, Handed Down Recently, Action of Directors in John Day Irrigation District Approved as Passed Upon by Lower Court.

The decision of the supreme court of Oregon in the suit of the Northern Pacific Railway Company and others aganist the John Day Irrigation Dis-trict and others, coming before the court on appeal of the plaintifis from the decision of Gibbert W. Phelps, circuit judge of Morrow county, has been condered and this weak as were been rendered, and this week we were a copy of the same for our inormation

The case is reviewed at length in the decision and each step in the pro-ceedings carefully noted, and as all the actions of the officers of the irthe actions of the officers of the ir-rigation district having been gone into thoroughly at the trial and be-coming a part of the record going up to the Suprems court, these have also been entered largely into the written opinion handed down and are too voluminous for reprition here. Con-cerning the contract between the Dis-trict and the ensurements however, we trict and the engineers, however, we wish to quote from the decision as

"It is asserted that there was a confidential relation existing between the engineers and the board of di-rectors at the time of the execution of the contract made June 2, 1920. lot to the state at large, as it will be the means of diverting about 50 per cent of the travel from the Co-lumbia Highway and reduce the main-This claim is not borne out by the it testimony. This contract between it the district and the engineers was a lawful contract. We have carefully perused all the evidence adduced up-on the trial of the cause: likewise, we have studied the findings of the trial court and the conclusions of law drawn therefrom. While this case is tried anew here upon the record, the trial judge, who saw the witnesses upon the witness stand and noted their manner while testifying. This claim is not borne out by the lumbia Highway and reduce the main-tenance cost on that line through Umatilla and Morrow counties. The Oregon - Washington Highway was just recently placed on the federal map, and because of this, Mr. Harratt is quite sure there will be federal ald to complete the work. All of which sounds mighty good to us. The American Legion post of Hepp-ter announces that they will hold a moker, to be given at the Fair pa-dilion on Saturday evening, Fobruary

record, the trial judge, who saw the witnesses upon the witness stand and noted their manner while testifying, is in a better position to judge of their credibility than is this court from a study of the lifeless type written pages of the testimony. The board of directors of the John Day Irrigation District possessed the dis-cretionary power to make the con-tract involved herein, and while en-tering into its agreement with Lewis the board kept well within the limita-nor has the authority of the direct-tion of its power. No fraud is shown, ors been manifestly shused. 'The rescord discloses that the con-tract was made when agricultural products and farm lands were at peak prices. However, soon after the let-ting of the contract the price of grain, hay, wool and livestock de-cilined greatly; thewise the value of agricultural lands receded, and what many had believed to he a feas-ible undertaking from an economical viewpoint became a disappointment. This possibly had its effect in per-suading some of the petitioners for the formation of the district to be-come plaintiffs in this cause. It is not a case of fraud but one where, under the conditions as they now ex-int, in looking backward it can be said that the board of directors may have erred in judgment. While the record may disclose that the board

<text><text><text><text><text><text> Whether or not there will be a fur-

Legion Will Have Smoker.



Barn Dance Nets Good HEPPNER-SPRAY RD. Sum for Rodeo Deficit IS ABLY DISCUSSED

What is reported to have been one of the best and most enjoyable affairs of the season, was the big dance given at the home of L V. Gentry just east the city on Friday evening. The dance

Has University Course University of Oregon, Eugene, Jan. 24, 1923 .- The recently organized

Heppner Hill Road To **GOVERNOR PIERCE** Have 5 Percent Grade **RETAIN COMMISSION** Judge Campbell has had to give in t last. He has contended for a long

at last. He has contended for a long while that there would be no possi-bility of getting up Heppner hill or a five per cent grade, and therefore it would not be good policy to change the road from where it is now located; just make some needed repairs in the present grade and let it go at that. Preliminary lines had been run a time or two, and it begar to look like the conclusions of Judge Campbell were correct County Surveyor Jos. Kirschner, howevor, got a fixed ides in his head that the problem could be worked out, and he kept at it and the past week finished up a survey that reaches the top of the hill on the required of per cent grade. This will require the construction of a bridge or two and some cattle chutes, but the con-struction will not be greatly in ex-cess of what the costs of repairing the details of the new grade will be all worked out, and the mecessary steps thaken to build it, and in the mantime the old grade will serve . By the construction of the grade will be all worked out, and the necessary steps taken to build it, and in the mantime the old grade will serve . By the construction of the grade the details of the new grade will be all worked out, and the mecessary steps taken to build it, and in the mantime the old grade will serve . By the construction of the grade the basis as required by the state

meantime the old grade will serve the public. By the construction of the grade on the basis as required by the state hingway department, whose engin-eers by the way have beld that it could not be attanied, the county will be saved future trouble and an-noyance, and it will assist greatly in working out the program of the Heppner-Hardman market road, and future by the state or government road departments. Judge Campbell is quite pleased that what he said could not be done, has been done, and there is little doubt now but that the court will adopt the new survey and put the road over there. Other changes, also, are being worked out along the line of the Heppner-Hard man market road across Heppner flat, but these are now in process of adjustment and the exect beating of the state will proceed.

NEW ROLE AS IMP

Star Theatre, Wednesday and Thursday, January 31-February 1.

> Comedy is so abundant in "Molly ' that the fact should not be lost sight of that primarily the produc-tion is one of a very dramatic and tion is one of a very dramatic and thrilling story. It is the story of a



ing from uremic poisoning, and the operation was performed as a final hope in saving her life and that of the baby. For a number of days was gritty girl's fight for a place in in a very critical condition, but her physician now pronounces her well on the way to complete recovery. The baby is also doing well. Mack Sennett's name has become alenvironment to overcome ne Mack Sennett's name has be

cussed by the remaining speakers on the program. The speakers and their subjects are as follows: Saturday, January 27, 1923. 9:00 A. M.—Address of Welcome, Judge J. A. Fee, mayor. 9:30—Report of Secretary for 1923. Mac Hoke, Pendleton. President's Annual Address, Jay H. Dobbin, Joseph. Appointment of committees. 11:00—Address: "How Oregon Can Help the National Weolgrowers' As-Help the National Woolgrowers' As-sociation," F. R. Marshall, secretary Address: "1923." President Frank J. Hagenbarth.

NOTED SPEAKERS TO

ADDRESS SHEEPMEN

Association Officers Billed

Speak, and Others of National Re-

pute Coming to Pendleton Conven-

tion, Starting Next Saturday.

Pendleton East Oregonian.

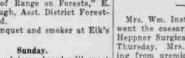
Pendleton East Oregonian. More speakers of national repute in the wool growing industry are to be on the program of the 26th annual convention of the Oregon Wool Grow-ers to be held in Pendleton Saturday and Monday, January 27-29 than ever have appeared before, according to Mac Hoke, secretary, who has finish-ed the tentative draft of the program. Officers of five state wool growers' organizations besides Oregon's own officers and two speeches by officers of the national body will be heard by those who attend the gathering here. Included in this list of men promin-ent in the sheep industry are the fol-

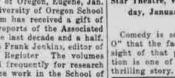
int in the sheep industry are the fol-

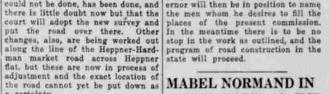
ent in the sheep industry are the id-lowing: Hugh Sproat, president of the Idaho organization; President Spencer of the California association; Dr. Wil-son, president of the Wyoming sheep men; Vernon Metcalf, secretary of the Nevada organization; and T. J. Drumheller of the Washington asso-dution

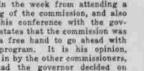
clation. Speakers who are national associa-tion officers include Frank J. Hagen-barth, president, and F. R. Marshall, secretary of the national body. A wide range of subjects will be dis-cussed by the remaining speakers on the program.

ciation.











ther appeal on the part of the plain-ther appeal on the part of the plain-tiffs, we are not informed at this time, but after going pretty carefully over the decision of the Oregon Su-preme Court, it would appear that there is little ground for taking the case up to the Supreme Court of the United States, and the only excuse for doing so would be delay in the pay-ment of the 50 cents per acre assessment according to the decree of Judge Phelpls, affirmed by the Oregon Su-preme Court. This is the way it appears, at any rate, to a lavman.

LEXINGTON CHURCH OF CARS Schwarz, and Keith Logan. Some the day with the Bible School at 10, and the other men, atthe they did not the followed by the Evangelistic service for the service of recommendation for their hard of recommendation for their hard of the service of the is followed by the Evangelistic ser-vices at 11. Edward Wright of Port-land will have charge of the singing. We trust you will find him a pleasing work and loyalty.

and capable leader. - Endeavor services at 6:30. Evan-gelistic services at 7:30. These ser-vices will continue indefinitely every night at 7:30. You are urged to be present at every service and get the good of it all. A great message will be given every night in e given every night in song and ermon. E. A. PALMER. sermon.

~~~~~~~~~~~ Danring There isn't much to do 'round In the way of recreation. So we will have another dance-They have a fascination. -0-Something that will break the monotony of regular work is necessary. Dancing to good music will please you. Saturday, Jan'y 27th FAIR PAVILION Heppner 9 to 12 \$1.10 Mothers and Dads Invited

0000000000

A Student Body meeting was held Monday at which the boys who won letters in football this year were presented with the symbols of the Heppner high school's regard. Those receiving the letters were Alvin Boyd, Phillin Mahoney. Francis Doherty J. W. Morrow of Pertland schow.

J. W. Morrow of Portland ,acknow-ledging the receipt of an invitation from Mr. Gentry to attend the dance Phillip Mahoney, Francis Doherty, Carl Cason, Elmer Bucknum, Reid Buseick, Austin Smith, Paul Aiken, Ralph Moore, Bill Gilliam, Leonard Schwarz, and Keith Logan. Some of from all Gentry to attend the dance sent his regrets that he could not be present, knowing that it would be a howling success; so the next best thing he could do wueld be to con-tribute in a small way to the deficit, and inclosed his check for \$10, which We Contex any achieved to account with

Mr. Gentry was asked to accept with his best wishes. Not going out to

The basketball game played between raise the money in this manner, how-ever, the committee returned the check to Mr. Morrow with their Fossil and Heppner last Saturday was certainly worth seeing. The Fos-sil foothall team heat Heppner by a large score last fail and the Heppner boys were determined that should not thanks for his kindly interest.

happen again if they could help it. The game was one of the closest and best seen on the home floor for many moons. The Heppner team did not Arlington and Heppner **To Battle Here Saturday** 

get to use many signals, as the Fos-sil center towered three inches above the local center. At the end of the first half the

tore was 12-6 in Fossil's favor but this didn't discourage the home boys, instead it seemed to put new life and instead it seemed to put want back in day evening the second half and tied Fossil 12-12 Club It promises to be one of the hot-It promises of the season, Arlington

the second half and tied Fossil 12-12 in a few minutes. Then they began to show their real fight and apirit and at the end of the last half the score was 14-14. Five minutes were added to the game to play off the Tie. Chances looked pretty slim for the Hoppner boys, but they would not give up. Boyd, with his guard al-most on top of him, mule a clever shot which won the game. Another hasket was made soon afterward by our "shooting forward" and the game ended with a score of 18-14 in Herp.

our "shooting forward" and the game ended with a score of 18-14 in Hepp-ner's favor. "Fossil certainly has a good bunch of sports," was the remark of all there is about 5 incless of snow out of sports," was the remark of all there is about 5 incless of snow out there and weather conditions are somewhat colder than about Heppner. Guy Shaw is now farming the Lov-gren place.

out and helped yell for Heppner at this game. The team certainly ap-preciated it, and they hope to show them some better games in the fu-ture. The first one will be at Lex-ington Friday, January 25. Lexing ton scored more on lone than Hepp-ner did, but still Heppner intends to win!

Woodson.Another plane geometry class has<br/>been added to the schedule for those<br/>who were taking advanced algebra<br/>the first semester. The Social Prob-<br/>for the last semester; there are a<br/>large number of the students taking<br/>startd for the last semester, also.bit of enjoyment out of the occasion<br/>that it was possible, eliminating all<br/>and rough stuff, and just<br/>what office Latourell performed, we<br/>have not learned. The outcome was<br/>pleasing to all concerned and the<br/>committee have realized about suf-<br/>ceient funds to wipe out the Rodeo<br/>startd for the last semester, also.would be called heavy construction<br/>and that would not be excessive.A Student Body meeting was heldNext season's Rodeo will start off<br/>with a clean slate and an accumula-Warrens Music Store

Neighbors of Woodcraft Has New Management Install Officers for 1923

The Warren Music Store is now un-der new managemenf, those associat ed in the enterprise being A. B. Rob-crison of Condon, E. J. Scellars of Salem and J. H. Mulligan, formerly of Heppner. Mr. Mulligan will be in active charge and will be manager of the firm. Extensive improvements are

charge and will be manager of the firm. Extensive improvements are itating officer. Preceding the in-firm. Extensive improvements are itation of new members, and at the bing planned and it is the sim of the close light refreshments wer eserved. d all present joined in having a od social time for an hour or more. owners to make the store one of and all

READ THIS: The Bible contains the mind of God; the state of man; the way to salvation. Its doctrines bindings The Arlington All-Stars, said to be one of the best basketball teams in this part of the state, are to try out this part of the state, are to try out their skill in a game on the Heppner floor at the Fair pavilion on Satur-to be holy. It contains light to dibelieve it to be safe; and practice it to be holy. It contains light to di-rect you; food to support you; and comfort to cheer you. It is the trav-cler's map, the pilgrim's staff, the pilot's compass, the soldier's sword, the Christian's character. Christ is its grand object, our good its design, and the redemption of man its cuil, it should fill the memory, rule the heart and guide the fect.

All the services at the usual hours. In the Bible School a chorus, and a xcced 150 delegates. In the Bible School a chorus, and a surprise every Lord's Day. The Jun-

ior Endeavor has a new Superintendent, fine prospect; our Senior En-deavor has new life; "day by day in every way it is growing better and better." The other services as us-Come and worship with us at ual. LIVINGSTONE.

His feet. Jay W. Shipley is here this week

11:30-The Oregon Development Plan, E. E. Faville, Portland. 1:30 P. M .- Truth-in-Fabric Legis-

ation J. B. Wilson Chicago. 2:00-A plan to improve the qual-ity of Oregon wool, H. A. Lindgren, lorvallis.

Discussion. 2:30—Report of resolutions com

mittee. Report of grazing committee. Discussion. 4:00-Election of officers.

Adjournment.

### FARM POINTERS.

Making plans for the garden at this time is wise, since the gardener has ters on the Blackhorse farm, and was more available time to consider caremuch pleased to find the good weath-er prevailing and the grain in such fully what crops he is going to grow this year, and how much of each. For commercial gardens the crops and fine condition. Sheriff McDuffee spent a day or so

rid of his trouble.

391, Ione, Oregon.

The officers installed were: Lulu
G. Herren, Guardian Neighbor; Kate
Besides phonographs and other musical instruments, the firm will han-sical instruments, the firm will han-gend social time for an hour or more.
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the officers installed were: Lulu
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Swindig, Past Guardian Neighbor; Kate
Briggs, Magician; Ross Richardson,
Briggs, Magician; Ross Richardson,
Clerk; Cora Crawford, Banker; Elinardson,
Couter Sentinel; Lavira Crowell,
Outer Sentinel; Ruth Hottman, Cap-tain of Guards; Ada Cason, Dor
Good farming is one of the best
methods of combatting insect petts.

Starkel and Eisle Cowins, Managers.

Good farming is one of the best methods of combatting insect pests. Rotation of crops, fall and winter plowing, destruction of crop remnants and cleaning up of trash on the field, cleaning up or burning over fence rows and ditches, good seed in well prepared bed, right use of fertilizers, and frequent summer surface cultiva-tion all helm to keen the cron up and severe attack of swelling of the glands in her neck.

Sixteen cars of certified seed wheat were shipped out of Umatilla county for use in the inland empire.

High school delegates may register or the convention Feb. 1. Addition-1 registration is scheduled in Johnkey red, hybrid 128, and Jenkin club were the varieties in demand. Addi-tional orders for certified wheat are on Hall on the campus on Feb. 2 rom 8 to 9 a. m. The program will regin at 9:15 a. m. being received by the growers.-O. A. C. Experiment Station.

Smut treatment by copper carbon ate dust demands a high grade of ma

from a st Portland.

E. J. Merrill came down from his ranch near Hardman yesterday and states that the weather conditions are about the same out that way as the production comes as a revelation of the production comes as a revelation to those who do not recall that he was the product of "Mickey." the picture ent representatives of the Y. M. C. A. and the Y. W. C. A., with represen-tatives of the following cooperating churches, Baptist, Christian, Congre-gational, Methodist, Episcopal and Presbyterian. Arthur R. Sweetser professor of Arthur R. Sweetser professor of the Council, L. P. Putnam, campus Y. M. C. A. sceretary, is vice-chairman, and Miss Dorothy Collifer, secretary.

extremely pathetic position Never-theless the story of her courtship and marriage, the failure of the union and then the reconciliation, is at the residence of ar, and ars, Livingstone on Tuesday evening from 4 to 8. It was quite liberally pat-ronized and a snug sum realized to be applied on the pledge of the ladies to the church building fund. as dramatic and thrilling a story as has ever been placed on the screen.

D. O. Justus underwent an opera-tion this week for the removal of a Mrs. John Smith of this city, was recently operated on at the Hepp-ner Surgical hospital for the removal of a tumor, is reported by her phy-sician to be getting along well. large tumor from the back of his neck which he had been suffering from for several years. He is getting along well at present and glad to be

E. M. Hulden, accompanied by his Former Heppner Teachfamily, was here for a few days the first of the week from their home at Blalock. He came to look after mat-

Miss Emma Royd, formarly a touch er of music in the Heppner schools, and remembered by a great many of Sheriff McDuffee spent a day or so in Pendleton this week, being called over there as a witness in the Tay-lor-Kuck libel sait, wherein the edi-tor of the Pendleton Tribune, Harry L. Kuck, is being sued by W. B. Tay-lor for alleged libel in the sum of \$10,000. Must being here devices of Must be the sum of the second distance of the second distance of Must be the second be the second second be the second be the second second be the second second be the second second be the second be the second be the second second be the second second be the second seco Miss Lucla Benge, daughter of Mr. and Mrs. Ralph Benge, has been un-able to attend school this week, be-ing confined at home with a very

lowing: Miss Emma E. Boyd, soprano, leading voice teacher of the fac the Florida State College for

Arch Barnard has purchased prop-erty on a good corner in Lexington and will erect thereon a service sta-tion, expecting to begin work immed intely. His family will move to Lexington when school closes here. FOR SALE-U. S. Motor truck 114 ton, pneumatic tires, in good condi-tor, pneumatic tires, in good condi-tor, pneumatic tires, in good condi-tor, pneumatic tires, is good condi-tor, the tires of the city, who had for some time been interested in the mound, and who were having exca-vations made, were down in the states of the city, who had for the tires of the city, the tires of the city of the tires the tires of the city of the tires of the tires of the tires of the city of the tires of the city of the tires of the t vations made, were down in the trench, which ran across the side of the mound, when the soft earth above suddenty fell in, covering Miss Boyd under about 5 feet of earth. One of LOST-From barn at L. V. Gentry ranch, Saturday night, dark green overcost, Please return to this of-dee, \$5, reward.

inner about a race of earth. Units of the other fadies was slightly injured, while this third escaped unburt. Medical ald was summoned from town, and the negroes who had been duing the encavaling at mice began

work to remove the earth. When the doctors arrived the body had been re-covered, but the doctors pronounced

GOULD, Lexington, Ors. D. C. Gurdane returned Friday From a stay of a couple of weeks in Portland.

F. A. Helms and wife of Echo were Heppner on Saturday for a short terial to be effective, and an adequate time. Mr. Helms states that his part of Umatilia county has been enjoying beasant winter weather and he found the motoring up to Heppner very The O. A. C. Experiment Station rec-

FOR SALE-Thoroughbred Duroe Jersey boar. Sensation stock. Price \$40,00, F. A. Helms, Echo. Ore.

FOR RENT-Wheat ranch, fully equipped, Write or see W. H. GOULD, Lexington, Ore.

**Railroads to Grant Special Rate.** University of Oregon, Eugene, Jan. 4.—Contingent upon the registra-tion of 150 delegates, Southern Pa-ine Company and the Union Pacific Railway Company will grant a rate of a fare and a half to those who at-tend the annual meeting of the High School Press Association and the As-

the insect down. Progressive farmera generally suffer less from insect damage than their less progressive neighbors.-O.A.C. Experiment Sta-

tion, all help to keep the crop up and

tion

sociation of High School Presidents and Secretaries to be held at the University of Oregon, Feb. 2 and 3. It is expeted that the attendance will