PASCO WILL PAVE WITH BITULITHIC

PLANS ADOPTED THAT WILL NECESSITATE CONSIDERABLE ACTIVITY IN STREET IMPROVEMENT WORK THIS YEAR.

Pasco, April 27.—(Special).—Pasco stands for progress. Last night the council awarded contracts that provide for the immediate paving and improvement of the main streets of the city.

For some months the council committee has been busy with trips of investigation to various cities of the Pacific Northwest for the purpose of determining the most desirable kind of paving for use in this climate. Their report covered wide experiences by various cities, with concrete, asphalt, Hassam, Westrumite, bitulithic, brick and wood blocks. The committee reported unanimously in favor of bitulithic. Bids were received from companies representing most of the pavements above named. Prices varied considerably, a number being offered for less per square yard than bitulithic, but, in view of the favorable reports in the towns where this form of pavement has been tested for a long period of years, it was considered that bitulithic is unquestionably the cheapest in the long run.

UNIVERSITY LAW CLASS HAS BANQUET

The members of the senior class of the law department of the Willamette university sat down to a sumptuous banquet at the Hotel Marion last evening. Besides the members of the class there was present Charles L. McNary, of the law firm of McNary & McNary, and dean of the school, and after the banquet and the tables had been cleared the embryo lawyers turned their attention to speech-making.

Sidney Graham, clerk of the circuit court, acted as toastmaster, and introduced the first speaker of the evening, Mr. McNary's talk was in the way of a bunch of wholesome advice to the young lawyers relative to the practice of law. He impressed upon them the fact that the law business at the beginning was trying and slow, and that they must not allow themselves at the outstart to become discouraged.

The other speakers of the evening and the subjects were as follows: Frank Bly, "Litle Things;" John Nyss, 'Success;" L. P. Pierce, "Modesty;" W. Chamberlain, 'Failure;" U. L. Lloyd, "Lawyers." Mr. McMeachin, "The Ladies;" Mrs. Donald Upjohn, "The Men: Mr. Eakin, "The Dean." Mr. Llewellyn, "Fellowship;" Mr. Schaupp, "The Beginning;" and H. Chamberlain, "The Future."

OREGON COMMISSIONERS GET GOOD COMMITTEES

When the National Association of Railroad Commissioners recently made its committee awardments each of the railroad commissioners of this state were recognized by committee appointments.

Commissioner Campbell has been appointed on the committee of grades and crossings and car service and demurrage. Commissioner Miller on the committee on express rates and Commissioner Aitchison was given the chairmanship of the committee on an amendment to an act to regulate commerce and has also been given a place on taxes to ascertain fair valuations of railroad property and one on delays attendant upon enforcing orders.

CHEMAWA SCALPED THE WILLAMETTES

The Chemawa Indians succeeded in taking the scalps of the university baseball team with a vengeance yesterday afternoon. The game was rotten from the first inning, when the Methodists ran in four runs on errors. The second inning Chemawa made five runs, and later piled up six more scores, Willamette only getting one, which made the final score 11 to 5. Every man on the 'varsity team was chalked up with one or more errors. It was a decidedly off day for the Methodists and their superiority over the Indians will assert itself next Tuesday, when the Willamettes will play them on the Chemawa grounds.

The day being cloudy and windy, made it bad for both teams, and such an exhibition of errors will not be repeated by the local team this season.

SUPREME COURT DECISIONS.

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has been the custom for said period of over 30 years."

The affirmative answers were traversed in material particulars by the reply and from a decree dismissing the suit the plaintiffs appeal.

Burnett J.: The defendants avow that they are constantly making use of the premises in question as a landing place and that they will continue to do so. At the hearing they offered no proof of their alleged license to operate a ferry at that point. The attempt to claim under a prescriptive right existing in the public is futile, for the public cannot so acquire a right to use private property bordering on navigable water as a public landing to receive and discharge passengers and freight. Pearsall v. Post, 22 Wend. 425; Thomas v. Ford, 63 Md. 346; Talbot v. Grace, 30 Ind. 389.

To prevail on such a title the defendants must prescribe in their own right and that of their predecessors. In other words, they must plead and prove title by adverse possession. To this there are five essential elements necessary: First, the possession must be hostile and under a claim of right; second, it must be actual; third, it must be open and notorious; fourth, it must be exclusive; and, fifth, it must be continuous. 1 A. & E. Enc. L. (2d Ed) 795; Jasperson v. Scharinkow, 150 Fed. 571, 80 C. C. A. 373, 15 L. R. A. (N. S.) 1178 and notes; McNear v. Guistin, 50 Or. 377, 92 Pac. 1075; Talbot v. Cook, 112 Pac. 709.

The testimony shows that these landings are made upon plaintiffs' premises during the several months of high water on the Columbia River and that they have been more or less interrupted, sometimes by fences and some times by the stage of the water. There is no showing that this use of the bank has been otherwise than by acquiescence or permission of the land owner, constituting a mere revocable license. These essential elements of adverse possession are wholly lacking in the proof. It is claimed also by the defendants that there is a public way which has been in use for more than 20 years adjacent to the slough from which the landings in question are made and that they are exercising a right to land upon the public highway which they are entitled to enjoy without hindrance from the plaintiffs. But the testimony shows that this road is merely adjacent to the slough and at all points there is a narrow strip of land between the ground actually occupied by travel and the bank of the slough upon which the boats land. Hence parties leaving the boats at those points in going to the road would necessarily cross the small part of plaintiffs' land and hence be guilty of at least a technical trespass.

The principal question in the case is whether injunction will lie to prevent continued trespass. Originally the rule was that injunction would not lie in the first instance prior to a judgment at law to prevent trespass unless the threatened injury was such as would cause permanent and irreparable injury to the freehold, such as removing ores from mines or cutting down choice shrubbery, or destroying dwelling houses or the like, or in the further instance that the defendant was insolvent. Smith v. Gardner, 12 Or. 221; Mendenhall v. Harrisburg W. P. Co., 27 Or. 38; Garrett v. Bishop, 27 Or. 349; Moore v. Holliday, 43 Or. 243. But later authorities establish the doctrine that where the trespass is continued, made up of successive acts, each comparatively unimportant in itself, and the threat and intention to continue is manifest, equity wil enjoin the same for the reason that each separate trespass forms a separate cause of action and it would be idle to require the plaintiff to bring a distinct action for each one of the samll trespasses. It would be a waste of time and serve no good purpose for the plaintiffs to bring an action at law for every different landing made by the defendants upon their land without authority. The actual damage accruing from each landing would be comparatively insignificant and to try out each instance in an action at law would lead to a multitude of actions, the principles of which could be determined in one suit in equity. In this case the plaintiffs claim no damaegs but only seek to prevent the continuation of the trespasses of which they complain. The authorities are numerous that equity will entertain their bill for that purpose, especially when persistent invasion of plaintiffs' premises would eventually work out the establishment of an easement in favor of the defendants. Shaffer v. Stull, 32 Neb. 94; Poirier v. Fetter 20 Kas. 47; Murphy v. Lincoln, 63 Vt. 278; Amsterdam Knitting Co. v. Dean, 162 N. Y. 278; Walker v. Emerson, 89 Cal. 456; McClellan v. Taylor, 54 S. C. 430; Turney v. Stewart, 78 Mo. 480; Boston, etc., v. Sullivan, 83 Am. St. Rep. 275; Lake Shore R. R. Co. v. Felton, 43 C. C. A. 189.

The decree of the circuit court is reversed and a decree entered here according to the prayer of the complaint.

Call for City Warrants.

Notice is hereby given that there are funds on hand and applicable to the payment of all warrants, drawn on the street fund of the City of Salem, Oregon, and endorsed, "Not paid for want of funds." Holders of said warrants will please present them for payment, at the office of the city treasurer, as interest will cease from and after this date, April 18, 1911.

R. A. CROSSAN,
4-18-10t City Treasurer.