

The Supreme Court of Oregon, during the first week of this month, decided a case of great importance to the railway corporations and the people of that State. It was an appeal from the Lane county District Court, in which Ben Holladay and his railroad company had sued certain parties for the payment of money and the conveyance of title to land which the defendants had subscribed as subsidy to induce Holladay to build the Oregon and Central Railroad on a certain line. The plaintiff, Holladay, set forth in his complaint that, as the owner of the majority of the stock in the road, he had the lawful right to place the line on any route he might be pleased to select; also, that the defendants had contracted with him with such an understanding, and that the contract was valid and lawful. The defendants in Lane county traversed these allegations so far as to set up that the consideration on the part of Holladay, as to his right to build the road on any route he might select, is one he could not legally grant, and is therefore invalid, and that they are released from their engagements as to the subsidy to be given to the plaintiff. The Lane County Court sustained this defense, and on that Holladay appealed to the Supreme Court; he holding to the validity of the contract, and that he has lawful and constitutional power to execute it. It is the opinion of the Supreme Court that such a contract was against public policy, for the reason that it would be improper to sustain a bargain which had for its purpose the laying out of a railroad upon any other consideration than for the public welfare, and for the interests of the stockholders. The reader will perceive that the interests of the stockholders, or of those who hold the majority of the stock, are not enough to satisfy the court. The consideration must also cover the demands of the general public welfare. And this is good law as well as good policy. For it is a principle conceded by all the higher courts, that railways, in whose favor the State gives right of way and accords a franchise, are not held as strictly private properties, but are so far public institutions that the Legislature and the courts may enforce rules for their management by the holders of the franchise in the interest of the public. May they not enforce a similar rule in the case of a franchise to build a railroad, especially to prohibit any one stockholder or who may chance to hold a majority of the stock from contracting for his exclusive personal interest to build the road on a line of his own arbitrary selection and against the best interests of the State? The idea that a man may be endowed with the right of way and other valuable privileges, at the expense of the people? At all events the court so holds, after mature deliberation. The opinion was written by Justice Burnett, concurred in by Justices Prim and McArthur, and dissented from by the Chief Justice Tipton, and Justice Bonham. Its effect is to defer the recovery by Holladay, says the *Oregonian*, "on all suits that have been brought to enforce subscriptions to the public and federal aid in the construction of the Oregon," where the consideration on the part of the plaintiff was the location of his railroad in any particular locality.

Not only will public opinion in Oregon sustain this decision as just and righteous, but it will meet the approval of honest men in all the States, and if we are not much in error, will be confirmed by all the reputable courts, State and federal. The idea that a man may be endowed with the right of way and other valuable privileges, at the expense of the people? At all events the court so holds, after mature deliberation. The opinion was written by Justice Burnett, concurred in by Justices Prim and McArthur, and dissented from by the Chief Justice Tipton, and Justice Bonham. Its effect is to defer the recovery by Holladay, says the *Oregonian*, "on all suits that have been brought to enforce subscriptions to the public and federal aid in the construction of the Oregon," where the consideration on the part of the plaintiff was the location of his railroad in any particular locality.

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