#### JUDGE ARCHBALD'S LENGTHY OPINION

[Concluded from Page 6.]

by a belt in one of the compartments the same as the prepared coal.

(d) The proposed structure for all practical purposes will be a safe one; built on the How truss plan, the span can be lengthened out to 100 feet and even further, without any difficulty; taking the capacity of the breaker at 120 tons an hour and the speed at which the belts will travel at two hundred feet a minute, the weight of the coal upon the structure at any one time will not exceed ten tons; and the compartments in which the coal is to be conveyed being boxed in, there will be no opportunity for any of it to get out and fall upon the tracks or passing trains beneath, in which respect it would be a great improvement on the present bridge, which is open and unprotected; further, if the ends are built so as to rest upon substantial stone plers or abutments at least fifteen feet from the nearest rail, all danger of the supports being knocked from under it by a derailed engine or train running into them would be removed. The only menace to the railroad would be from a fire starting in the breaker and communicating to the bridge and the debris falling down upon the tracks, and blocking them, but the destruction of the breaker by fire as it now stands, but twelve or fifteen feet from the nearest rail, would result in practically the same thing, and the extension of the bridge would not materially increase this danger. As to the sparks from passing engines, the structure, if properly covered or sheathed with iron or copper, would be sufficiently protected.

Tenth—The capacity of the mines and breaker of the plaintiff company.

tected.

Tenth—The capacity of the mines and breaker of the plaintiff company is 120 tons an hour, or 1,200 tons a day, amounting to 300,000 or 350,000 tons a year. Although the mines have been operated steadily for over forty years, there are still about 3,000,000 tons of merchantable coal on the property, the great bulk of which is on the westerly side of the railroad. It is also estimated that there are some 700,000 tons mated that there are some 700,000 tons of the smallest sizes in the culm or refuse dump, which in the present and prospective condition of the trade can be screened and marketed. The best veins, however, have been worked out and the coal which remains requires to be mined according to the most approved and economical methods in or-der to be profitable. The proposed overhead structure with its system of belt conveyors is in line with this and is necessary for the full and profitable working and enjoyment of the tract as a coal property. Without it the company is practically confined in the sale and transportation of its coal to such arrangements as it may be able to make with the Delaware, Lackawanna and Western railroad only. and Western railroad only.

COMPANY DESIRED TO BUILD. Eleventh—In June, 1899, prior to making the contract with the New York. Ontario and Western railroad, E. L. Fuller, president of the plaintiff company, met W. H. Truesdale, president of the defendant company, and stated that his company desired to build an overhead bridge across the tracks of the railroad such as has been described, and asked permission to construct on and asked permission to construct on the railroad right of way, in such a manner, however, as would not inter-fere with its traffic, the necessary pre-liminary false work in order to do so. He explained by a sketch the proposed system of conveyors and the character of the construction, just where it was to be put up, its dimensions, purposes, etc., and offered to construct it, if so desired, under the supervision and in accordance with the views of the railroad company's engineers. It was conroad company's engineers. It was con-ceded at the time that this was for the purpose of shipping the coal produced at the breaker by the New York and Ontario railroad. Mr. Truesdale de-clined to allow the construction, either of the false work or the proposed bridge, and announced that the company intended to hold the coal and not let it go to another road. He asked if the Mount Pleasant people were not satisfied with their treatment; to which Mr. Fuller answered that they were not, and that, on the contrary, they were very much dissatisfied; that the railroad company had not lived up to railroad company had not lived up to the terms of its contract and had dis-criminated in favor of other operators, refusing to furnish cars to the Mount Pleasant company for anything like the tonnage agreed to be taken under the contract, for which statement he gave facts and figures, apparently con-vincing Mr. Truesdale of its truth, Several interviews of similar character were had afterwards, but without favorable result. Both parties con-sulted legal counsel and the railroad company being advised that the crossing could not be made without its consent, declined to allow the construction, and the present bill was filed. Mr. Truesdale subsequently notified the Mount Pleasant Coal company by letter to take down the existing culm trestle, or bridge, and remove the breaker from off the limits of the right of way, giv-ing them until January 1, 1900, to do so See a copy of this letter attached as Exhibit C to the defendant's answer and made a part of these findings as there set forth.

The law bearing on the case is as

First-By the deed from William Swetland, of January 23, 1854, the defendant company acquired across the land of the grantor a right of way for its railroad sixteen rods wide, exteni-ing one-half, or forty-nine and one-half, feet on each side of the center of the railroad track then laid upon it.
Second—The defendant company, as

a public corporation charged with the operation of a locomotive railroad and the transportation of passengers, freight and coal thereon, is entitled to have and enjoy the grant so made, and the right of way so acquired, for all pur-poses incident to the business in which

this engaged.

Third—The mere fact that it has not becupied or made use as yet of this right of way to its full width is no thridgement of it. By permitting the sarties who were mining the tract pre-eding the plaintiff company to erect sithin the limits of the right of way within the limits of the right of way heir coal breaker and other valuable and necessary mining fixtures, and to construct an overhead bridge or trestle ressing the tracks for the purpose of enveying and disposing of cuim and ther refuse from the breaker to the face appointed for its deposit by the case under which the property was eing operated, the defendant company mo doubt estopped from now interpring therewith; but that does not ering therewith; but that does not revent it from objecting to any urther extension of the said improvesents or any new construction ma-trially differing from those already in

GRANT IN THE DEED.

Fourth—Otherwise than as so stated the grant in the deed of January 23, 1854, is not to be controlled, abridged pr limited. That encroachments have been allowed upon it at certain points, as at the Finch foundry or the Swetland street bridge, does not stand in the way of the company claiming the full width of the right of way elsewhere. Neither is this width to be controlled by the lines which appear on the map or draft accompanying the deed of September 12, 1871, from the defendant company to Pettebone (Plaintiff's Exhibit No. 34), wherein a right of way was reserved on the adjoining Lucilla filikman tract. The lines there found projecting the right of way so reserved across the tract in dispute at a less width than ninety-nine feet, are outside the terms of that convevance and not germane to it, nor referred to in Fourth-Otherwise than as so stated t. Being incidental merely and servno direct purpose as a part of the

conveyance, they are not of themselves sufficient to control or limit the former existing grant of ninety-nine feet.

Fifth—It is unimportant to decide at this time whether the defendant company, by the deed from William Swetland, of January 23, 1854, took more or less than it would have taken had it condemned the land under the power of eminent domain. That question, in my judgment, does not enter into the disposition of the case.

Sixth—Regardless of the manner in which the right of way was acquired or the width to which the defendant company may be now entitled, the plaintiff company without the consent of the railroad company cannot cross it with an overhead structure such as is proposed.

Seventh—By the eleventh section of the Act of April 16, 1838, P. L. 464, it is provided that: "No person shall construct any building, wharf, platform, switch, sideway, lateral railroad or crossing place, or make or apply any device whatever on the ground set apart for or belonging to that forming part of or on the banks or excavation of any railroad, " " without permission given under the authority of " " the managers of the proper railroad company " " which permission shall only be given in writing by a person duly authorized for that purpose; but if any person shall commence or make any such construction or device without such permission or device without such permission device without such permission or device without such permission or device without such permission or device without such permission exceeding \$100, and the officer or agent having charge of such railroad may, at the expense of such person, remove and destroy every such structure or device."

Eighth—This act applies to the present each and the proposed structure

ent case and the proposed structure falls within its provisions, and is there-fore prohibited unless the railroad company consents.

Ninth-The bill should be dismissed with costs.

Eighth-This act applies to the pres-

INDUSTRIAL JOTTINGS.

Make Up of D., L. & W. Board for Today-New Order Issued by Superintendent Salisbury.

Following is the make-up of the Delaware, Lackawanna and Western beard for today:

Saturday, Jan. 27, 1900 WILD CATS, SOUTH. 12.30 a. m .- D. Wallace, with A. Polha mus' men.

12.30 a. m.—H. V. Colvin.

1.30 a. m.—G. Rafferty.

2 a m.—P. J. O'Malley.

3 a. m.—M Hennigan

3 a. m.—M Hennigan
4 a m.—C. Townsend.
5 a. m.—F. F. Stevens, with A. Hopkins'
men.
6 a. m.—S. Carmedy.
8 a. m.—F. Wall.
9 a. m.—W. McAllister.
10.39 a. m.—J. F. Stevens.
11 a. m.—H. J. Larkin
1 p. m.—A. F. Mullin.
1 p. m.—J. J. Duffy.
3 p. m.—J. Ennis.
4.45 p. m.—G. Ludlow.
4.65 p. m.—A. J. McDonnell
5 p. m.—A. J. McDonnell
SUMMITS.

SUMMITS.

7 a. m., north—G. Frounfelker.
9 a. m., north—McLane, with Warrick's men.
10 a. m., south—H. Bush.
6 p. m., south—M. Madigan,

PULLER. PUSHERS.

8 a. m., south-Houser 11.30 a. m., south-Moran 7 p. m., south-M. Murphy, 10 p. m., south-C. Cawley,

PASSENGER ENGINES. 6.30 p. m.-McGovern. WILD CATS, NORTH.

5 a. m., 2 engines—G. Hill. 8 a. m., 2 engines—R. Castner. 11 a. m., 2 engines—C. Kingsley, 1 p. m., 2 engines—E. Masters, 3 p. m., 2 engines—O. Randolph. p. m., 2 engines—T. Fitzpatrick.
 p. m., 2 engines—T. Doudlean.
 p. m., 2 engines—John Gahagan.

Superintendent A. C. Salisbury, of he Lackawanna company, yesterday ssued the following order to the conluctors of the road:

When necessary to double through a tunnel, the engine, while backing up for the rear end of the train, should use the west bound track if backing west, and the east bound track if backing east, provided there are cross-overs within reasonable distance, so this can be done.

If it would involve great delay to cross over to the proper track, then a brake-man must be sent to flag the engine, through the tunnel.

When a train is doubling, and a portion of it is left on the main track, the other portion must not run by the cross-over without leaving a man at the cross-over to prevent any other train from getting between the separated portions.

#### INDIANA'S FREAK FARMS.

Leeches, Weasels, Tomcats, Skunks and Frogs Some of the Products.

From the Indianapolis Sentinel. For freak farming Indiana certainly takes the lead. Instead of depending on corn, wheat, rye and the manifold standbys, a great many farmers in Indiana are devoting their time and energy to raising other products, such as skunks, weasels, rabbits, frogs, ginseng, tomcats and noxious weeds. Indiana has six large skunk farms, and the industry is becoming so extensive that recently a "trust" has been formed

"The Mill Cannot Grind

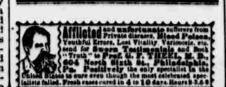
with Water That's Past."

The pelts are very valuable, bringing

A fagged out, tearful little woman said this in telling her cares and weaknesses. Her friend encouraged by telling of a relative who was cured of just such troubles by Hood's Sarsaparilla. The little woman now has tears of joy, for she took Hood's, which put her blood in prime order, and she lives on the strength of the present in-stead of everying about that of the past. Told Her Friend—"After having goitre on my nech 42 years Hood's Sarsaparilla completely cured me. I was so glad I told friends about it and a lady in Wisconsin who read of my cure told me she also took Hood's for the same trouble and was cured. She thanked me." &Mrs. Anna Sutherland, Kalamasoo, Mich.



Hood's Pills cure liver ille; the non-irritating and only cathartic to take with Hood's Sarsaparilla.





TOMEN and Women Only, especially mothers, are most competent to appreciate the purity, sweetness, and delicacy of CUTICURA SOAP and to discover new uses for it daily. Its remarkable emollient, cleansing, and purifying properties, derived from CUTICURA, the great skin cure and purest of emollients, warrant its use in preserving, purifying, and beautifying the skin, scalp, hands, and hair, and in the form of baths and solutions for annoying irritations, itchings, inflammations, and chafings, too free or offensive perspiration, and also in the form of washes for ulcerative weaknesses, as well as many sanative, antiseptic purposes, which will readily suggest themselves. All that has been said of CUTICURA SOAP may also be said of CUTICURA Ointment which should be used after the SOAP, in the severer cases, to hasten the cure.

Complete External & Internal Treatment for Every Humor, \$1.25. consisting of CUTICURA SOAP (25c.), to cleanse the skin of crusts and scales and soften the thickened cuticle, CUTICURA GISTMENT (50c.), to instantly allay liching, inflammation, and irritation, and soothe and heal, and CUTICURA RESOLVENT (50c.), to cool and cleanse the blood. A SINGLE SET is often sufficient to cure the most torturing, disfiguring, and humiliating skin, scalp, and blood humors, with less of hair, when all else fails. POTTER DRUG AND CHEM. CORP., Sole Props., Boston.

from \$1.50 to \$2 aplece, according to the quality. The skunk farmers are now raising the brutes by the thousands. The young are pretty and do not demand much care, and are cheaply maintained and easily placed on the market, and are profitable.

At New Harmony, Posey county, there is a large family of Angora cats. Herman Eular, of that city, is a genuine farmer and tomcat jobber who has made a fortune in the header this breed of cats. He has sold over 3,000 cats in the past year. He haz sold some as high as \$50, and none for less than \$25. It will readily be seen that cats at \$25 apiece will make a man more money than any of the many cereals raised on the form

an more money than any or the reals raised on the farm.

There is only one leech farm in Indiana, and that is probably the only one in the whole country. The industry is carried on in moss-filled vats. The breeding leeches were shipped from Germany some years ago, and all of the product is thoroughbred. The the product is nothing compared with the product is nothing th prescribed an application of leeches for everything, from cold feet to a raging fever. Still there is a good demand for them and they bring a fancy price. They get plenty of food and will keep for an indefinite time.

There are four large rabbit farms in Indiana. The largest one is located at Wabash and covers sixty acres. The company is headed by Nathan Meyer and is known as the Wabash Belgian Hare Breeding and Importing Company. The company expects to raise 1,000,000 hares this year. The bunnies are fed on hay, and they consume about 280 pounds of green grass a day. Their pelts are in great demand and the meat edible. Moreover, they sell as pets. From their hair the finest crush hats are made. Hares are easily handled and are preferable to skunks, and there is no danger of an "off" year.

For many years the farmers thought peppermint weeds obnoxious, and grubbed them out. Today there are three big peppermint farms in Indiana. The largest is located in St. Joseph county, and is owned by Mark Beeger. Another is on the Michigan-Indiana line and is owned by some Poles, and the other is in Lake county. Its uses are numerous, but the greatest demand comes from the manufacturers of print fabrics, who use it to make the colors more solid. The successful peppermint farmer can make from \$75 to \$150 an acre from his land.

The most freakish line of freak farmng is the new wrinkle in fattening the watermelon. Here the farmers steal a march on Nature and fatten them. They do it by performing a surgical operation on the stem, inserting a cot-ton fuse, which is passed through the cork of a bottle of sugar-sweetened

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Pointed Paragraphs.

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Reed Rockers, were \$3.75, \$5.00, \$6.50, \$12.00. Now \$2.75, \$3.75, \$5.00, \$9.50. Fancy Rockers, were \$3.75, \$5.50, \$7.00, \$10.00. Now \$2.75, \$4.00, \$5.50, \$7.50. Bed Talk,

Metal Beds, were \$7.50. \$10.00, \$12.00, \$15.00. With best springs, now \$5.75, \$7.50, \$9.50, \$12 Bureau Talk.

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