LONG, HARD FIGHT BEGUN FOR LAND

Preliminary Round of Suit for Nearly 3,000,000 Acres Started.

FENTON SPEAKS FOR ROAD

Argues All Day on Demurrer to Complaint, Alleging Lack of Jurisdiction and Insufficient Grounds Against O. & C.

Counsel for opposing sides in the suit of the Government against the Oregon & California Railroad Company, et al., for the forfeiture of a grant to nearly 3,000 .-000 acres of valuable timber lands in this state are fighting the preliminary round of what will prove a protracted legal battle for the possession of the property involved. Argument on the demurrer of the railroad company to the Government's bill of complaint was begun yesterday be-fore Judge Wolverton in the United States Court. W. D. Fenton, of this city, speaking for the railroad company, argued all day yesterday and will not conclude until some time today. Argu-

ment on the demurrer, which involves the vital issues in the litigation, will occupy the greater part of the week.

In arguing the demurrer, which alleges lack of jurisdiction and insufficient grounds on which to prosecute the suit, Mr. Fenton outlined plainly the position of the religeact company and the content. of the rallroad company and the conten-tion as to the grant and its terms which are sought to be declared forfeited by the Government. He represented that the grant by which the lands were conveyed to the railroad company was a contract given for a valuable consideration-the construction and operation of a railroad system through a sparsely settled com-munity—in pursuance of the Government's of internal improvements. The terms of the grant, he said, indicates that its purpose was to aid the construction of a railroad. Furthermore the grant, he asserted, carried with it the right of immediate sale of the land that the purpose for which it was made might the sided. It was argued that in making the grant, Congress did not contemplate actual settlement of the lands, the bulk of which were incapable of settlement.

Not Necessary to File Assent.

Failure on the part of the beneficiarythe railroad company—to file its assent to the terms of the grant, contended Mr. Fenton, did not operate as a forfeiture of the grant for the reason that an ac-ceptance of its terms was not required by law and even had it been filed it would be only evidentiary of a ministerial act. He pointed out that the assent referred to in the Government's bill of complaint should have been filed on or before July 25, 1867, or one year after the grant was made. On the contrary, Congress on June 25, 1868 extended for 18 months the time in which the first 20 miles of the projected railroad should be completed without incorporating in that act any mention or requirement as to the filing of an acceptance on the part of the railroad company. This, he said, amounted to a law and even had it been filed it would b company. This, he said, amounted to a waiver by the Government of that conten-tion and vested title to the lands absolutely in the railroad company. Under the circumstances, counsel argued that the Government thereafter could only seek a forfeiture of the grant on the grounds that the beneficiary falled to con-struct the railroad within the time prescribed in the grant.

The act of April 10, 1869, stipulating that be sold to actual settlers in quantilies of not more than 160 acres and at not to exceed \$2.50 an acre, insisted Mr. Fenton, was imposing a condition precedent to the original grant, an impossible and un-precedented judicial practice. Forfeiture of the lands included in the grant, he said, could be made only by legislative act; that the proceeding was not a judi-cial one and that Congress does not have the authority to confer that right on a court. Authorities were cited in support of the contention that all lands includes in the grant to which title had issued six years prior to the commencement of the Government's suit could not be affected by the pending litigation for a cancellation of the grant.

Says Government Without Equity. The complaint was demurred to by the railroad company on the grounds that the Government was without equity for the reason that the grant was without conditions and for the further reason that the Government was not entitled to re-covery, since there was contained in the grant no declaration as to when the land should be sold or to whom it should be sold. As to the 5000 or more intervenors, who appear as party defendants in the suit, Mr. Fenton questioned their right of appearance in the Federal Court on the grounds that the amount involved in each case was less than \$2000. The bringing of cross complaints jointly by these parties, he said, did not waive the jurisdictional defect accompanying their appearance in the suit.

pearance in the suit.

Discussing the position of the intervenors and actual settlers in their relation to the suit and its possible outcome, Mr. Fenton held that they not only were not entitled to discovery or recovery of the lands they sought to acquire, but that should the grant be forfeited, the land would revert to the Government and become public land, subject to entry and bettlement under existing land laws. In that event counsel maintained that all such claimants would be cut off at the pockets without having gained any ad-wantage through their attempted settle-ment or application for the purchase of

the lands. In the course of his argument, Mr. Fen-ion charged that the intervenors were men that had waited for 40 years before undertaking to acquire any of the granted lands. In the meantime, he said, the property by reason of its timber wealth, had become immensely valuable and was exceedingly desirable at \$2.50, the price for which they sought to purchase it. The rallroad company, declared counsel, had paid many times that amount on the land in the way of taxes. Counsel insisted that under the most reasonable interpretation of the act of April 10, 1828, the term "actual settlers" applied only to those who actually settled upon the lands and undertook their settlement between the time the grant was made in 1896 and the date that the railroad company filed its map of survey.

Amended Demurrers Sought.

Just before court adjourned for the day, George W. Wright, of Albany, representing several of the intervenors, asked permission to amend his clients' demurrers to the Government's complaint to the effect that the value of the tracts of land sought to be obtained by them was now in excess of \$2000. It was to meet the jurisdictional objection counsel for the railroad company had raised to the suits by the intervenors that this re-quest was made. It was objected to by Mr. Fenton, representing the railroad, and Judge Wolverton announced that he would hear argument on the applica-

tion before that particular phase of the

In its suit the Government is seeking a forfeiture of the grant, alleging noncompliance by the railroad company with the terms of the grant. If this relief is denied, Government asks that the condideduced, Government asks that the condi-tions of the grant be enforced under decree of the court in the sale and dis-position of 2.873,000 unsold acres of the original grant. At the same time an accounting from the railroad company is demanded for the 540,000 acres of the granted lands which already have been sold.

The order in which the demurrer shall be argued by the counsel representing the different interests to the suit was determined at the opening of yesterday's ses-sion. Mr. Fenton, for the railroad, will be followed either by B. D. Townsend or Tracy Becker, special assistants to the Attorney-General. The Government will be followed by A. W. Lafferty, of this city, and William H. Flotty of Seattle, in behalf of the intervenors.

Over a score of lawyers are in attendance on the argument on the de-murrer. Associated with Mr. Fenton and Mr. Dunne, for the railroad company, is William Singer, Jr., of the land depart-ment of the Southern Pacific at San Fran-cisco. The Government is represented by Mr. Townsend Mr. Becker and United Mr. Townsend, Mr. Becker and United States Attorney John McCourt. John M Gearin, of the firm of Dolph, Mailory Simon & Gearin, counsel for the Union Trust Company, and Nell Brown, of Wassau, Wis. representing some of the Individual purchasers of the granted lands, were interested spectators at yesterday's hearing. Their clients are not directly involved as parties to the pend-ing proceeding. Of the large number of ywers from different sections of the Paic Coast appearing for the intervenors,

cific Coast appearing for the intervenors, the following were present yesterday:

B. W. Coiner, of Tacoma; W. H. Perrin, of Marshfield; A. C. Woodcock, of Eugene; John Mills Day, William H. Flett and M. E. Brewer, of Seattle; George W. Wright, of Albany; Oglesby Young, Mark O'Nell, L. C. Garrigus, A. W. Lafferty, J. O. B. Scobey, of Portland.

MEN TO SERVE DURING MARCH TERM OF COURT CHOSEN.

Of 110 Ventremen Subpensed for Jury Duty, Only 62 Report, and 15 Are Excused.

···· COUNTY GRAND JURY FOR MARCH.

C. E. Parpenter, foreman, carpen-B J. McClain, cabinet-maker, 1029 Corbett street. A. B. Kuempel, cabinet-maker, 408

M. Oavold, 552 Belmont street. E. R. Markham, real cetate, 898 G. E. Wheeler, conductor, Monta-

Robert Speer, laborer, Montavilla.

The March grand jury was drawn in the Circuit Court yesterday morning. Two cabinet-makers, a conductor, real estate nan, a carpenter and a laborer will return indictments during the month. Pre-siding Judge Gantenbeln charged the jury at 2 o'clock yesterday afternoon.

Of the 110 veniremen supenned only 62 reported yesterday morning, the other 48 aving been excused for various reasons About 15 more were excused yesterday morning, leaving about half the original number, who will do jury duty. Three furnmer, who will do jury duty. Three jurymen said their hearing was so affected that they could not serve. They were excused. Several said they have not been admitted to citizenship, and others have sickness in their families. Another juryman said he is conducting a small pelled to do fury duty for a month the business would suffer. He was excused.

Still another is foreman for a contractor who took a contract last Saturday to complete a number of buildings within a specified time. Although the talesman said his services in overseeing the construction work would be needed, he was not excused. The struction work would be needed, he was not excused. The court intimated that if necessary he might be excused later.

Circuit Court Judge.

Republicans Laying Plans for Sweeping Victory in the June Election.

CITIZENS TALK POLITICS

Sentiment Favors Persuading Men of Prominence and Ability to Enter Race-General Meeting to Be Held Wednesday.

The meeting of the committee of citisens to consider the coming municipal primary and June election was held yesterday afternoon at 4 o'clock at 1023 and 1025 Board of Trade building. The following gentlemen were present at the discussion: S. C. Pier, E. B. Colwell, Dr. Whitcomb Brougher, General Charles F. Beebe, J. T. Gregg, Dr. Andrew C. Smith, Dr. J. H. Pettit, A. B. Manley, W. D. Fenton, and J. F. Kertchem.

The plan of the committee, as formulated by those present, is to aid in every cossible way the recommendation to the Republican voters at the May primaries candidates for all the offices to be filled in June whose character and efficience would be of the highest possible standard. It was pointed out that the Republican party in Portland has within its ranks men whose names and careers are part and parcel of the city's highest achievements. It is the duty of those interested in seeing the party win in June to bring about by every honorable and sincere means the selection of standard-bearers whose merits will be recognized among the rank and file, not only of the Republican party, but of the citizens of Partiand irrespective of party the Portland, trrespective of party, the com

It was declared that Oregon and Portland owe the brightest pages in their history to the principles of the Republican party, and the prophecy was made that with a high-class candidate for every office within the gift of the people of Portland, the Republican party would make a clean sween at the city would make a clean sweep at the city election in June

No Names Mentioned.

The committee did not consider, nor does it intend to consider any plan to tender nominations to any one. It did not mention a solitary name for any office or offices to be voted on in June. Nor did it assume to control, direct, or name any candidate whatsoever to be voted on at the May primary. The com-mittee sat as a body of representative Republicars and citizens endeavoring to bring about the cementing and consoli-dation of the Republican party, by as-sisting in the task of getting from the ranks of the party the best timber ob-tainable for the various offices; and helping in every way to insure the suchelping in every way to insure the suc-cess of such candidates when selected and nominated by the people at the pri-

Republican voters, it was asserted, would rally to the men chosen from the party at the primary, if the selection at the primary is a wise one. To the end that all Republicans neight confer and consider the wisest and most efficient manner of securing the best can-didates, the committee believed there

lican party as to the best method of getting unimpeachable men to accept the nominations for the various city offices, and to organize for their elecif necessary he might be excused later.

The grand jury's quarters have been changed to the Chamber of Commerce building, as the room at the Courthouse building, as the room at the Courthouse occupied by the talesmen is present with others, and it may be Judge Wolverton in the United that this initial gathering launched States Court yesterday rendered a

COUNSEL FOR HARRIMAN INTERESTS IN GOVERNMENT LAND-GRANT SUIT INVOLVING

NEARLY THREE MILLION ACRES.

Assembly May Form Plan. It is possible that the assembly on Wednesday night may formulate some decisive plan of action, depending upon the sentiment of the men present. Mr. Pier's committee holds itself ready to act with the party in the effort to get candidates whose fitness cannot be challenged, either at the May primary or the June election.

What method of procedure will be adopted at the gathering at the Sell-

adopted at the gathering at the Selling-Hirsch building cannot even be guessed, as it is called for conference merely, and to learn the wishes of the party as a whole. Mr. Pier's commit-tee believes strongly in organization now so that the party will be in shape now so that the party will be in shape to carry on the fight vigorously in June. It believes with a list of good candidates, and a thorough organiza-tion, the Democrats will not win a

tion, the Democrats will not win a single office.

It is possible some recommendations as to the necessity of a hearty co-operation on the part of all Republicans, a cessation of all party differences, and a suggestion of something concrete in the line of a party campaign may be submitted to the assembly Wednesday night, for the purpose of having the matter publicly and positively understood.

tively understood.

The idea of the Citizens' Committee is to have the gathering at Seiling-Hirsch hall on Wednesday night a thoroughly representative one of the thoroughly representative one of the Republican party. Invitations will be sent out, and it is hoped there will be a full attendance. The plan to get out candidates whose merits will recommend them without dispute to the voters includes not merely the office of Mayor, but every office in the list.

The meeting of the committee in the Board of Trade building yesterday was earnest and enthusiastic, and every man there left the conference believing that with the selection of first-class candidates by the people at the May primary, and a solid support of them by the Rebublican party in June an overwhelming Republican victory could be won.

PLAN STATE-WIDE FIGHT

ANTI-SALOON FORCES ORGAN-IZE CAMPAIGN.

Portland Ministerial Association in Crusade.

Portland. and Ghormley were appointed a mittee to arrange with the Ministerial Associations of Tacoma and Seattle for a joint invitation to Evangelist Smith.

A committee composed of Drs. Ghormley, Abbett and Sharpe drew up resolutions of appreciation of Dr. W. H. Henne, paster of Grace Methodist

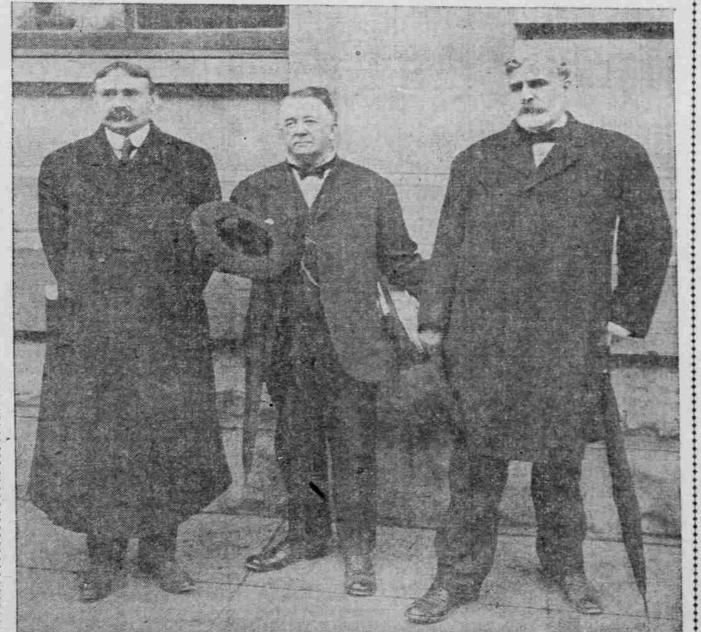
Heppe, pastor of Grace Methodist Church, who leaves soon to assume pastorate of the First Methodist Church of Wichita, Kan. The resolutions will be forwarded to the Ministerial Assoclation of that city.

Rev. J. R. Knodell Asks Support of

At the regular monthly meeting yes-terday of the Portland Ministerial Association, Rev. J. R. Knodell, of the Anti-Saloon League, spoke of the work of the league in this state and asked of the league in this state and asked the support of the association in inaugurating state-wide prohibition in 1910. Mr. Knodell gave a comprehensive review of the work that has been accomplished by the league, illustrating his remarks by means of maps showing the extent of the local option law since its passage in 1905. In that year the anti-caloon forces won in eight counties and in 195 precincts in other counties. In the four years that the league has been in existence it was shown that has been in existence it was shown that its debt of \$5.50 had been reduced to \$1900. Mr. Knodell suggested the advisability of helding a state convention in order to bring together those interested in inaugurating a prohibition movement. After a thorough discussion of the subject it was referred to a special committee consisting of Peri a special committee consisting of Rev. C. W. Hays, Dr. W. T. Gordon and Rev. J. I. Abbett, which will meet with the Anti-Saloon League officials to consider the advisability of a campaign in the near future.

It was unanimously decided to extend an invitation to "Gipsy" Smith, the London evangelist, to hold meetings in Drs. Dyott, Foulkes, Young

Demurrer Is Overruled.



READING FROM LEFT TO RIGHT-PETER P. DUNNE AND WILLIAM SINGER, OF SAN FRANCISCO; W. D. FENTON, OF THIS CITY.

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will enroll as members of this club and meet its conditions. Under these liberal concessions we are able to offer you the

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On the extra special terms—terms that should appeal to all who need a new range-and terms, too, that must be convincing proof of the perfect confidence we have in the merits of our great range, namely:

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During the month of March will entitle you to secure the special terms accorded

"March Steel Range Club"

ONE DOLLAR will make you a member and entitle you to all its benefits, and you may have your range delivered when you are ready to receive it. Book your order now. Don't hesitate-don't wait-get your name on the roll now, for in the busy season of the year we cannot handle the range business in this manner.

PRICES FROM \$35.00 to \$55.00

MEN'S \$10 SUITS-\$1.00 DOWN; \$1.00 A WEEK Medium weights, all sizes; values from \$17.50 to \$20, for only \$10, and on above easy terms.

FIRST And YAMHILL STREETS



SECOND And YAMHILL STREETS

opinion overruling a demurrer to complaint in the suit of the Amerthe complaint in the suit of the American Sulphite Pulp Company against
the Crown-Columbia Pulp & Paper
Company. Damages are demanded by
the plaintiff company from the CrownColumbia people for an alleged infringement of a patented process for
the manufacture of paper.

OREGON FORESTRY ASSOCIA-TION PLANS EXTENSION.

Committee Appointed to Devise Ways and Means of Conserving Resources.

Aroused by the defeat of their Fire Warden bill by the recent state Legisla-ture, members of the Oregon Forestry Association, at a meeting at the Commercial Club last night, decided to en-large the scope of their work and through organization seek two years hence to secure the enactment of legis-lation necessary to the further con-servation of the timber and other na-tural resources of the state. tural resources of the state. That better results may be obtained. Rev. A. J. Montgomery, E. T. Allen, F. W. Mulkey, A. B. Wastell and Wells Gilbert were nominated last night as a com-mittee on ways and means to devise some plan by which the timber, mineral and water interests of the state may be united under one organization for the mutual advantage of each. This the mutual advantage of each. This committee is to make its recommendations, together with a list of officers for the proposed new organization, at another meeting to be held at the commercial Club Monday night, March 15.

In addition to enlarging the scope of its labors, it is the purpose of the organization to increase its membership from 80 to 8000 in the next year.

H. D. Langille, chairman of the meeting, J. N. Teal, E. T. Allen, Forest ing, J. N. Teal, E. T. Allen, Forest Supervisor; and A. B. Wastell, of the Oregon & Washington Lumber Manu-facturers' Association, made enthusiastic talks urging the importance of co-operation if definite results are to be accomplished. Representative J. D. Abbott, chair-man of the House committee on ways

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and means at the recent session, explained that the failure of the Fire Warden bill to pass the two houses was due to a lack of a proper demand on the part of the interests involved, rather than to a disposition on the part of the members of the Legislature to treat slightlingly a subject of such year.

Insurance Is Demanded.

importance to the state.

treat slightingly a subject of such vast

Judge Cleland is hearing the suit of Roy R. Woodrum against the Aetna Insurance Company. He alleges that he took out an accident policy with the company, and on May 22, while running for a car, sprained his ankle. He was unable to work for two months, he says, and demands \$763 in surance. Yesterday afternoon wa



Whooping-Cough, Croup, Coughs, Colds, Catarrh, Bronchitis, Diphtheria. Crescione is a Boon to Asthmatics. Does it not seem more effective to breathe in a smedy for diseases of the breathing organs that take the remedy into the stomach? Cresolene cures because the air, rendered rough suitsettle, is carried over the diseased

t. it in

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