

LAND GRANTS TO OREGON RAILROADS

How Monopoly Was Created for Benefit of Railroad Companies—Townsend Report Says All Competition Was Shut Out.

(United Press Leased Wire.)
Washington, D. C., Feb. 24.—The text of B. D. Townsend to the attorney-general on the Oregon and California land grant is as follows:

"Senate resolution adopted February 8, 1908, recites that 'At divers times various railroad and other corporations have received congressional land grants, containing provisions restricting the sale of the lands to actual settlers in limited quantities and at a limited price; that it is currently reported and widely believed that the administration of justice has information to the effect that, as to certain grants affecting lands in states on the Pacific slope the provision restricting sales as above mentioned has been flagrantly violated and evaded. It is then

"Resolved, That the president is requested, if not incompatible with the public interest, to inform the senate what information, if any, has been received, and what action, if any, has been taken by the department of justice with respect to the matters and things in the preamble to this resolution set out."

"In the month of March, 1907, the attention of the department of justice was directed to certain charges that the terms and conditions of the congressional land grants of the Oregon and California Railroad company had been flagrantly violated in a manner known, the subject was never before brought to the attention of any department or officer of the government. The grants in question embraced a large amount of land situated in the western part of the state of Oregon. After a preliminary consideration, a representative department of justice was sent to Oregon to prosecute a complete investigation of the subject. This investigation was conducted without interruption until the present time, and the department is now preparing to institute proceedings to enforce and protect the rights of the government in the premises.

"The senate resolution is general in its terms, but it is assumed that it refers to the land grants above mentioned and the work of the department relating thereto. By the act of July 25, 1866, as amended by the acts of June 25, 1868, and April 10, 1869, public lands, in alternate odd sections, to the extent of 20 sections per mile, were granted to aid in the construction of a railroad in Oregon, from Portland southerly through the Willamette, Umpqua, and Rogue River valleys to the boundary line between the states of Oregon and California. A similar grant was made to aid in the construction of a railroad in the state of California, to a point on the Central Pacific railroad in California, a separate grant being made in each of said states.

Grants of 1866.
"By the act of May 4, 1870, public lands, in alternate odd sections, to the extent of 20 sections per mile, were granted to aid in the construction of a railroad from the city of Portland extending westerly for a distance of 20 miles and thence southerly a distance of 27 miles. The grant was made to aid in the construction of a further line to Astoria, but the latter line was never constructed, and that part of the grant was forfeited by the act of January 31, 1885.

"The first grant above mentioned contemplated a total of approximately 2,000,000 acres, computed by mileage at the rate of 20 sections per mile. The grant last described, deducting that part subsequently forfeited, embraced approximately 150,000 acres, the area of the latter grant being largely reduced by the overlapping of the former grant.

"Both of the grants named became vested in the Oregon and California Railroad company, a corporation under the laws of the state of Oregon. The company last named became vested with the grant first described in April, 1870, which time only 10 miles of the railroad had been constructed. The latter grant was held by a separate corporation for about 10 years, until October 8, 1880, when it likewise was transferred to the Oregon and California Railroad company. In the meantime the capital stock of both companies had been owned and controlled by the same parties.

"The Oregon and California Railroad company became recognized as the lawful successor to both of the grants, and all patents on account of either grant have been executed to the Oregon and California Railroad company, that company has received and administered both of the grants.

"Act of July 25, 1866.—The grant of July 25, 1866, as amended by the act of April 10, 1869, contained the following provision:

Provisions of Act.
"Provided, That the lands granted by the act aforesaid shall be sold to actual settlers only, in quantities not greater than one quarter section, and at a price not exceeding \$2.50 per acre."

"Act of May 4, 1870.—The act of May 4, 1870, contained the following provision:

"Sec 4. And be it further enacted, That the said alternate sections of land granted by this act, excepting only such as are necessary for the company to reserve as depot, stations, side tracks, wood yards, standing ground, and other necessary uses in the construction of the road, shall be sold by the company only to actual settlers in quantities not exceeding 160 acres, or a quarter section, to any one settler, and at a price not exceeding \$2.50 per acre."

"A brief financial history of the Oregon and California Railroad company will assist in presenting this subject. Shortly after its organization in April, 1870, a construction loan was negotiated, the bonds were secured by mortgage upon the projected railroad and by trust deed covering the land grant. Construction was prosecuted with considerable vigor until January, 1875, when the funds became exhausted and construction was suspended at Roseburg, a distance of 197 miles from Portland and a little more than one-half the entire road.

"Interest payments were defaulted; the German bondholders formed a bondholders' committee composed of bankers of Frankfurt on the Main, and the latter sent Henry Villard to Oregon as their representative. In 1874, Villard secured control of the funds and finances of the company and foreclosure proceedings were postponed. In February, 1878, the bondholders' committee acquired all of the capital of the railroad. The stock was held by trustees who elected officers and conducted the affairs of the railroad company for the benefit of the bondholders.

"In 1881, Mr. Villard reorganized the company, the old capital stock was canceled, the former bonds were surrendered and new capital stock accepted in lieu thereof, the stock was sold for an amount of \$12,000,000 representing the principal and common stock to the amount of \$7,000,000 representing the interest thereon. At the time of the surrender of the former bonds and the acceptance of preferred stock therefor, it was agreed that the preferred stock should have a preferred interest in the land grant in case of a liquidation of the company and this agreement was secured by a trust deed.

"Mr. Villard resumed construction work and, with the aid of a second loan secured by mortgage upon the railroad, conducted the work until December, 1883, the railroad being extended to Astoria, about 30 miles from the state line.

negotiations to take over the road, which they did in the year 1887. The general features of the acquisition of the road by the Southern Pacific were as follows:

"First. All of the capital stock of the Oregon and California Railroad company was turned over to the Pacific Improvement company, which was a development company used by the Southern Pacific syndicate composed of Huntington, Stanford, Crocker and Hopkins.

"Second. New bonds were issued and guaranteed by the Southern Pacific company in an amount sufficient to pay off all of the outstanding indebtedness.

"Third. The railroad was then leased to the Southern Pacific company, which in effect acquired all of its capital stock and then leased the road itself.

"Fourth. The Pacific Improvement company completed the construction of the railroad to the state line in December, 1887, connecting with the Callender & Oregon road, which at about the same time was completed from the south.

"Through railroad transportation was then established between Portland and San Francisco and the Oregon & California railroad has since been operated as a part of the Southern Pacific system until taken over by the Harriman lines in 1901.

"In the meantime the Southern Pacific had already, as early as 1871, acquired the California & Oregon Railroad company, together with its land grant, the title of California & Oregon provided for by this same act of July 25, 1866.

"In October, 1901, the control of the Southern Pacific company was assumed by E. H. Harriman and the Union Pacific interests, and at that time the capital stock of the Oregon & California Railroad company was transferred direct to the Southern Pacific company, and this condition still continues. In October, 1901, Mr. Harriman was elected president of the California & Oregon Railroad company, which position he still occupies, and the railroad has been operated as a part of the Harriman lines.

"The general history of the company may be summarized by saying that until 1887 it was always crippled in its operation, including the handling of the land grant by its lack of financial backing, and was never made a profitable enterprise. Since 1887, the financial backing has been almost unlimited, and it has become an indispensable factor of the powerful organization by which it has been controlled. Prior to its acquisition by the Southern Pacific company it was a local enterprise, conducted with reference to local commercial and industrial conditions; since that time it has been used by some of the masters of the nation's finances as a mere instrumentality to further the development of a monopoly of transportation affecting a very substantial part of the commerce of the nation.

"Under the act of May 4, 1870, the railroad was constructed westwardly from Portland to Forest Grove, and thence in a southerly direction to the terminus named—about a distance of about 47 miles—during the years 1871 and 1872, within the time required by the act. The line to Astoria was never constructed, and that part of the grant was forfeited as above stated.

"Under the act of July 25, 1866, as amended, during the years 1870, 1871 and 1872, the road was constructed from East Portland to Roseburg, a distance of about 197 miles. Work of construction was then suspended, and the balance of the line, a distance of approximately 176 miles, was constructed during the years 1881, 1882, 1883 and 1887. The act, as amended, required the completion of the road on or before July 1, 1880, but congress failed to assert forfeiture on account thereof, and the default was waived.

Selecting Patents.
"Through a misunderstanding of the law by the interior department, upon the filing of maps of location in 1870 to 1872, all lands within the grants were withdrawn from the public domain, including those situated within the indemnity limits. In 1885, the supreme court of the United States rendered an opinion correcting this construction of the law, and the order referred to was finally revoked in 1887.

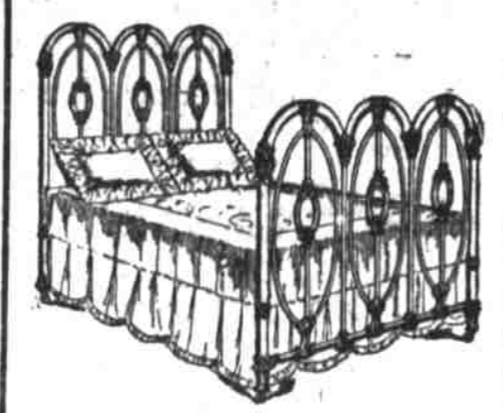
"Under the act of July 25, 1866, selections for the northern part of the grant were filed as rapidly as the road was constructed, and patents therefor were issued from 1871 to 1877. During those years there was selected by and patented to the railroad company on account of the grant of July 25, 1866, 223,184.68 acres.

"Taking advantage of the erroneous ruling of the interior department above referred to, no further selections were made by the railroad company, and therefore no further patents were issued. One of the reasons for this conduct was unquestionably the financial condition of the railroad company. By this method taxation was avoided and the payment of the grant, by patenting of the land was postponed.

"One of the first steps taken by the Southern Pacific system after acquiring control of the road was to make selections as rapidly as possible for the entire grant. The issuing of patents was resumed in 1890 and continued without interruption until 1906.

"Beginning with the year 1893 patents have been issued on account of the grant of July 25, 1866, to the amount of 2,442,448.45 acres, making a total amount patented to date on account of that grant 2,765,597.13 acres. In addition to the 2,765,597.13 acres, has filed selections claiming approximately 300,000 acres more.

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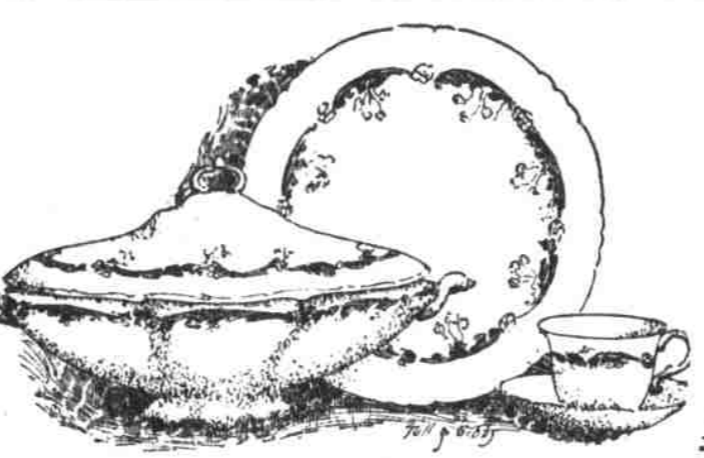
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Regular price \$9.50; Maddock's English semi-porcelain; "St. Louis" pink and gold decoration.

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than four fifths of the land grant now held by the railroad company is situated in southern Oregon. At the time the railroad company withdrew its lands from sale, in 1902, Southern Oregon was developing rapidly. It was largely this development which taxed the capacity of the existing transportation facilities. The sale of land was stopped and the development of southern Oregon checked.

Question of Taxes.
"It may possibly be urged that the railroad company has for many years paid taxes in large amounts, and is therefore entitled to equitable consideration. It will be stated that including the year 1907 the railroad company has paid approximately \$1,000,000 in taxes. An examination of this question, however, discloses of all apparent equities in favor of the railroad company.

"Since 1891 the greater part of the lands have been listed for taxation, but, until the year 1902, when the railroad company for the first time asserted an absolute unqualified ownership of the lands, with no obligation as to the disposition of the same, and permanent-

ly withdrew its lands from sale, the assessed valuation of the land was based upon the assumption that the interest of the railroad company was limited to \$2.50 per acre, and therefore the lands were assessed at a nominal valuation averaging approximately 40 cents per acre. So that, down to the year 1902, the amount of taxes paid by the railroad company was still a comparatively small item. After the company adopted its present policy, the county officers of each county instituted the practice of assessing the railroad lands the same as the lands of other proprietors. The various counties have had the lands cruised and the value estimated and assessed accordingly. The total assessed valuation of the land grant for the year 1907 was approximately \$18,000,000, whereas prior to the year 1902 the assessed valuation had never exceeded \$2,000,000.

"Of the total taxes paid by the railroad company on account of its land grant, from 1870 to the present time, more than one half has been paid since the year 1902. In other words, the greater portion of the taxes paid by the railroad company down to the present time have been incurred by it as a direct result of its own violation of the law. It is difficult to see how any equities can be predicted upon these facts. Even as it is, the total taxes paid by the railroad company does not average to exceed 40 cents per acre, and but for the increased taxation brought about in the manner heretofore stated would have been but about 15 to 20 cents per acre for the whole 37 years since it acquired the grant.

"If the conditions of the grant had been observed, under no circumstances could the railroad company have enjoyed a bounty exceeding approximately \$8,000,000 from the disposition of the lands, which it has received. It has already realized approximately \$4,500,000, and now asserts absolute ownership to property the assessed valuation of which is \$18,000,000."

Manifold Art Collection on Sale.
New York, Feb. 24.—The art objects collected by the late Richard Manifold the actor, were placed on exhibition at the American Art Galleries today preparatory to being dispersed at auction next week. The collection includes valuable portraits and paintings by Hogarth, Romney, Sir Thomas Lawrence, Gainsborough, Sir Godfrey Kneller, Inness and other famous artists.

For any pain, from top to toe, from any cause, apply Dr. Chamberlain's Oil. Pain can't stay where it is used.