

COOVERT REPLIES TO MULKEY'S QUERIES ON TIDELANDS MEASURE

Public Easement Denied Where Structures Exist or May Be Built Hereafter.

WRITER FEARS CONFLICT

Says Government Can't Build Docks and Stop Shoreowner From Building, Without Paying for Right.

Portland, Oct. 12.—To the Editor of the Journal—Mr. Mulkey, in your issue of October 7, submitted to me three questions, which I herewith answer:

I doubt if the voting public is interested in this technical discussion of waterfront law, but will submit these answers upon the assumption that as you gave space to the letter embodying the questions, you will be willing to accord me space for their answers.

First—What kind of an ownership does the owner of shore land on the Willamette river at Portland have to such shore land, an absolute or a qualified ownership?

Answer—Absolute, to low water mark, subject only to the public's right of navigation, when the water is high enough over it for this purpose. But this public easement cannot be exercised where structures already exist, or may hereafter be built, e. g. The Allen & Lewis store, the Esmond hotel or Portland Flouring mills cannot be removed, so that a boat may pass unimpeded over this space, when the water is at a high stage.

Says State Can't Charge Rent.

Between the low water mark and the harbor line it is qualified. Qualified in the sense that the title of the bed is in the state, in trust for the public for the purposes of navigation and commerce. But this public trust does not, and will not include the right to demand and collect rent for its use by the shore owner. But the shore owner has a riparian right in and over this foreshore. This includes right of access to navigation line, for which purpose he may erect docks or wharves, so long as they do not interfere with navigation, but are in aid thereof. And in my judgment the state cannot charge rental for the exercise of this right.

Second—Has the government of the United States for any purpose ever cut off the right of access to navigable water of a shore owner an upland owner without compensation?

Answer—In Oregon no upland owner above ordinary high water mark has any property right of access to navigable water, he therefore would not be entitled to compensation, whether the frontage was taken by the United States, or by anyone, but the United States has a right to erect in the water in front of the shore owner to low water mark, but not contiguous thereto, a lighthouse, jetty, breakwater or pier, when this is done merely

THESE GIRLS AND OTHERS PARTICIPATE IN COLUMBUS DAY PARADE



for the improvement of navigation, and in such case such shore owner is not entitled to compensation.

Must Aid Navigation.

Scranton vs. Wheeler, 179 U. S. 141. Third—Has the government of the United States, for the purpose of commerce and navigation, ever invaded, without compensation being made, and by physical occupation an ouster of possession, shore land held in private ownership?

Answer—Not above low water mark where the state has vested the title thereto in a private owner, as Oregon has. Between low water mark and the harbor line, see last answer and case above mentioned. The use to which the government must put this, however, must be strictly in aid of navigation. It could not go into the dock or wharf business, and thus prevent a shore owner from building a dock himself, without compensation for the rights thus taken.

Shore Owner's Right.

The owner of the shore on the Willamette river to low water mark is a riparian proprietor. His right to the use of the waterfront for docks is property, of which the owner cannot be deprived without due compensation.

Yates vs. Milwaukee, 10th Wallace 497.

In my judgment, although this has never been directly decided by our supreme court, this riparian right gives the shore owner the exclusive privilege of erecting docks and wharves to the harbor line, and cannot be taken away without due compensation, unless it is done for the purpose of widening the channel. In other words, moving the harbor line nearer to his shore line, or for some of the other purposes strictly in aid of navigation, above mentioned.

This principle was recognized in the case of Illinois Central Railroad company vs. Illinois, 148 U. S., page 387, wherein suit was brought by the state of Illinois against the railroad com-

pany to recover almost the entire waterfront area on Lake Michigan adjacent to Chicago, to which company a grant had formerly been made by the Illinois legislature and later repealed. Here let it be noted the repeal covered submerged land and not the shore down to low water mark.

Conflict Is Feared.

The company was permitted to retain docks constructed in front of their shore land out to the harbor line, but no farther, that portion of the docks running beyond the harbor line being abated. This was held to be a proper exercise of this riparian right, but the company lost their title to the lands under the water, which the company claimed extended, by the terms of the grant, over one mile out into the lake, and far beyond the harbor line. It was held that the title to this bed of the harbor was inalienably in the state.

The conclusion then, is irresistible, that on the Willamette river, if the state assumes title to ordinary high water mark, there will be a conflict between the owners claiming fee to low water mark with the riparian right incident thereto, and the claim of ownership in the state under the Jackson-Mulkey amendment.

E. E. COOVERT.

CHILDREN HEAR STORY OF TRIP OF DISCOVERY

(Continued from Page One.)

proved the greatest blessing of the race," declared Father Chapaton.

Draws Two Lessons.

"There are two lessons worth drawing from the life of Columbus. He was a navigator and you, too, are navigators of the sea of life. He was a great man of a greatness that led to the jealousies and assaults of the scientists and men of power of his time. You should remember that the spirit of being great triumphs over the jealousy of others."

Father Chapaton declared it fitting that the Catholic people of America

should celebrate the anniversary of the landing of the first white man, because Columbus planted the cross on the sands of San Salvador and took possession in the name of the king and queen of Spain, Catholic monarchs, who had sent him in the hope of adding the realms to the Spanish dominion and bringing new peoples under the cross.

Remarks Directed to Children.

In his opening remarks the speaker declared he would speak directly to the children, just as if no one else were present. In fancy, he said, he would take them all to Spain, where they could see the earnest Columbus, accompanied by his small son, Diego, start from Madrid to Granada to ask the royal pair for help in finding the new route to China.

King Ferdinand, having battle worries to distract his mind, dismissed the sailor, who, discouraged, set out for France to secure aid there. Stopping for shelter at a Dominican monastery, he unfolded his plan to the prior, Father Juan Perez, who saw the genius in Columbus' plan and interceded with Queen Isabella. Thus the expedition was financed and on August 3, 1492, the three caravels set sail from Palos, arriving early in the morning of October 12 at an unknown shore.

Nothing Marred Voyage.

Despite the varying tales of romance and incorrect history that mutiny had to be overcome by the mariner, Father Chapaton declared nothing of this sort was true—that no mishap marred the voyage, and that the crew, though possibly discouraged by the long trip, in no case proved refractory.

The clergyman's message was delivered simply and with few embellishments, that the children might appreciate the lesson. No wonder, he said, is Columbus entitled to honor higher than the heroes of war, when his work was all for the benefit of mankind and the perpetuation of peace. He classed the explorer with the great builders, the great painters, the great musicians. All the pope, he said, have been great men—not because they were warriors, for they were not, but because they have constantly striven for peace throughout the world.

Father Dominic, rector of Mount Angel church, presided at the organ

during the services in the cathedral, and Mr. Goodrich led the children's singing. Members of the drill team of St. Francis court, No. 1163, Catholic Order of Foresters, marshaled the children on their march and supervised the task of seating the great number. The Portland Council of Knights of Columbus will hold public memorial exercises tonight at the Lincoln high school and not Friday night, as has been announced. Dominic Callarate will preside and D. Solis Cohen will deliver the principal address.

Klamath Firemen Have a Close Call

Building and Stock of Farmers' Implement and Supply House Damaged; Part of Insurance Had Just Lapsed.

Klamath Falls, Or., Oct. 12.—Fire of unknown origin damaged the building and stock of the Farmers' Implement and Supply House yesterday morning. The loss was \$25,000. Fourteen thousand dollars insurance is in force, and a few days ago \$4000 insurance had been allowed to lapse. The loss was \$25,000. Fourteen thousand dollars insurance is in force, and a few days ago \$4000 insurance had been allowed to lapse. The loss was \$25,000. Fourteen thousand dollars insurance is in force, and a few days ago \$4000 insurance had been allowed to lapse.

CONSTRUCTION WORK ON POSTOFFICE WILL BEGIN IN FEBRUARY

Bids Will Be Advertised for New Million Dollar Structure by December 15.

Bids for the construction of Portland's \$1,000,000 postoffice building will be advertised for by December 15, and it is expected actual construction work on the building will be begun by the first of next February, is the news brought from Washington by Postmaster F. C. Myers.

Postmaster Myers went to Washington to confer with officials of the treasury and postoffice departments regarding various features of the plans for the proposed building, and as a result changes have been made in the plans which will add materially to the

convenience of the building. In conference with the building committee of the postoffice department, Mr. Myers says it was found that several important changes were necessary in the plans, particularly in regard to suitable room in which to receive parcels post packages and sell stamps to parcels post patrons. Changes were allowed for room so that patrons who desired to have parcels post packages weighed and rated would not have to again stand in line at the stamp window to purchase necessary stamps. The clerks receiving parcels post packages will also sell stamps, which will expedite the business in the lobby of the building.

"The postoffice building committee had not taken full consideration of the rapid growth of our postal savings bank, which now has over \$1,000,000 in deposits and 7300 depositors," said Mr. Myers, "and additional space had to be provided to take care of this growing branch. An insert in the lobby with writing desks was provided for the patrons of the postal savings system."

Mr. Myers said that as soon as these corrections can be made and approved, the plans will be forwarded to the architect selected. The postoffice department is well pleased with the office type of building which was secured through the influence of Senator Lane," said Mr. Myers. "This type will save the government about \$125 a day in rents by

providing accommodation for all the different branches of the government service now paying rent in this city. The opinion was freely expressed by department officials that henceforth no other type of building will be constructed by the government."

Eugene Ready for Clubbers.

Eugene, Or., Oct. 12.—Delegates to the fourteenth annual convention of the Oregon Federation of Women's Clubs began to arrive last night for the opening session, which will be held in the Commercial club rooms tonight. This will be in the nature of a public reception, at which Mayor Moran and heads of various organizations of the city will deliver addresses of welcome and prominent women of the state will respond. About 150 delegates are expected to attend the sessions. They will be entertained by the members of the Fortnightly club, the women's organization of this city.

Chautauqua Debts Due.

Hood River, Or., Oct. 12.—An amusement company of Portland will hold a carnival in Hood River this week. The committee's percentage of the proceeds of the show will be used for the liquidation of the balance due and owing by the Chautauqua committee that went about \$1200 behind in the Chautauqua held two years ago in the upper valley.



MUSIC ROOM—EASTERN OREGON STATE NORMAL SCHOOL.

BE JUST TO EASTERN OREGON

Although embracing about two-thirds of the state's area, Eastern Oregon now has no state school of any character. Restore to it the Eastern Oregon State Normal School by voting

316 X YES

Cast your ballots for the cause of education, for the betterment of the public school system, for the better training of Oregon's young men and women who wish to become teachers. It will add but a feather's weight to the burden of your taxes.

ONE FORTIETH OF A MILL

or two and one-half cents annually on every thousand dollars assessed valuation, as provided in the millage tax bill referred to the people by the Legislative Assembly, will restore to the state's use the Eastern Oregon Normal's plant at Weston, consisting of one main building, two dormitories, a president's cottage and 10 acres of ground.

Eastern Oregon needs this school. Oregon needs it, and also needs the Southern Oregon Normal at Ashland. Three Normal Schools are none too many for this great commonwealth.

Reflect that if you pay taxes on \$2000, the permanent and adequate maintenance of the Eastern Oregon Normal will cost you but five cents each year.

(Paid advertisement, authorized by F. D. Watts, William MacKenzie, S. A. Barnes, E. G. DeMoss, Clark Wood, Weston, Or.)

Advertisement for Prince Albert tobacco featuring a man smoking a pipe and a pack of cigarettes. Text includes 'Real tobacco that works both ways!', 'YOU just can't get in wrong with you Prince Albert, no matter how you hook it up.', and 'R. J. REYNOLDS TOBACCO COMPANY Winston-Salem, N. C.'

Advertisement for Superior Service to Puget Sound and Grays Harbor Cities, featuring the Oregon-Washington Railroad & Navigation Company. Includes a schedule table and contact information for the City Ticket Office.

Advertisement for Salem Beer, 'The Most Popular Beverage on the Pacific Coast', and Penney Bros. Includes an image of a beer bottle and contact information for Penney Bros. at 379 East Morrison St.

WANTED! Oregon Humane Society CHAIRS TO RECANE School for the Adult Blind 11th and Davis For particulars call J. F. Meyers, Phone Main 548