

OUR VIEW

‘Value’ specifics when dealing with the state

The Oregon Court of Appeals has effectively overturned a jury verdict that had awarded a dozen counties and dozens of taxing bodies within them \$1 billion.

The ruling emphasizes the necessity of clear and specific language in contracts, particularly when you are dealing with the state.

At issue is the case brought six years ago by 14 counties that in the 1930s and 1940s ceded 700,000 acres of forest land to the state of Oregon. The counties claim they donated the forest land with the contractual expectation that logging revenues would be maximized.

And for a couple of decades or more, that’s what the state did. It sold timber and gave part of the proceeds to the counties and other taxing districts.

But what had the state actually agreed to do?

The state, through legislation, agreed to manage the forest for the “greatest permanent value.” In the 1930s and 1940s, when the state’s forests were being actively harvested for lumber, that was assumed to mean the greatest dollar value.

But in 1967, the Legislature expanded the definition of “greatest permanent value” to include multiple uses. Timber revenue was just one goal, not the only goal. And in the late 1990s, the “greatest permanent value” was changed in the state’s forestry management plan to include environmental and recreational considerations that restricted timber harvests.

That’s when the counties that depended on timber revenues to pay for services really started to feel the squeeze. In 2016 they sued.

In 2019, a jury in Linn County heard opposing arguments from the counties and nearly 150 taxing districts within them, and the state of Oregon. Weighing those arguments, the jury concluded the state had agreed to focus on cash-generating timber harvests and had violated its contract.

The plaintiffs were awarded \$1 billion in damages.

Last week, the Oregon Court of Appeals ignored the jury’s findings and ruled the trial judge had improperly denied the state’s request to throw out the lawsuit.

Legislation requiring Oregon to manage the forestland for the “greatest permanent value” does not create an “immutable promise” to maximize revenue for the counties, the appeals court ruled.

The appellate court said “historically, ‘value’ has myriad definitions, some of which could relate to revenue production and others that do not relate to revenue production.”

The statute also directs that forests be managed for the “greatest permanent value” to the state, rather than to the counties, which means the text falls short of the “clear and unmistakable intent” of making a contractual promise, the ruling said.

Therefore, the judge erred in not dismissing the suit. Plaintiffs lose their \$1 billion and must hope the Oregon Supreme Court takes up its case.

We think the counties and the state were of the same mind when the lands were donated. It’s telling that a jury heard these arguments and found a contract existed.

But lawyers and people see things differently.



Eternal vigilance is the price of liberty



BRIGIT FARLEY
PAST AND PROLOGUE

In my last couple of columns, I tried to outline the roots of Russia’s war in Ukraine. Now, three months on, some important lessons have become clear in the wreckage and ruin. All of us here in Eastern Oregon, the nation and the world should consider them if we wish to see a more peaceful future.

One thing we have all had to relearn is that peace and prosperity are not permanent. President Woodrow Wilson promised the great war would be the war to end all wars, that the world would be made safe for democracy. Both of those promises proved false, the victims of despair and revenge.

In a second world war just 20 years later, President Franklin Roosevelt and British Prime Minister Winston Churchill outlined in their Atlantic Charter some principles of a lasting peace: self-determination for nations victimized by Nazism, armaments reduction and lowering of trade barriers. The Soviet Union, which allied with the U.S. and Britain to defeat Nazi Germany, refused to cooperate and imposed repressive Communist governments on all the states it had liberated from the Nazis.

Then, in 1989, when Soviet reformer Mikhail Gorbachev informed the leaders of those states that they were free to choose their own futures, the world rejoiced again. I recall thinking that surely, Europe’s peaceful, prosperous future was guaranteed. Now that old impulse to dominate smaller neighbors has revived, zombie-like, in Vladimir Putin’s war in Ukraine. This reminds us that eternal vigilance really is the price of liberty.

We have also learned the unthinkable is now thinkable again. In August 1945, the United States dropped two atom bombs on Japan, in hopes of ending the long and bloody Pacific War. The aftermath of that bombing horrified the world. Nonetheless, other nations sought to acquire nuclear weapons, as a kind of insurance policy. Because he had the bomb, Soviet leader Nikita Khrushchev

believed President John F. Kennedy would not respond when the Soviet Union put missiles on Cuba 60 years ago this October. Kennedy called Khrushchev’s bluff when he ordered a naval blockade to intercept Soviet ships carrying missiles and installation equipment.

Khrushchev knew Kennedy meant business, but, as he wrote later, he came to realize how outrageous it was that he and Kennedy had at their disposal the power to destroy millions of lives in a matter of minutes. Undoubtedly, this played a part in Khrushchev’s decision to remove the missiles. Soviet and U.S. leadership for years afterward observed a tacit agreement that neither would risk using nuclear weapons again. This agreement held until just a few weeks ago, when Putin threatened NATO nations with nuclear retaliation if they interfered with his army’s rape and plunder of Ukraine.

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A third takeaway reminds us that in a globalized world, the shock of a regional war will reverberate far beyond the battlefields. As Europe’s breadbasket, Ukraine exports about 1/3 of the world’s wheat and sunflower oil. The Russian invasion has taken a devastating toll on Ukrainian agriculture. Russians have confiscated equipment, torn through and/or laid mines in valuable farmland and blocked export routes in the Black Sea. This virtually guarantees hardship and hunger for nations like Egypt, which rely on Ukrainian exports. In 2011, a drought in Ukraine caused the price of bread to skyrocket in Cairo, bringing people into the streets in protests that eventually chased Egyptian President Hosni Mubarak from power. We

can expect more instability and unrest worldwide in the coming months.

The most important lesson of this terrible event is that dictatorship can be ruinous. Volodymyr Zelenskyy won his campaign for the Ukrainian presidency in a free and fair election. He listened to Ukrainians, who forcefully expressed their desire to become affiliated with the European Union in the Maidan protests of 2013-14. When Putin launched an invasion of Ukraine a few weeks ago Zelenskyy stood up and embodied Ukraine’s determination not to submit to Russian domination, moving around the country livestreaming defiance and encouragement. By contrast, Putin has rigged every Russian election since at least 2007, relentlessly promoting his party while denying others the right to campaign, and imprisoning or murdering outspoken critics of his regime. He has no checks on his power and listens only to those who cheerlead his every decision. Thus he was able to launch a senseless war on demonstrably false pretenses.

This war has inflicted horrific death and destruction on Ukraine. Many young Russian soldiers have died fighting what their leader told them was Nazism, but which turned out to be ordinary people who could speak to them in Russian as well as Ukrainian. Russian citizens have seen the stable lives they have built since the end of communism — good jobs, improved living conditions, access to more than the basics and ability to travel — obliterated. The Russian brand may never recover from this debacle, and the well-being of millions worldwide is in jeopardy. All this came to pass because one man could make disastrous decisions with no accountability.

A lot of people in this country seem oddly untroubled by attempts to restrict voting, lock in one party’s electoral wins and reinstall a president who lost an election fair and square. They would do well to contemplate the lessons of Putin’s war and reflect on what can befall a nation when its leader and his party do away with all opposition and operate without fetters and with impunity.

Brigit Farley is a Washington State University professor, student of history, adventurer and Irish heritage girl living in Pendleton.

YOUR VIEWS

McCloud can bridge the rural and urban divide

It is time for the midterm elections and I would like to urge all of Eastern Oregon to exercise their right to vote and actually cast a ballot. The midterms are important and dictate who our choices are on the general election ballot in November. This month we vote

to select our candidates for governor and as a self described “Centrist Republican” I have carefully deliberated and decided to endorse and vote for Tim McCloud, Republican — his positions on almost every issue align with mine and most rural Oregonians.

He is the one candidate who can bridge the divide between rural and urban Oregon, represent both communities equally, and

finally, I believe he is the only Republican on the ticket who can actually win in Oregon. I hope other Republicans will vote for him on their primary ballots as well.

Steve West
La Grande

Roy Barron is good for Hermiston

Roy Barron is standing for reelection to Hermiston City Council. He is

bright, educated (B.A., Xavier University, Ohio), informed, sensible and has a vision for our city. He communicates and collaborates at a high level.

Councilor Barron expects continued growth in Hermiston, and believes that we are a city to be taken seriously. Anne and I will vote for Roy again because we believe he is good for us and for Hermiston.

Dennis Doherty
Hermiston