Will Ask Congress To Enforce Land Grant

(Continued from Page One.)

occupied the place on the program which was to be given to R. A. Booth who was unable to be present. Mr. Bean spoke in behalf of the different counties of the state in which these railroad lands were located.

"Early settlement and taxation of these lands is the paramount issue," said Mr. Bean. In Lane county 40 per cent of the land pays the taxes on the entire county and contributes toward the state taxes and runs the county government. We have our share of forest reserves and not one acre of this land should ever go under control of the forest reserves. We have enough of government ownership of land. We want the lands settled and put on the tax roll."

F. F. Dunn, a Southern Pacific attorney from San Francisco, presented the side of the railroad in the present controversy, and at the beginning of his talk reviewed the history of the railroad land grants. The land was granted to the railroads, Mr. Dunn said, in order that it might cease to be public domain and might become tax bearing. When, by the terms of the grant, the railroad was forced to accept other lands in lieu of the agricultural lands within 10 miles of its tracks on either side, the company took lands in the hills and mountains. This was back in 1866 and again in 1870. Then the timber was small and practically valueless but with the growth of the timber industry the lands had become valuable timber lands and then in the guise of "actual settlers" certain interests had become anxious to become possessed of these lands at the rate of $2.50 an acre or about $400 per quarter section.

"No one had ever questioned the title of railroad company to these lands and for 40 years the company had been selling these lands at prices in excess of $2.50 an acre and in excess of 160 acres in one lot. Then the right was questioned and litigation followed and Judge Wolverton ruled that this condition of $2.50 an acre and single quarter sections, became a "condition subsequent" according to the ruling of Judge Wolverton. If this condition subsequent were not observed the lands might be forfeited and revert back to the government."

"The railroad holds, however, that the conditions imposed in the grant was not a 'condition subsequent' and the supreme court has ruled that it was simply 'an agreement' and if the railroad did not keep this agreement when selling the lands it simply was not allowed to sell them but the title was never questioned through 40 years of dealings which were reported to congress semi-annually in due form."

"There are two points I want you gentlemen to get clearly and that is that the absolute title rests with the railroad company and again if the railroad sells these lands instead of holding them it must sell at statutory prices under the terms of the grant but suppose the railroad does not choose to sell? The railroad is under no compulsion to sell by any terms of the grant, but simply that if it does sell it must abide by the restrictions imposed by the terms of the grant and to actual settlers. The language of congress in making this grant was not directive but restrictive only and no limitations of time were made.

"The report of the department of commerce states that the bulk of the lands of the railroad are heavily timbered and not suitable for agriculture but it stands to reason that the lands which are timber lands only may be used to the best interests of the owner, whether private or a corporation.

The railroad desires to meet the people half way in this proposition for the disposal of these lands and whatever your resolution to congress is let it be fair, reasonable and equitable and the railroad company will be ever on the alert to meet you on that footing and to aid in releasing the suitable lands to the settlers and I am sure that you will agree that the price should be over and above $2.50 an acre since the railroad company has been paying taxes on these same lands at the rate of about $11 an acre.

Congressman Albert Johnson, of the Third District of Washington, viewed with alarm mostly the encroachments of the forest reserve and was decidedly against any move to throw the lands into a forest reserve. He suggested a committee of three, five or seven determined men to be appointed to go to Washington, D. C., to work with the state delegation in congress as he said there were but 33 congressmen from the western states out of 435 and that the eastern congressman saw little of any interest in any debate on the disposition of western lands.

Statement of Legal Rights.

By George M. Brown, Attorney-General.

(1) A state has no power to tax the property of the United States within its borders.

(2) All of the public domain within the state remains exempt from taxation, except so far as the United States has voluntarily parted with its title to the same, which act of segregation is ordinarily evidenced by the issue of a patent.

(3) Statutes, as well as constitutional provisions, exempting property from taxation are to be strictly construed.

(4) It is a presumption of law that property is taxable.

(5) It is the land itself with which the state is concerned in taxing and does not look to the covenants contained in the conveyance.

(6) A proceeding to assess and collect taxes upon land in Oregon is a proceeding in rem.

(7) The power of taxation is a sovereign right belonging to the state in its sovereign capacity.

(8) The value of the land for the purpose of assessment is independent of any encumbrance, embarrassment, claim, lien or liability attached to the title of the property, or covenant contained in the conveyance, or any other condition that impairs the use or transfer of property.

(9) Value for taxation means the actual judgment of the public as expressed in the price which someone will pay for the land. It has also been stated as the highest price that a normal purchaser, not under peculiar compunction, will pay at that time to get that thing.

(10) The fact that the lands subsequently acquired a value in excess of limitation imposed for sale would not change the character or legal effect of the conveyance.

The Night Session.

The principal element of interest outside of the set speeches that were delivered at the night session of the conference, was the verbal tiff between Lafferty and Senator Day, of Multnomah county. It had already been decided that in the appointment of the resolutions committee each of the counties in which railroad lands were located should have one representative. Five were to be named from the state at large and two were to be named to represent the Farmers' union and the O.-C. Land Grant Enforcement association. Lafferty maintained that the delegates at large should be appointed from counties not having representation on the committee and the controversy arose when the chairman appointed three delegates to serve on the resolutions committee who were from counties having railroad lands within their borders.

The shorthand notes and the written motion which carried giving the chairman to appoint the members of the committee appeared to sustain the chair.

The following were named to serve on the resolutions committee.

Benton county, W. P. Lafferty; Clackamas, W. A. Dimick; Clatsop county not represented; Columbia county, A. L. Clark; Coos county, Hugh McLain; Curry county, S. P. Pierce; Douglas county, Robert E. Smith; Jackson county, W. C. Lefever; Josephine county, H. L. Gilkey; Klamath county, Guy Kuykendall; Lane county, L. E. Bean; Lincoln county, L. M. Davis; Linn county, Judge H. H. Hewitt; Marion county, Judge C. L. McNary; Multnomah county, R. G. Callvert; Polk county, C. L. Hawley; Tillamook county, G. B. McLeod; Washington county, R. N. Barret; Yamhill county, Jesse Edwards; Grange Farmers' Union, C. E. Spence; Labor Federation, E. J. Stack; at large, Roy Ritner, Umatilla county; E. E. Kiddle, Union county; I. N. Day, Multnomah county; W. W. Cardwell, Douglas county; E. V. Carter, Jackson county.

Ex-Senator Fulton Speaks.

"I take the position that the proper construction of the supreme court decision is that title under the grants is vested in the railroad company and that the provisions do not constitute a condition subsequent, but simply a covenant, and while compliance with a provision will be enforced their violation affords no ground for forfeiting the grant," said Former Senator Fulton in his address last night. "That being true, the title to the lands has passed from the United States and the lands have become a part of the great mass of property within the state subject to taxation and available for the state's industrial and commercial development, and it is not in the power of the general government to cause these lands to be returned to the public domain.

"The lands once having become private property and subject to taxation their status in that regard cannot be changed without the consent of the state. Hence without the state's consent they cannot be incorporated in the forest reserve or otherwise withdrawn so as to preclude the state from dealing with them as private property.

"All congress can do is to consent to a modification of the restrictions on alienation. It could, of course, consent that the lands be disposed of by the road on terms different from the terms specified in the grant, but cannot compel that. Assuming that some adjustment between the government and the railroad can be brought about and will be brought about, it is my view that the lands shall be classified and all those suitable for home making shall be open to actual settlement and occupancy by some home builders on the cheapest and most favorable terms possible.

"All suitable for mining shall be opened up to that industry.

"It is known that much of the lands, though not suitable in a large way for cultivation, are suitable for stock growing, but probably one taking them for that industry would require more than 160 acres and provision should be made therefor. The lands chiefly valuable for timber should be disposed of at actual value.

"My personal preference would be to let the lands suitable for home building be taken by actual settlers for a nominal price, or for nothing, making the timbered lands produce a sum sufficient to compensate the railroad company for that loss.

"Also I will favor having a congressional committee to come here and take evidence and investigate the situation as I think that will enable congress to understand the views of the people of Oregon and the importance of having these lands continued in private ownership to assist in our development."

Railroad Heard From.

That the railroad company has complete right to the lands, by grant of congress, and also has the right to do with them as it pleases, was the theme of the address of F. P. Dunne, attorney, who spoke for the Southern Pacific. He defended the company's violations of the terms of the grant by saying it had been done in the open without objection and that services done the government in transporting free of charge munitions of war over the road had more than met the difference.

"The supreme court has said that the settlers' clause was not a condition subsequent, but a covenant," said the speaker, "and that the lands are not forfeited. We still have the lands and the title. The only limitation on the title is that if we sell the lands it must be according to the terms of the grant.

"As to actual settlers the supreme court held that the actual settlers' contention that the road was trustee for them is untenable. The supreme court brought out that we are not compelled to sell, but that if we do sell we may choose the settler and the time of selling. If we have an absolute grant and are not compelled to sell, if that is the only restriction, what are our rights? Will anyone deny that if we wanted to lease the lands we would have that right, that if we wanted to cut down the timber and use it we might have that right? If these things be true, then we have rights, and far above any $2.50 an acre. If the congress of the United States were to elect to take that timber without compensation it would be confiscation.

"But has Oregon no rights in this? The state has a profound interest in that these lands should be retained in private ownership, that they be developed and settled, not that these lands be absorbed into some already overgrown federal reserve and not that it be locked up for all time. And when the railroad company is asked to cooperate in bringing this about, meet the railway in a gentlemanly spirit, not with epithets, and let us arrive at some suggestion to congress so that the rights of all shall be preserved. I have no suggestion for proposed legislation nor any policy to suggest to you, for I would not put the railroad in a position of trying to force the issue. But we will meet you cordially on any equitable footing."

Hawley's Views Differ.

Congressman Hawley delivered an address in which he took issue with the address delivered by Senator Fulton. Senator Fulton held that the lands if once withdrawn from public ownership and turned over to private ownership could not be again turned back to the state. Congressman Hawley held that these lands could be turned back to the uses of the citizens of the state for the establishment of homes. Mr. Hawley said:

"Much has been said that I would agree with, but I would like to take issue with Senator Fulton when he says that land transfered to the government from private ownership cannot be put back its taxation.

"The case is not before us as a new case. If it were there would be many solutions. We have been warned that the destiny of these lands, unless we act with dispatch, will be to go back into the forest reserve. We were warned by Mr. Graves' letter and by Mr. Tillman's address. The supreme court said the terms of the grant were an 'enforceable covenant.' I have given the subject careful thought and I am not yet prepared to say what we can do.

"In my judgment safety alone lies in asking congress that in the shortest possible law with the smallest possible legislation it provide for the enforcement of the covenant.

"The minute we try to dispose of the lands anew we abandon what rights we have under the present law. There is danger unless we insist on enforcement of the terms of the grant to the end of settlement and taxation.

"It has been humorously said that the United States lets a man 160 acres of land that he can't go onto the land and keep himself alive. But that is the acid test that we must have.

"The population of our nation has increased while the food supply has decreased. We must give the settler a chance to go onto these lands and develop them.

"Do that which can be done for the good of the state and its people.

"I studied this question from the standpoint of the man I will meet and that you will meet, of the suspicions that will be raised, and it is a matter of the greatest concern that we act in the way in which we can most clearly. That is along the line of the present status and the supreme court's decision.

"I favor the suggestion that a committee should be appointed to go to Washington to help get our hopes realized."

THE MARKETS

While there was some buying of wheat yesterday in Portland at advance of 2 cents, the general opinion is that this buying had nothing to do with the general condition, but merely the filling of contracts. At least, there is no change in the local prices, and the chances are that it will be hard to dispose of much wheat even at 70 cents. But the opinion seems to be among buyers, that 70 cents is the bottom.

Sugar is off ten cents a hundred retail. The poultry and egg market are holding steady, with a feeling that higher prices are due next week.

WHOLESALE MARKET

Grains.

Hay, timothy, per ton	$11@$12
Oats, vetch	$9@$10
Cheat	$9@$10
Wheat, new crop	70c
Oats, new crop	30@32c
Rolled barley	$31.50
Corn	$40
Cracked corn	$41.50
Bran	$27.50
Shorts, per ton	$30
Clover seed	13 to 15c

Butter.

Butterfat	33c
Creamery butter, per pound	35c
Country butter	17c

Eggs and Poultry.

Eggs, candled, No. 1, cash	27c
Eggs, case count, cash	25c
Eggs, trade	27c
Hens, pound	12c
Roosters, old, per pound	7c
Spring chickens, pound	15c

Pork, Veal and Mutton.

Veal, dressed	10@11c
Pork, dressed	9@9 1-2c
Pork, on foot	6@6 1-2c
Spring lambs	5@6c
Steers	5@5 1-2c
Cows	3 @ 4c
Bulls	3@3½c
Ewes	3c
Wethers	4@4½c

Vegetables.

Cabbage	40c
Tomatoes, Oregon	30c
String garlic	12 1-2c
Potatoes	75c
Cucumbers	25c
Walla Walla onions	75c
Beans	4c
Sweet potatoes	3c

Fruits.

Oranges, Valencia	$5@5.25
Lemons, per box	$4.00@4.50
Bananas, lb	5c
California grape fruit	$3.00
Dates, dromedary, case	$3.25
Fard dates	$1.60
Cocoanuts, per dozen	$1
Cantaloupes	$1.25
Watermelons	$1.25
Grapes	$1.50

Retail Price

Eggs, per dozen	30c
Sugar, cane	$6.65
Sugar, D. G.	$6.45
Creamery butter	40c
Flour, hard wheat	$1.65@2.45
Flour, valley	$1.45@1.60

PORTLAND MARKET

Portland, Ore., Sept. 17.—Wheat: Club, 86c.
Bluestem, 91c.
Oats: No. 1 white feed, $23.25.
Feed, $23.
Hogs: Best live, $6.65.
Prime steers, $6.50@7.
Fancy cows, $5@5.25.
Calves, $7@8.
Spring lambs, $6.75@7.
Butter: City creamery, 31 1-2c.
Eggs: Selected local ex., 30c.
Hens, 1c.
Broilers, 17c.
Geese, 8c.

Boston Globe: Texas has gone Democratic so long that it seems odd to think that anybody the other side of the Rio Grande should think that it might go Mexican.

Classified Advertising Page

CHIROPRACTOR

CONSULT DR. MAY, experienced and successful Chiropractor, for acute and chronic disorders. Has practiced six years in Oregon. Free consultation. Hours, 9 to 12, 1 to 6. 305-6-7 Hubbard Bldg. Lady attendant. Phone office 572; residence 982-R.

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DR. O. L. SCOTT—Graduate of Chiropractic's Fountain Head, Davenport, Iowa. If you have tried everything and have got no relief, try Chiropractic spinal adjustments and get well. Office 406-7-8 U. S. National Bank Building. Phone Main 87. Residence Main 828-R.

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SCAVENGER.

SALEM SCAVENGER—Charles Soos proprietor. Garbage and refuse of all kinds removed on monthly contracts at reasonable rates. Yards and cesspools cleaned. Office phone Main 2247. Residence Main 2272.

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RIGDON-RICHARDSON CO.—Funeral directors and undertakers, 252 North High street. Day and night phone 183.

WATER COMPANY.

SALEM WATER COMPANY—Office corner Commercial and Trade streets. For water service apply at office. Bills payable monthly in advance.

LODGE DIRECTORY.

A. O. U. W.—Protection Lodge No. 2. Meets every Monday evening at 8 in the McCornack hall, corner Court and Liberty streets. A. E. Aufrance, M. W.; S. A. McFadden, recorder; A. L. Brown, F.

CENTRAL LODGE No. 18, K. of P.—McCornack building. Tuesday evening of each week at 7:30. F. F. Schram, C. C.; W. B. Gilson, K. of R. and S.

SALEM LODGE No. 4, A. F. & A. M.—Stated communications first Friday in each month at 7:30 p. m. in the Masonic Temple. J. C. Welch, W. M.; S. Z. Culver, secretary.

PACIFIC LODGE No. 50, A. F. & A. M. Stated communications third Friday in each month at 7:30 p. m. in the Masonic Temple. Glenn C. Niles, W. M.; Ernest H. Choate, secretary.

R. N. of A.—"Oregon Grape Camp," No. 1360, meets every Thursday evening in McCornack building, Court and Liberty streets; elevator. Miss Sylvia Scnaupp, 1791 Market, oracle; Hazel Price, Imperial Furniture Co., recorder.

MULTNOMAH ROYAL ARCH CHAPTER No. 1, R. A. M. Regular meeting second Friday in each month at 8 p. m. in the Masonic Temple. Alfred F. Marcus, Ex. High Priest; Russell M. Brooks, secretary.

HODSON COUNCIL No. 1, R. & S. M.—Stated assembly first Monday in each month, Masonic Temple. James Plant, Thrice Illustrious Master; Glen C. Niles, recorder.

DE MOLAY COMMANDERY No. 5, K. T.—Regular conclave fourth Friday in each month at 8 o'clock p. m., in Masonic Temple. Sojourning Sir Knights are courteously invited to meet with us. Geo. H. Burnett, E. C.; Frank A. Turner, recorder.

CHADWICK CHAPTER No. 37, O. E. S.—Regular meeting every first and third Tuesday at 8 p. m. in the Masonic Temple. Elizabeth Read, W. M.; Ida M. Babcock, secretary.

WOODMEN OF THE WORLD—Meet every Friday night at 8 o'clock in McCornack block. Oscar Donaldson, C. C.; L. S. Geer, clerk. 507 Court street. Phone 593.

UNITED ARTISANS—Capital Assembly No. 84, meets every Wednesday at 8 p. m. in Moose hall. Mrs. F. W. Cook, M. A.; J. T. Penn, secretary, 413 Masonic Temple.

SALEM HUMANE SOCIETY—D. D. Keeler, president; Mrs. Lou Tillson, secretary. All cases of cruelty or neglect of dumb animals should be reported to the secretary for investigation.

MODERN WOODMEN OF AMERICA—Oregon Cedar Camp No. 5246, meets every Thursday evening at 8 o'clock in McCornack hall corner Court and Liberty streets. Elevator service. W. W. Hill, V. C.; Rex A. Turner, clerk.

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FOR TRADE—For cord wood, steel range. Address S. R., care Journal. Sept18

40-ACRE well-improved farm to trade for modern house, close in. 82-acre farm for rent. Stock and implements for sale. Geo. B. Jacobs Co., Bayne Bldg., 341 State. tf

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GOOD MEALS like your mother cooked and nice rooms, good service. The Baker, 645 Ferry street. Sept18

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FOR SALE—Trade or rent, 2 houses close to school. Call 424 N. Com'l street. Sept18

SMALL general stock of merchandise for sale. Inquire 1190 North Capitol street. tf

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SPLIT BODY OAK wood, $4.50 per cord; grub oak $5.00 $5.50; ash $4.50. Second growth fir, $3.50. Phone 1954. J. H. Eaton. Oct 11

HOPPICKERS, ATTENTION — We are headquarters for tents, camp stoves, stools, gloves, cots, springs, granite ware, everything to satisfy your wants. Lowest prices. Peetz Furniture Co., 233 North Commercial.

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JOB PRINTING.
Beaver State Printers, Patton Block..... 1512

TRAVELERS' GUIDE

SOUTHERN PACIFIC.

North Bound.

No. 16	Oregon Express	5:00	a.m.
No. 54	Sound Special	6:12	a.m.
No. 28	Willamette Limited	9:22	a.m.
No. 12	Shasta Limited	11:55	a.m.
No. 18	Portland Passenger	2:00	p.m.
No. 20	Portland Passenger	5:00	p.m.
No. 14	Portland Express	8:00	p.m.
No. 222	Portland fast Fr't	10.38	p.m.
No. 226	Local way Fr't	10:35	p.m.

South Bound.

No. 15	California Express	3:32	a.m.
No. 17	Roseburg Passenger	11:20	a.m.
No. 53	Exposition Special	2:42	p.m.
No. 19	Cottage Grove Pas.	4:20	p.m.
No. 11	Shasta Limited	5:43	p.m.
No. 27	Willamette Limited	6:10	p.m.
No. 13	San Francisco Ex.	10:38	p.m.
No. 221	San Francisco Fast Freight	12:35	a.m.
No. 225	Local way Fr't	8:10	a.m.

Salem-Geer Line.

No. 73	Arrives at Salem	9:15	a.m.
No. 76	Leaves Salem*	9:50	a.m.
No. 75	Ar. Salem (mixed)	2:00	p.m.
No. 74	Leaves Salem	4:15	p.m.

*No connection south of Geer.

No. 161	Lv. Salem, motor	7:00	a.m.
No. 163	Lv. Salem, motor	9:45	a.m.
No. 165	Lv. Salem, motor	1:40	p.m.
No. 167	Lv. Salem, motor	3:25	p.m.
No. 169	Lv. Salem, motor	6:15	p.m.
No. 239	Way Fr't lv. Salem	5:00	a.m.
No. 162	Ar. Salem	8:40	a.m.
No. 164	Ar. Salem	11:25	a.m.
No. 166	Ar. Salem	3:15	p.m.
No. 168	Ar. Salem	5:30	p.m.
No. 170	Ar. Salem	7:45	p.m.
No. 240	Way Fr't ar. Salem	1:35	p.m.

OREGON ELECTRIC RAILWAY CO.

Northbound.

Lv. Salem	Train No.	Ar. Portland
4:35 a.m.	2 Owl	6:55 a.m.
6:30 a.m.	6	8:45 a.m.
9:45 a.m.	10 Limited	11:35 a.m.
11:20 a.m.	12	1:45 p.m.
1:50 p.m.	14	4:10 p.m.
4:00 p.m.	16 Limited	5:50 p.m.
5:37 p.m.	20	8:00 p.m.
7:55 p.m.	22	10:00 p.m.

Southbound.

Lv. Portland		Ar. Salem
6:45 a.m.	1	8:55 a.m.
8:25 a.m.	5 Limited	10:11 a.m.
10:40 a.m.	7	12:55 p.m.
2:10 p.m.	9	4:33 p.m.
4:40 p.m.	13 Limited	6:40 p.m.
3:40 p.m.	Daily except Sunday.	
6:00 p.m.	17 Local	8:10 p.m.
9:20 p.m.	19	11:25 p.m.
11:45 p.m.	21 Owl	1:55 a.m.

Northbound.

Lv. Corvallis		Ar. Salem
4:10 p.m.	20	5:37 p.m.

Lv. Eugene		Ar. Salem
7:35 a.m.	10 Limited	9:45 a.m.
1:50 p.m.	16 Limited	4:00 p.m.
5:10 p.m.	22	7:55 p.m.
12:05 a.m.	2 Owl	3:10 a.m.

Southbound.

Lv. Salem		Ar. Albany
4:35 p.m.	9	5:35 p.m.
		Ar. Eugene
		7:05 p.m.

Lv. Salem		Ar. Eugene
2:00 a.m.	21 Owl	7:50 a.m.
10:15 a.m.	5 Limited	12:25 p.m.

Lv. Salem		Ar. Albany
1:00 p.m.	7	2:05 p.m.
		Stops at Corvallis

Lv. Salem		Ar. Eugene
6:40 p.m.	13	8:50 p.m.

Woodburn Local Daily Except Sundays
No. 64 Leaves Salem ..... 3:40 p.m.
Arrives in Salem ..... 3:25 p.m.

CORVALLIS CONNECTIONS.

Northbound.

Lv. Corvallis		Ar. Salem
8:26 a.m.	10	9:45 a.m.
(Local Albany to Salem.)		
2:32 p.m.	16	4:00 p.m.
4:10 p.m.	20	5:37 p.m.
6:05 p.m.	22	7:55 p.m.

Southbound.

Lv. Salem		Ar. Corvallis
10:15 a.m.	5	11:34 a.m.
4:35 p.m.	9	6:02 p.m.
1:00 p.m.	7	2:32 p.m.
6:45 p.m.	13	8:00 p.m.

WILLAMETTE RIVER ROUTE.

Oregon City Transportation Company.
Steamer Pomona and Oregona leave Salem for Portland and way landings, daily except Sunday, at 6 a. m.