

The Times-Herald

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Saturday, September 6, 1919

FRED OTLEY, LAWEN, SEEKS INFORMATION

In your issue of Aug. 30, your article Page 1, on the Malheur Bird Reserve states that the exact status of this lake depends on the accuracy of the information given to the representative of the State Atty. Gen. Office who were at that time in Burns—On Page 3, of the same issue you state that F. H. Greenia a Portland Journal representative was shown by authoritative statements that Malheur Lake had been decided Swamp by decisions in the U. S. Department of the Interior, and as such was ceded to the State of Oregon, and should remain in possession of the State—If this statement is the accurate information that you speak of on page 1, will you please answer in your valuable paper the following questions—as accurately as possible—Viz.—CAN you give the dates of those decisions by the U. S. Department of the Interior that you speak of—CAN you tell me why C. B. McConnell and the Harney Basin Development Co. were turned down in their application to the State Land Board for a contract to drain and so acquire Malheur Lake—CAN you tell me why the State Land Board did not make application for Lake Malheur as swamp as they stated they would do Nov. 21, 1916—CAN you tell me why Senate bill No. 259, 1917 declaring all Lake beds to be property of the State was passed by our Oregon Legislature and is a dead letter—CAN you tell me why Messrs. Lyljeqvist and Brown representing the state Atty. Gen. Office are at present investigating the status of Malheur Lake on account of the inquisitiveness of Gallagher's legislative bill requesting the State Land Board to ascertain what title to any the State of Oregon had in Malheur Lake—Can you tell me the reason for all these facts if Malheur Lake was ceded to the State of Oregon as swamp, AS YOU STATE. Also CAN you tell me why C. B. McConnell's application to the Interior Department of the U. S. for a survey of Malheur Lake was turned down—And do you know that State Legislatures have no jurisdiction over lakes proper or Federal reserves and Malheur Lake is both.

Most respectfully yours
FRED OTLEY

Under the act of September 28, 1856 "The whole of the swamp and overflowed lands made unfit thereby for cultivation, and remaining unsold after that date, are granted and belong to the several States respectively, in which they are situated."

The act extending the grant to Oregon provides that the grant to this State shall not include any lands which the Government of the United States may have sold or disposed of under any law enacted prior to March 12, 1860.

It shall be the duty of the Secretary of the Interior, to make accurate lists and plats of all such lands, and transmit the same to the governors of the several States in which such lands may lie, and at the request of the governor of any State in which said swamp and overflowed lands may be, to cause patents to be issued to said State therefore, conveying to said State the fee simple of said land.

Selection of such lands to be made within two years after notice by the Secretary of the Interior to the Governor of the State that the surveys of same have been completed and confirmed.

If the authorities of the State, shall claim as swamp and overflowed, any land not represented as such upon the map or in the returns of the surveyors, the character of such land at the date of the grant shall be determined by testimony, to be taken before the surveyor general, who shall decide the same, subject to the approval of the Commissioner of the General Land Office.

Malheur lake or marsh proper is unsurveyed and therefore itself not represented upon any map as swamp and overflowed, but the field notes of the survey made in 1879, ascending the lake, show that the deputy surveyor did not extend the lines of survey to a body of water but closed them on marsh lands.—In no instance does the deputy surveyor designate the points at which he established the meander corners as "Malheur Lake" or show that these corners were established upon the shore line of a body of water, but they are invariably designated as the "Margin of Malheur marsh." Sec. 33 L. D. 521, Pacific Live Stock Company V. Armack, decided March 11, 1901.

If the application of C. B. McConnell and the Harney Basin Development Company for a contract to drain Malheur Lake was turned down by the State Land Board, it was presumably because the State has never asserted its claim to same, furnished the required proof of the character of the land covered thereby, or acquired title thereto. Further, Legislative acts accepting the grant, imposes certain restrictions as to the acquisition of such lands.

The application for Lake Malheur, to the cists of the State to some under the swamp grant act is probably delayed awaiting proof required under the act. It is a long

BURNS COMMERCIAL CLUB

(by the Secretary)

Water is the least valued among things existing, and the most valued among things wanted. The best illustration thereof is Harney valley past and present—we have, year after year, let the precious water go to utter waste, allowing the flood waters to flow over the frozen ground and into Malheur lake, there to evaporate; quietly submitting to the arrogance of a few men who themselves have only received the minimum benefit therefrom by permitting their lands to remain uncultivated and to overflow before the growing season, thereby limiting its production to one half or one ton of inferior hay per acre, whereas the same lands under proper methods of cultivation and timely application of water are capable of producing far more valuable crops.

Such conditions must not continue. The water shed of Silves river will furnish sufficient water, if properly conserved and applied, for the irrigation of many more thousands of fertile acres in Harney valley, and it must be so conserved and applied to a beneficial use.

The question of irrigation of the now arid and unproductive lands in Harney valley is a vital one to every man, to the entire community and beyond. The world today is a house of famine, human beings dying by the thousands each day for want of food, and no man, or set of men, have the moral right to retard production of food for the purpose of personal gain. Wealth conquered Rome after Rome conquered the world, and one man's wealth or arrogance, or the caprice

of others must not continue to be other men's ruin nor stand as a barrier to the full development of the country for the greater and general good.

Available water supply for such irrigation is from the same source and will, because of the contour of the country, be conserved in the same reservoir or reservoirs and diverted through the same canals to the lands in the valley below. The government project under consideration in 1904-1906 for the irrigation of Harney valley presented no engineering problems and provided for one unit only. Whether there should be one or three units under private enterprise is for the water users to determine—three units, each with separate boards of directors, will have the opportunity of squabbling among themselves, including extra cost for organization, maintenance etc., which will be eliminated if all is included in one unit.

What lands should be included in such irrigation district or districts is another question, but the most practical solution appears to be only those which are now irrigated. After the storage system and canals are constructed and all water users within the district are assured of all the water they reasonably need and when they need it, sell the surplus to owners of unirrigated lands at such figures that will justify the investment.

Join the Club; put your moral force behind it and help to reclaim Harney valley. Many willing hands make a great task easy.

time since March 12, 1860. What may appear as conclusive proof to the Editor may look different to the trained legal mind.

4 Senate bill No. 259, session 1917, may have declared all lake beds to be the property of the State, but even if enacted into a State law it could not void United States' Statutes or waive any proof required thereunder.

5 Do not know whether investigation relating to the lake by Attorney General Brown and Attorney Lyljeqvist was a result of Mr. Gallagher's bill or not, but Gallagher's inquisitiveness was timely and for the purpose of protecting the interest of the State.

6 There may have been so many reasons why Mr. McConnell's application for survey of the lake bed was rejected by the Interior Department, if such is the case, it may have failed to meet all the requirements of the Department in such cases, or the Department considering the unsettled status of the marsh may have deemed that the State of Oregon was the only real party in interest.

7 Can not concede that Malheur marsh is a lake proper, anyway, no act by the legislature can change the true character thereof, whatever that may be.

8 The bird preserve was created by proclamation of President Roosevelt, subject to all existing rights, and does not in any manner abrogate the swamp grant act.

EDITOR.

IS IT PROFITEERING?

To the author of the big multiplication table:

A merchant charged eight cents for potatoes. Immediately afterwards the purchaser asked a producer what he received for his spuds and the reply was "five cents in trade."

If the profit on the merchandise traded was equal to that on the potatoes, how much was it in the aggregate, and was it profiteering? It was not, was it?

CONSUMER.

LOCAL AND PERSONAL.

County Treasurer W. Y. King and Miss Celia Byrd left today in his auto for a visit with relatives and friends at North Yakima where his daughters reside. They will spend a time here and fill up on fruit coming back by way of Pendleton where they will take in the Round-up.

Judge H. C. Levens and Commissioner McKinnon left yesterday for Portland. They will attend a convention of county judges and commissioners, and will also be present at a session of the state highway commission. It is understood these officials will urge the completion of the highway to Crane without interruption.

ADVISABILITY DOUBTED

(Continued from page 1)

out and travel around the county and familiarize himself with the country and people, and also if he should be a man for whom a stenographer would be necessary. The salary a really good man would require was suggested to be at least \$3000 a year.

Among the committees called on last night for reports, possibly two out of a dozen reported action. Elbert Hubbard once said, "Rest is rust." Another classic recalled in this connection runs something like this:

"Her bones sit dust;
Her picks is rust;
It's forty year
Since she went but."

Considerable comment and discussion arose over good roads, and the community can be assured that one proposition, at least, on which the club is active is that of bettering the county thoroughfares.

The matter of improving the public school grounds came up for informal discussion, upon which Chas. M. Faulkner informed the club that the school board had appropriated \$300 for that purpose this year, and would continue to appropriate funds each year as expenses permitted.

The club was informed that the county court had gone down to meet with the state highway commission on extending the road from Lawen to Crane, and on motion, Mr. Faulkner was instructed by the club to also meet that body on his trip to Portland next week.

TOO LATE TO CLASSIFY

LOST—On way from Lakeview to Burns, one 32x4 tire and rim mounted. Reward \$5.00. Fred N. Tracy, R. F. D. No. 2, Boise, Idaho.

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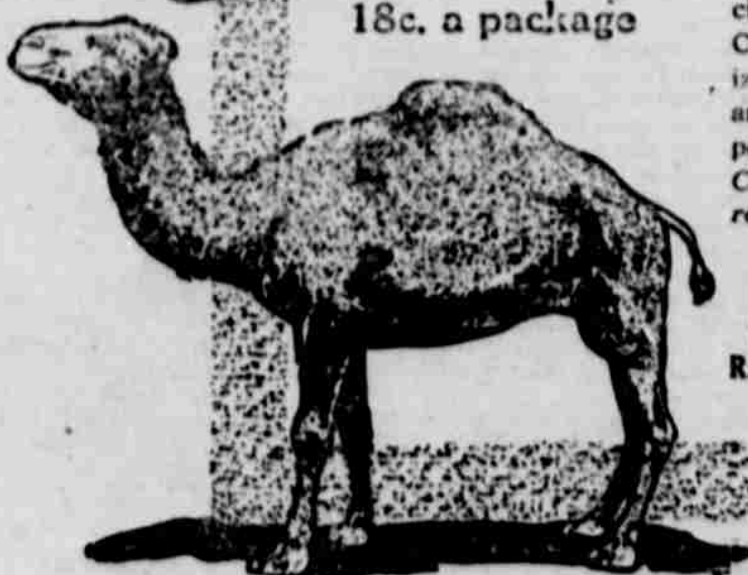
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