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Saturday, September 20, 1919

Otley Seeks More Information

Lawen P. O., Sept. 12, '19
To the Editor of The Times-Herald:
Your statements in issue of September 6th noted.

In regards facts as to whether Malheur lake is a lake proper or swamp, I will also call attention to the Swamp Land Act of 1860—"which grants all the State of Oregon (and other states) upon application for same by the state;" unless reserved by the Federal government. In 1860 Malheur lake was almost an inland sea, the size of which can be determined by any competent engineer taking a level from the top of the sand reef which then separated Malheur from Harney lake. In 1882 the water in Malheur lake was so high that in one place it broke over the sand reef, and eventually washed out the present channel and drained Malheur lake to its present dimensions. What is now Malheur lake was in 1860 only a portion of the lake at that time, and our present meander line was probably (at times) from 3 to 5 feet under water in accord with the depth of water, which varies. But was very certainly not swamp in 1860, or consequently at any time since. Also it is safe to say that the early Swamp Angels of those early times, viz., French, Devine, Owens, Fulton, and Todhunter, "all of sacred memory," were certainly onto their job, and allowed no Swamp land to be unapplied for—to be discovered later by the Harney Basin Development company, and its Burns friends, in 1918 and 1919.

I would also call attention to a decree of the Oregon supreme court in the case of Cawfield vs. Smyth 1913. (A test case between meander line owner and squatter) which was as follows: 1st—That Malheur lake was a lake proper, and not a tule marsh; 2nd—That meander line owners owned to the center of said lake, and 3rd—That the resurvey of Malheur lake in 1895 was a correct survey. On the strength of this decree, Smyth the squatter concluded not to carry the case any further and bought out Cawfield the meander line owner and so settled the case. Also the case of Joanna Little vs. J. J. Williams involving title and ownership of land in Walker lake bed situated in northeast Arkansas. Little was a squatter on the lake, and had obtained deeds to her claim in the lake bed from the Arkansas state government, and the St. Francis levee districts (a drainage corporation.) The decision of the supreme court of Arkansas was in favor of J. J. Williams, the riparian owner. This decision was affirmed by the U. S. supreme court, Dec. 1, 1913. Also United States supreme court decisions in case of Hardin vs. Jordan, and Mitchell vs. Smale 140 U. S. 371-196 have bearings on this matter.

Swamps are surveyed while lakes proper are meandered. The U. S. land office at Burns will tell you that the Federal government owns more of the meander line of Malheur lake than any other individual owner, and consequently owns more of the lake bed as a riparian owner.

I would call attention to the soil of Malheur lake bed, which is not of a swampy or boggy nature. Whenever the water of the lake lowers as at present the land thereby exposed is firm and mowers are run over same by the owners thereof, cutting grass or tules for hay. This on land that has been under water for years. Also the lake bed beneath the open water of the lake is an alkali hard pan, more like a cement than a soil and totally unfit for cultivation—even tules won't grow in shallow water. Nothing swampy or boggy about this.

I would again ask for dates of the decisions of the U. S. Interior Department declaring Malheur lake to be a swamp, and when as such it was ceded to the state of Oregon for the benefit of the school fund. As mentioned by you in your issue of August 30th.

Respectfully yours,

FRED OTLEY.

The act of September 28, 1850, granting swamp and overflowed lands to the several states, was extended to Oregon March 12, 1860. Section 2913 Lord's Oregon Laws provides that proceeds of the sale of tide and overflow lands, with certain other lands, shall be set apart as a separate and irreducible fund to be called the "irreducible school fund," the interest of which shall be exclusively applied to the support and maintenance of common schools in each school district of the state.

If Malheur lake was, in fact, only a swamp or overflowed land on March 12, 1860, it was, or such portion as actually was of that character, be claimed as the property of the state upon proper proof as such. But, as pointed out in the reply to your article in the issue of September 6th, it has been a long time since 1860, and only two persons now living are known who saw the lake prior to that date. What anybody believes or heard another say is not evidence. The most concrete and authentic information on the subject is the first survey extended to the marsh in 1877, quoted in 29 L. D. 521. Your attention is also called to the decision of

the Secretary of the Interior, dated March 3, 1893, in acting upon a petition signed by Fred Otley, J. R. Hendricks and others, asking for a survey of land lying between the meander line as run and the shore line as it now exists, wherein he states:

"It appears that this lake proper is quite small, but it was, in 1877 when the survey was made, surrounded by what is called tule swamps."

The act above quoted says "swamp and overflowed," and the character of the land overflowed is apparently not a question in issue.

The meander lines are not boundaries, but are run to determine the quantity of land in the fractional tract, the water line forming the boundary. The editor is not competent to testify as to the character of the lake or marsh in 1860 because he never saw it until after 1883, but if it was, in 1860, actually of the character described in the swamp grant act and as such claimed by the state it will, unquestionably, be awarded to it upon proper proof, and if so, the question of riparian ownership thereby solved for all time.

The early swamp angels referred to did not commence operations until after 1878, or after the survey of 1877. You state the water in the lake "varies," and that in 1882 it was so high it broke over the sand reef, if so, it only proves that it must have been at a higher stage than in 1877—the year of survey—and does not prove anything as to conditions in 1860.

Nothing is known concerning the Harney Basin Development company, or its application for a contract to drain the lake, but presumably the state was not in position to exercise any act of ownership over land to which it has not completed title. The people of Burns only insist upon leaving the lake as it is at present, and are opposed to authorizing the government to maintain a certain water level in the lake at the expense of irrigation.

Curtain.

Editor.

Dumping Time

Along about this time of year huge mountains of food are dumped on the market; live stock, wheat, fruit, everything the farmer can haul to market.

The result is: LOWER prices. This naturally delights the heart

of the city consumer. He reads about it on the market page, and gloats.

"Prices coming down!" he exclaims: "another dent knocked into the high cost of living."

Next day Mr. Consumer's wife goes to the corner grocer, to the meat market. Have prices fallen? Not so you could notice it. The retailer hasn't heard anything about lower prices. Maybe he doesn't read the daily market page.

The producer has heard, because the commission folk told him so when they sold the fruit of his summer's toil.

But neither the producer nor the consumer was told about the speculator who bought the farmer's product at a cheapened price because of the large supply offered, and who stored the food, because there will be an increasing demand next winter.

The producer had no storage plant for his food, and the consumer could not purchase that food when the producer offered it for he too is lacking in storage space.

And those who had the storage plants were the ones who dictated prices to the producer, and they will be the ones who will dictate prices to the consumer this fall and winter. It isn't so much a question of supply and demand as it is a question of what the speculator will pay when the buying is good and how much he will ask when the selling is good.

The highly advertised motor truck producer-to-consumer system is not going to haul last spring's eggs to the city door this winter, or this fall's bacon to the frying pan next spring.

Less speculating in between ought to make for higher prices at farm market time, or lower prices to consumer at city eating time—or BOTH!

The courtesy extended Mrs. Walk-up by Portland members of her profession, as indicated elsewhere in this issue, is generally the manner in which Portland merchants receive upstate people in kindred lines. It is to be regretted that their courtesy is not increased into a more active interest in Eastern Oregon communities and an effort to obtain some of the business of this part of the state. Portland business men consistently overlook us, and we both lose thereby. In the small matter of mail service, metropolitan merchants could greatly assist, by demanding better train connections at Ontario for the east-bound mail.

No. 8691.

Report of the condition of the HARNEY COUNTY NATIONAL BANK of Burns, in the state of Oregon, at the close of business on September 13, 1919

Resources			
Loans and discounts, including rediscouts		\$399,628.07	\$399,628.07
U. S. Government securities owned:			
Deposited to secure circulation (U. S. bonds at par)	23,500.00		
Pledged to secure U. S. deposits (par value)	5,000.00		
Pledged to secure postal savings deposits (par value)	1,000.00		
Pledged as collateral for State or other deposits or bills payable	20,000.00		
Owned and unpledged	85,000.00		
War Savings Certificates and Thrift Stamps actually owned	354.18		
Total U. S. Government securities		124,854.18	
Other bonds, securities, etc.:			
Securities, other than U. S. bonds (not including stocks), owned and unpledged	35,225.67	35,225.67	
Stocks, other than Federal Reserve Bank stock		600.00	
Stock of Federal Reserve Bank (50 per cent of subscription)		2,350.00	
Furniture and fixtures		4,473.82	
Real estate owned other than banking house		1,000.00	
Lawful reserve with Federal Reserve Bank		23,594.75	
Cash in vault and net amount due from national banks		76,962.95	
Net amount due from banks, bankers, and trust companies other than included in last two items above		787.15	
Checks on other banks in the same city or town as reporting bank		200.35	
Total of last three items	77,650.35		
Checks on banks located outside of city or town of reporting bank and other cash items		1,458.95	
Redemption fund with U. S. Treasurer and due from U. S. Treasurer		1,175.00	
Interest earned but not collected—approximate—on Notes and Bills Receivable not past due		7,817.49	
Total		\$699,828.28	
Liabilities			
Capital stock paid in		26,000.00	
Surplus fund		52,000.00	
Undivided profits		20,853.47	
Less current expenses, interest, and taxes paid	4,599.26	16,254.21	
Circulating notes outstanding		23,500.00	
Cashier's checks on own bank outstanding	1,770.55	1,770.55	
Demand deposits (other than bank deposits) subject to Reserve (deposits payable within 30 days):			
Individual deposits subject to check		279,019.15	
Certificates of deposit due in less than 30 days (other than for money borrowed)		92,176.08	
Total of demand deposits, last two items	371,195.23		
Time deposits subject to Reserve (payable after 30 days, or subject to 30 days or more notice, and postal savings)			
Certificates of deposit (other than for money borrowed)		133,259.77	
Postal savings deposits		39.02	
Other time deposits		49,717.52	
Total of time deposits subject to reserve, last three items	183,016.31		
United States deposits (other than postal savings): including deposits of U. S. disbursing officers	4,487.98	4,487.98	
Bills payable with Federal Reserve Bank		20,000.00	
Letters of Credit and Travelers' Checks sold for cash and outstanding		1,604.06	
Total		\$699,828.28	

State of Oregon, County of Harney, ss:
I, Leon M. Brown, Cashier of the above named bank, do solemnly swear that the above statement is true to the best of my knowledge and belief.

LEON M. BROWN, Cashier.
Correct—Attest:
FRED HAINES,
J. P. RECTOR,
P. C. PETERSEN, Directors.

Subscribed and sworn to before me this 18th day of September, 1919.
J. J. PATTERSON, Notary Public.
My Commission expires May 3, 1920.

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