

# The Times-Herald.

Harney county's resources are attracting the attention of the entire West. Irrigation, stock raising, mines, oil and gas prospects and agriculture—all awaiting development.

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NO. 52

## MAY HAVE BEARING ON BIRD MEASURE

### Letter From Commissioner of General Land Office on Riparian Ownership.

Adam George recently received the letter printed below which bears more or less on the Roosevelt Bird Refuge Bill which is receiving much attention just at present:

Washington, D. C. October 19, Mr. A. F. B. George, Lawton, Oregon.

My dear Sir: This office is in receipt of your letter of September 13, 1920, in which you stated that you have been asked to sign a contract agreeing to convey your undivided half interest to certain lands between the meander line and the waters of Malheur Lake in Sec. 1 and 2, T. 26 S., R. 32 E., W. M., Oregon. You inclosed a copy of the blank form of contract and requested to be advised as to what course you should pursue. You further stated that you have two claims on riparian land in Sec. 1, T. 26 S., R. 32 E., Sec. 31, T. 26 S., R. 32 E., and Sec. 6, T. 26 S., R. 32 E., adjoining your homestead.

It is set forth in the blank form of contract that the waters of Malheur Lake have receded, laying bare a considerable acreage of land below the Government meander line and that certain persons are endeavoring to create a wild game preserve to include said uncovered land. It is proposed that the second party to the contract shall employ certain attorneys with the view to instituting court proceedings to quiet title in the riparian claimants to the lands in question for the consideration of the non-riparian of an undivided half interest by the riparian claimants of the lands that they are entitled to claim, and of certain cash payments.

The surveyed lands abutting on the north side of Malheur Lake in T. 26 S., R. 32 E., are shown upon a plat approved December 21, 1896 and according to the records of this office lots 1, 2 and 3, Sec. 1, and lots 1, 2, 6, 7, 8 and 9, Sec. 2, were entered by you as a homestead September 22, 1900, and patented to you March 5, 1906. Certain of the lots patented to you are shown upon the plat as abutting upon the waters of the lake.

There does not appear to be any case pending before this office involving the question of title to any unsurveyed lands, if there be any, between the meander line and the waters of Malheur Lake, and, if, therefore, there are unsurveyed lands below the meander line, I am not in possession of any facts showing the cause for their being there. In view of lack of authentic information pertaining to the matter, I can merely advise you as to the general principles of law governing questions of this nature.

The original plats of the Land Department are, in the absence of conclusive evidence to the contrary, presumed to be correct, and whenever areas are meandered and shown upon those plats as bodies of water, it is to be presumed that they were correctly meandered when the surveys were made.

In cases where the Government has parted title to the lands bordering on the meander lines of lakes it retains no further jurisdiction over the lake areas, irrespective of whether said lakes are navigable or non-navigable. In such cases the question of ownership of the lake bed is dependent upon the laws of the State within which it is situated.

The law that prevails in the State of Oregon with reference to the ownership of the beds under navigable and nonnavigable waters is set forth in the case of *Micelli et al. v. Andrus* (120 Pac. 737 61 Ore. 78). The opinion in that case is to the effect that the title of an abutting owner merely extends to the line of ordinary high water mark of a navigable body of water, but that it embraces the bed of a nonnavigable body of water. However, it does not matter whether the title of the abutting owner embraces the lake bed or is limited to the ordinary high water mark, for in any event he is entitled to all land between the original

meander line and the water's edge, which shall have become bare by accretion or a gradual and imperceptible recession of the water, irrespective as to whether the lake is navigable or nonnavigable. *French-Glenn Live-Stock Co. v. Springer* (35 Ore. 312—58 Pac. 102). In the latter mentioned decision Malheur Lake was referred to as a nonnavigable body of water.

From the foregoing it would appear that lands formed by accretion of Malheur Lake belong to the owner or reliction below the meander line of the lands abutting on the original meander line and that neither the Federal Government nor the State has any interest in them. If the lands have not formed by accretion or reliction, but were lands in place when the adjoining lands were surveyed, then the proposition may be very different. The Government is not precluded from correcting erroneous or fraudulent surveys when it finds upon proper showing that said surveys were the result of accident, fraud or mistake. This office has held upon a number of occasions that where areas have been meandered as lakes when in fact said areas were lands in place at the dates of the Government surveys and where no permanent bodies of water existed as meandered, those areas should be surveyed as public lands. The best illustrations with reference to the status of the Land Department and of the courts in cases of erroneous or fraudulent surveys may be found in Land Decisions, Vol. 37, pages 245 and 462, *Little v. Williams* (231 U. S. 325), *Chapman and Deway Lumber Co. v. St. Francis Live-Stock District* (237 U. S. 186), *Lee Wilson and Co. v. United States* (245 U. S. 24), *Gauthier v. Morrison* (232 U. S. 422), *Producers Oil Co. v. Hanson* (238 U. S. 325).

In the case of *French-Glenn Live-Stock Co. v. Springer* (185 U. S. 471), in which the question of title to certain unsurveyed lands below the meander line of Malheur Lake in T. 26 S., R. 31 E., was in dispute, the United States Supreme Court said that while the plats are conclusive as to the meander line and that while if there was a lake abutting thereupon the abutting owner would take all land and accretions between it and the water's edge, yet it was permissible to show that neither at the time of the survey nor since was there any such lake and that there could not be, therefore, any intervening land or accretion by reliction.

On August 18, 1908, and executive order (No. 929), was issued reserving as a preserve and breeding ground for native birds all of the smallest legal subdivisions which touch the meander line of Lakes Malheur and Harney in T. 26 S., R. 32 E. and 33 E., T. 26 S., R. 29, 30, 31, 32 and 33 E., T. 27 S., R. 29, 29 1/2, 30 and 32 E. If, therefore, there are any unsurveyed lands below the meander line of Malheur Lake situated in the above enumerated townships that were erroneously omitted from the Government surveys, those lands are not now, nor have they been since the date of the issuance of said executive order subject to settlement under the homestead laws; they are reserved lands.

I am returning to you herewith the blank form of contract which you submitted.

Very Respectfully,  
CLAY TALIMAN  
Commissioner.

## HIGHWAY ENGINEER WILL STOP OVERLOADING

Engineer Randells, of the State Highway Commission, who has represented the commission on the work between this place and Lawton, finds that trucks between this city and Crane are overloading. This is prohibited by law and he says it will be only a matter of a little time when such a custom will ruin the highway therefore he is going to ask the truckmen to comply with the requirements. He doesn't want to have any one arrested for this offense and will warn the drivers but this must be headed for he is not going to allow them to ruin the highway and if overloading is continued the parties responsible for it will have to suffer the consequences, as it is certain the officers are not going to allow the highway to be ruined by any such methods.

## HARNEY VALLEY SOIL PRONOUNCED THE BEST

### Expert Making Analysis for Irrigation Project; Alkali Not Noticeable.

H. G. Koons, managing engineer in charge of the Goose Lake Irrigation project, has been employed by the directors of the Harney Valley Irrigation District to make a soil analysis on the project here. Mr. Koons has been in the field for a few days and makes most flattering reports from his observations and examinations. This knowledge was brought out at the Commercial Club luncheon yesterday at noon when Mr. A. R. Olsen, one of the directors of the project, was called upon to give those present some information as to progress being made on the irrigation work.

According to Mr. Koons Harney Valley soil compares most favorably with other places, as he states that the soil we call alkaline is raising 85 bushels to the acre grain over in Lake county and he'll back it to do so well here under irrigation. If this is the case on what we consider our poor soil, what may we expect from the rich places that we know are right?

Mr. Olsen discussed other features of the preliminary work on the project. He said the engineers were through with the field work and had taken their departure. The data is being compiled and made ready for a report at the proper time. The work at the Emigrant creek dam site has been discontinued temporarily because of inadequate machinery to properly do the work. Mr. Olsen stated they had hoped to secure what data they needed as to the character of the foundation for a dam at that point with the drilling outfit on hand but had abandoned this hope and are arranging for a better equipped drilling machine to definitely determine what the character of the foundation is. They have not found the kind of solid foundation they desire as yet but have not gone beyond bedrock yet.

Mr. Olsen stated further in connection with the irrigation project that he expected that some time next month data would be available to submit to the commissioners and the landowners in connection with a bond election. He pointed out the discouraging conditions of the bond market at this time but ventured the suggestion that by the time we are ready to put bonds on the market money conditions would be improved.

## MILLS GRADUATE IS DEAD

Miss Ellen Geary, for several years a resident of Portland, died here yesterday morning after an illness of many months. She was a graduate of Mills college and for some time librarian of the Astoria library.

Miss Geary is survived by two brothers, Dr. John W. Geary of Burns and Dr. E. P. Geary of Portland, and two sisters, Mrs. Martha Perham and Mrs. Anna Worth, both of this city.

Funeral services will be held at Eugene this afternoon.—Portland Oregonian.

## REVIVAL MEETINGS

A special series of Revival Meetings will be opened at the local Church of The Nazarene at 7:30 on the evening of Friday the 5th of November and will continue through Sunday the 21st or longer. Rev. F. W. Saffield and wife well known over the western states have been engaged for these meetings. These evangelists come very highly recommended as good singers and successful evangelists and we are sure that the people of Burns will be delighted and benefited with their messages in song and sermon. Live congregational singing will also be a special feature of these services.

A cordial invitation is extended to the public.

I. N. Hugnet and Otus Sizemore were in Thursday assisting Mrs. Rentfro in making proof on her land before the land office.

## RED CROSS MEMBER-SHIP DRIVE NOV. 11

### Schools and Local Organizations Asked to Assist in Work This Year.

The annual roll call for the American Red Cross starts on Armistice Day and continues for two weeks. Arrangements are completed for this drive in Harney county which will be conducted through the schools and the different organizations of the county working in conjunction with the Red Cross Chapter and Auxiliaries.

Miss Helen Anderson of the Harney County High School faculty will be the local director and Miss Augusta Moulton will be the active secretary in charge of the work. It is expected that each school district in the county work as a unit in the solicitation of annual memberships to this big organization.

Mrs. Martz, community nurse, has taken a quantity of supplies out on her tour of the southern part of the county and will leave the necessary material at each school to take care of the community. Miss Moulton will see the supplies out in other parts of the county by mail to the carriers and Red Cross Auxiliaries.

Miss Anderson will organize her students in the high school and Mr. Sutton of the public school is going to be asked to work in the same manner as last year with the grade school. The Mothers Club, Library Club, Commercial Club, American Legion, the several lodges, churches and other public organizations are going to be asked to take an active part in this work to the end that it will not fall upon a few to do all the soliciting and detail of the undertaking.

It is not necessary to call attention to the great work of the American Red Cross. Every individual in Harney County should be a member—\$1. That's all it costs—and see what a benefit to humanity.

## RABBIT POISONING CAMPAIGN STARTED

Ira Gabrielson and Russell Ferguson, an assistant, arrived here from Portland early in the week to take up the campaign of rabbit destruction. Mr. Gabrielson is the chief of the Biological Survey in charge of rodent control in this state.

County Agent McDaniel has another man, Mr. Eldredge, here to join in the work and another man will be added to the force during the coming week.

The rabbits are not so plentiful in this vicinity as they were owing to the rains starting the grass on the foothills and they have gone back, therefore the job of poisoning them is not so easy. Some experimental work has been done in this vicinity during the week with some results, but not what had been hoped. The fact that the rabbits are not so thick and the further fact that they have plenty of green alfalfa to feed upon is a drawback to any big kills. However, the poison put in the Brown field just north of town and also some placed in the A. C. Welcome field below town have brought results. Under more favorable conditions these kills will be increased very materially even before any snow falls, as it is the intention to fence the hay stacks and keep the rabbits away from them, thus making them take the poison more readily.

## NO SIGNS ON THE HIGHWAY

R. C. Ingram, a locating engineer with the State Highway Commission, was in this vicinity during the week. Mr. Ingram said he was making an inspection of the highways of Eastern and Central Oregon to investigate the conditions and observe particularly that no advertising signs are placed within the right of way of any highway. He states it is the intention of the commission to not allow any signs of an advertising nature on any of the highways of the state. The commission will place direction and distance signs along the highways at regular intervals and these will be uniform.

## DON'T LET PARTISANSHIP INTERFERE

It would be ridiculous to send a man of the caliber of Bob Stanfield to the U. S. Senate to succeed a man of the ability of Geo. E. Chamberlain. Party papers and professional politicians are making a big to do about Stanfield being elected of late but it is certainly confined to just such a class of people. The rank and file of the voters of Oregon are not going to turn Geo. Chamberlain down for any such man. Why shout about a can of beef from Argentine? Who shipped it up here? Swift & Co. are behind Bob Stanfield financially, politically and morally. Who is responsible for the present price of your beef—why is it that you can only get \$50 for a cow that brings over \$200 on the block, is it Geo. Chamberlain or is it Swift & Co. and the other big packers. Don't let the professional politician give you any "hog wash." Vote for men who you know are competent and have some standing and who can represent Oregon in a manner that will bring results.

## JUDGE FARRE APPOINTS STALLARD TO SUCCEED HASS

The following is a copy of a letter sent to L. N. Stallard by Judge Wm. Farre the other day:

"Oct. 27, 1920.  
"Mr. L. N. Stallard  
Drewsey, Oregon.  
"Dear Mr. Stallard:

"I take pleasure to inform you that you have been appointed County Commissioner for Harney County, to fill the unexpired term of R. L. Hass, resigned—

"The County Court will meet in regular session the first Wednesday in November (the 3rd) and we hope to have you with us.

"We also expect to invite the Judge and Commissioners elect to make a trip over the main roads of the County with the present Court shortly after election in order that you may be better enabled to consider the road program for the ensuing year.

"Yours truly,  
WM. FARRE  
County Judge."

## HOSPITAL BENEFIT WELL PATRONIZED

The photoplay given at the Liberty last night was a benefit to the St. Joseph Hospital, the money going toward purchasing linen for the new institution. It was well patronized and over \$100 will be given to the fund, the only expense being the film rental, express, power, fuel, etc.

The feature was Douglas Fairbanks in the "Kleckerbecker Buckaroo."

In addition to the pictures Mrs. Farre and Mrs. A. C. Welcome sang a duet and Mrs. Nollie Reed sang a solo. These were well received and the ladies responded to generous encores.

A second show was given and the musical numbers were repeated for the second show.

## FARRES HAVE SURPRISE AT CHAPTER

Mr. and Mrs. Wm. Farre were given a surprise at the anniversary meeting of Burns Chapter, No. 40, Order of the Eastern Star on last Monday night. It was the twenty-fifth anniversary of the installation of the lodge at this place and it happened to fall upon the twenty-fifth wedding anniversary of the Farres, both of the Chapter, and after the Past whom are members of the Star.

At the conclusion of the session Matrons and Past Patrons had been felicitated, the banquet table was spread. Patron Chester Dalton escorted Mrs. Farre to the table and Miss Leona Thompson, acting Matron, escorted Mr. Farre to a place of honor on the other side of the Patron. The Farres were somewhat mystified as they did not realize why they were shown such distinction but finally Mr. Dalton in a few well chosen remarks presented them with a handsome silver tomato server and reminded them of the occasion of their marriage. It was a complete surprise and a most attractive feature of the celebration of the Chapter birthday.

Mr. and Mrs. W. L. Best are over from their Silver creek home today.

## HARNEY COUNTY HIGH TEAM WIN SATURDAY

### First Football Game at Home Results in Victory; Play Prairie City Today.

(Contributed)  
Last Saturday a large crowd attended the football game between Harney County High School and Canyon City High School. It was the first contest scheduled in Burns for many years and the third of the season for the local eleven. With fair weather prevailing and the teams evenly matched a really fine exhibition held the spectators breathless until the whistle blew for the end of the game.

Rollin Gowan converted a goal after a touch down in the first quarter being the fact which brought victory to H. C. H. S. in a 7-6 score, reversing the result of the game, two weeks ago which Canyon City won 12-7.

Another touch down was lost by the home eleven in the third quarter when the referee prematurely blew his whistle. The changing line had hurried the Canyon City kicker so that he failed to get away with his post, losing the ball after hard tackle by Reineman it escaped from his grasp. Wes. Welcome promptly scooped the ball up and dashed 50 yards for what looked like a touch down. The ball was however brought back to the middle of the field and the play resumed.

The purple and gold elected to receive in the first quarter and by off tackle and end runs coupled with a twenty five yard sprint by Voegly brought the ball from their own thirty yard line to the shadow of the opponent's goal. Here although the resistance became more stubborn progress continued until Welcome plunged through for a touch down. The second quarter was a close fought, the ball changing hands often and neither side showing any superiority.

In the third quarter they ran by Welcome, and a fumbled forward pass which if successful would have placed H. C. H. S. in a position to score, were the only features. The fourth quarter found the local team weakened by the loss of their sturdy Captain, Wes. Welcome, and Walter Cooley. Canyon found a weak spot on the left side of the line and proceeded to plunge through repeatedly for gains. Officer and Gunther made rush after rush through the fast weakening line, Officer finally plunging through for a touch down but failed in the attempt at goal. The game ended with the ball in Canyon's possession, in the middle of the field.

The team work of both the elevens was very spotted with only two forward pass being executed. The play at all times was clean and free from discord. For the winners aside from the stellar work of Captain Welcome, while he was in, no one in particular could be singled out as being more conspicuous than the rest. All the entire eleven, for green men, showed good spirit and evidence of much promise. The entire Canyon City back field performed wonderfully with Officer and Gunther showing great strength both in the offense and defense.

The officials for the game were Bill Fiser, Referee; Fred Allen, Umpire; and Obil Shattuck, Head Linesman. The same officials will handle today's game when fast aggressive Prairie City eleven appears.

C. C. H. S. H. C. H. S.  
Mulcare ..... L. E. .... Clark  
Mason ..... L. T. .... Swett  
Hankins ..... L. G. .... Horton  
Sollinger ..... C. .... Hibbard  
De Wolfe ..... R. G. .... Swett  
Jones ..... R. T. .... Hotchkies  
J. Parrish ..... R. E. .... Loggan  
Shard ..... L. H. .... Voegly  
Officer ..... Q. .... Welcome  
Maple ..... F. B. .... Cooley  
Gunthers ..... R. H. .... Gowan  
H. C. H. S. Subs. Cueni, McCulloch, Reineman, Thornburg, Canyon City Subs. Duncan, Elliott, Marks, and E. Parrish.

The local boys hope to make a better showing than they did in their first contest which they lost 46 to (Continued on page four)