

Lake County Examiner.

VOL. XXII. LAKEVIEW, OREGON, THURSDAY, MARCH 14, 1901. NO. 10.

SECOND VICTORY FOR THE SETTLERS!

After Reconsideration Commissioner Hermann Sustains the Decision of the Register and Receiver of the Lakeview Land Office in Case of J. L. Morrow et al., vs. State of Oregon and the Warner Valley Stock Company.

In two "straight heats" have the settlers of Warner Valley won their fight for the homes they have builded and the land the Hon. Commissioner says is theirs. The decision of Commissioner Hermann reached the Register and Receiver of the Lakeview land office on Thursday morning, after the entire edition of The Examiner of this week was off the press. In order to be the first to carry the glorious news of the victory to the people of Warner this "Extra" of The Examiner was gotten out on Thursday to catch the mails on Friday. Following is the decision in brief:

WASHINGTON, D. C. March 2, 1901.
J. L. Morrow et al.,
vs.
State of Oregon
and Warner Valley
Stock Company

Warner Lake
Consolidated
contests.
Reconsideration

REGISTER AND RECEIVER,
LAKEVIEW, OREGON—

Gentlemen: In this controversy, which, under various forms, has been before this office and the secretary of the State of Oregon and the Warner Valley Stock Company since the lands are of the character contemplated by the Act of 1859 (9 Stat., 519), and inure to the State of Oregon under the Act of March 12, 1860 (12 Stat., 3), while J. L. Morrow and numerous other settlers deny that said lands were "swamp and overflowed" on March 12, 1860, and assert that they are subject to appropriation under the general land laws of the United States. The lands involved herein are situated in townships 39 S., R. 24 E.; 39 S., R. 25 E., and 40 S., R. 24 E., W. M., Warner Valley, Lake county, Oregon, and in the main form a part of what was returned as the bed of Warner Lake by the surveys of James H. Evans and Byars and Gray, the former embracing fractional townships 39 S., R. 24 E., and 39 S., R. 25 E., Contract No. 222, executed May 21, 1875, and the latter fractional township No. 40 S., R. 24 E., Contract No. 329, executed June 17, 1879. The part of the land involved herein that was returned as a part of the bed of Warner Lake by Evans, and Byars and Gray, was surveyed by John H. Neal under Contract No. 529, executed May 3, 1887. [Said lands are hereinafter more particularly described or listed by the Commissioner.]

After an exhaustive review of the testimony in this case, covering a period since the litigation began, the Commissioner in his decision says, in part:

After oral argument had been heard by me and briefs submitted on behalf of the adverse parties, the case was, in the usual order of business, examined by the force in this office, whose duties were the consideration of this class of cases, and a draft purporting to set forth all the material facts in the case was prepared and submitted to me, upon which the conclusion therein was reached and on November 6, 1900, the same was signed and duly promulgated. On November 30, 1900, said decision was temporarily vacated for further consideration, my attention having been called to the omissions, as well as imperfect recital, of very material testimony necessary for a just and impartial review of the merits of the case, and I also desired to examine the field notes of a map showing "parts of N. E. California, N. W. Nevada and Southern Oregon, atlas sheet No. 38 B," which I learned were on file in the War Department, and which were believed to be of value in determining the character of said lands on March 12, 1860. * * * By courtesy of the War Department this

office was permitted the temporary loan of field notes, etc., but after examination it was found that the surveys were made as late as 1878, and were of little value in rendering this decision. Impressed with the gravity of the questions at issue, I decided to attempt a personal examination of the papers in the case, and, after such examination, which was a laborious one, I am convinced that the former conclusion was not justified, and this decision is in accordance with the testimony of the case.

The claim by attorneys for the State of Oregon and the Warner Land Company that it was a physical impossibility for the land involved in the controversy to have been the bed of an apparently permanent lake on March 12, 1860, because it was indicated by a line of levels said to have been run by George S. Nickerson in 1899, that the elevation at the S. W. corner of Section 18, T. 40 S., R. 24 E., was then more than thirty-two feet greater than the water level at the Stone Bridge in Section 24, T. 37 S., R. 24 E., will now be considered. Mr. Nickerson was not an engineer, nor was he a professional surveyor. At the time the work was done he was engaged in the practice of law. It was, however, shown that he was acquainted with the use of instruments and had some considerable experience in surveying and leveling. Admitting that Mr. Nickerson was thoroughly competent to do the work, the manner in which it was performed, would subject it to close scrutiny if not suspicion. His chain bearings were furnished by the Warner Valley Stock Company, and the flagman was an officer and stockholder in the corporation. He was employed and paid by said corporation to make the survey, and its agents were his only assistants. The work was done without notice to the settler claimants. But even if the work had been done conscientiously by an expert engineer, with the best instruments, assisted by tried and trusted men, the great distance of the line—almost 30 miles—run through water, mud, cane and tules, would render it almost impossible for absolute accuracy to have been obtained. * * *

Viewed in the light that it tended to discredit the theory that said lands were covered by an apparently permanent body of water, it still is without merit to establish the gist of the contention, i. e. that said lands were swampy and overflowed on March 12, 1860, and on the other hand, it indicates the negative of such proposition. It was not enough that the state of Oregon should cast doubt upon the proposition that said lands formed the part of the bed of an apparently permanent lake; the burden of proof was upon it to show by a fair preponderance of the testimony that all of said lands or the greater portion of the smallest legal subdivisions of any part thereof was swamp and overflowed on March 12, 1860. * * *

The State and its grantee, having failed to establish the facts that would entitle them to prevail, it is not deemed necessary to discuss the showing made

by the settler claimants.

The communication of this office dated November 6, 1900, reversing your office, and awarding the land in controversy to the State of Oregon, et al., temporarily recalled on November 30, 1900 for further consideration, is now on the motion of this office permanently recalled, vacated and amended in whole and in part, and the following findings and judgment substituted in lieu thereof:

The lands included in Lists 30, 31, 39 and all others described by the agreement or stipulation filed in the office of the Honorable Secretary of the Interior on May 4, 1899, [the lands in Warner Valley in litigation] were not as a whole, nor as to the greater portion of a smallest legal subdivision, swamps and overflowed on March 12, 1860, and that the State of Oregon and those claiming under it, has no title, interest or estate in and to any part of said lands by or through the provisions of the Act of March 12, 1860 (12 Stat., 3). It is therefore the judgment of this office that the claim of the State of Oregon and those holding under it in any or any of the lands included in Lists 30, 31 and 39, or described in the foregoing stipulation, in any way arising or asserted by or through the provisions of the Act of September 28, 1850, as extended to the State of Oregon by the Act of March 12, 1860 (12 Stat., 3) should be held as naught, rejected and cancelled, and said claims are hereby rejected, and said lists held for cancellation.

The case having been once considered by the Department is current work and in case appeal is filed, the case will be so treated and forwarded to the Department as such.

Notify the parties thereof. Resident counsel will be advised by this office.
Respectfully,
BINGER HERMANN,
Commissioner.

It will be seen by the foregoing, the salient points in the decision of the Honorable Commissioner, (the entire decision being too voluminous for publication herein) that the settlers of Warner Valley have won a signal victory in this litigation. A high compliment has been paid the Register and Receiver of the Lakeview land office, inasmuch as the Commissioner viewed the testimony from practically the same standpoint and upon the same grounds upon which the decision of the local officials was based; and in his decision the Commissioner quoted, and agreed with, in many instances, the component parts of the decision of the local officials. The Commissioner makes plain his views, and goes further than the local office in the statement that these lands in question belong to the settlers and that the State of Oregon, the Warner Valley Stock Company, nor any other persons have any right, title or interest in said lands.

Again, it is the pleasure of the Lake County Examiner to be the first to offer its hearty congratulations to the Warner Valley Settlers.

Lakeview Wants Homes.

Lakeview wants two dozen new cottages and wants them badly. There is always a great demand for houses in Lakeview, and the man who will start the building boom will reap his reward. Ten dollars per month can easily be had for a good cottage. The scarcity of dwelling houses for rent keeps many people away from Lakeview, who would make their homes here.

A. R. DeFluent, editor of the Journal, Doyleston, Ohio, suffered for a number of years from rheumatism in right shoulder and side. He says: "My right arm at times was entirely useless. I tried Chamberlain's Pain Balm, and was surprised to receive relief almost immediately. The Pain Balm has been a constant companion of mine ever since and it never fails." For sale by Lee Beall, druggist.

New Law Satisfactory

Hunters in Eastern Oregon are preparing to take advantage of the coyote scalp bounty law enacted at the session of the Legislature just adjourned. They regard the new law as much more favorable than was the one in force during the past two years, as county instead of state warrants are to be issued. The former can most generally be sold at par, while the latter usually fell into the hands of speculators, who exacted a heavy premium for cashing them.

Wells Fargo Express.

Paisley wants the Wells Fargo express line extended when it shall have reached Lakeview. The reputation of Lakeview and Paisley gained by the recent and old-time stage robberies will work to our disadvantage in procuring this service. We had the matter about right to secure its success when a young man not long since acted the fool, held up his own stage, and robbed the mails. The express company is a trifle "leary" of this county, but the timidity may be overcome in the near future, for the express company fully realizes the richness of the field.

We have saved many doctor bills since we began using Chamberlain's Cough Remedy in our home. We keep a bottle open all the time and whenever any of my family or myself begin to catch cold we begin to use the Cough Remedy, and, as a result, we never have to send away for a doctor and incur a large doctor bill, for Chamberlain's Cough Remedy never fails to cure. It is certainly a medicine of great merit and worth.—D. S. Meakle, General Merchant and Farmer, Mattie, Bedford county, Pa. For sale by Lee Beall, druggist.

Counterfeits of DeWitt's Witch Hazel Salve are liable to cause blood poisoning. Leave them alone. The original has the name DeWitt's upon the box and wrapper. It is a harmless and healing salve for skin diseases. Unequaled for piles. Lakeview Drug Co.

The Northern Stage Line.

LAKEVIEW--PAISLEY.
A. W. BRYAN, Proprietor.
Leaves Lakeview at 6 a. m. every day but Sunday.
Returning, leaves Paisley at 6:30 a. m. every day but Sunday.

Passengers' fare \$3. Round trip \$5.
OFFICE—C. U. Snider's Store, Lakeview, Ore.

A FULL HOUSE

Call and see us and find we are right.

J. E. BERNARD & SON, Lakeview, Oreong

City Meat

Market

NEW BRICK BUILDING
Door North of Hotel Lakeview

Beef, Pork and Mutton
Bologna, Sausage, Etc

S. D. COULTER & CO.



Subscribers to The Examiner who remove from one locality to another, or change their postoffice address should remember to drop this office a card so their paper can be addressed to the right postoffice.

THIS PAPER is kept on file at E. C. DAKES' Advertising Agency 64 and 65 Merchants' Exchange, San Francisco, Cal., where contracts for advertising can be made for it.

BLACKSMITHS AND WAGONMAKERS



ARZNER BRO'S

Horseshoeing A Specialty

LOOK OUT

For any one killing or stealing stock belonging to the

South Eastern Oregon Live Stock Association

\$500 REWARD

Will be given for the arrest and conviction of any person or persons stealing any stock belonging to members of this Association.

J. D. COUGHLIN,
J. M. INNES,
Secretary. President.

VISIT DR. JORDAN'S GREAT MUSEUM OF ANATOMY

1051 MARKET ST., SAN FRANCISCO, CAL.
(Between Ninth and Tenth.)
The largest Anatomical Museum in the World.
Greatest attraction in the City. A wonderful sight for students.
Weaknesses, or any contracted disease, positively cured by the oldest Specialist on the Pacific Coast. Established 25 years.
DR. JORDAN—PRIVATE DISEASES
Young men and middle aged men who are suffering from the effects of youthful indiscretions or excess in mature years. Nervous and physical debility, Impotency, Lost Manhood in all its complications, Spermatorrhea, Prostatitis, Gonorrhoea, Gleet, Frequent Urinating, etc. By a combination of remedies, of great curative power, the Doctor has so arranged his treatment that it will not only afford immediate relief, but permanent cure. The Doctor does not claim to perform miracles, but it is well known to be a fair and square Physician and Surgeon, pre-eminent in his specialty—Diseases of Men.
SYPHILIS thoroughly eradicated from the system without the use of Mercury.
Trusses fitted by an Expert. Radical cure for Hemiparesis. A quick and radical cure for Piles, Fissures and Fistulas, by Dr. Jordan's special painless methods.
EVERY MAN applying to us will receive our honest opinion of his complaint.
CHARGES VERY REASONABLE.
Treatment personally or by letter.
Write for Book, PHELOPHY OF HARRISAGE, Mailed Free (A valuable book for men.) Call or write.
DR. JORDAN & CO., 1051 Market St., S. F.

South and East VIA SOUTHERN PACIFIC COMPANY Shasta Route.

Trains leave Ager for Portland and way stations at 12:21 a. m. and 11:00 p. m.

Ly Portland	8:30 a. m.	8:30 p. m.
" Ager	4:02 a. m.	3:57 p. m.
" Ashland	12:30 a. m.	12:05 p. m.
" Sacramento	5:00 p. m.	4:35 a. m.
" San Francisco	7:45 a. m.	8:15 a. m.
" Ogden	5:45 a. m.	11:45 a. m.
" Denver	9:30 a. m.	8:40 p. m.
" Kansas City	7:25 a. m.	7:25 a. m.
" Chicago	7:45 a. m.	9:30 a. m.
" Los Angeles	1:20 p. m.	7:00 a. m.
" El Paso	6:00 p. m.	6:00 p. m.
" Fort Worth	6:30 a. m.	6:30 a. m.
" City of Mexico	9:55 a. m.	10:30 a. m.
" Houston	3:35 a. m.	3:35 a. m.
" New Orleans	6:25 p. m.	6:25 p. m.
" Washington	8:42 a. m.	6:42 a. m.
" New York	12:43 p. m.	12:43 p. m.

Pullman and Tourist cars on both trains. Chair cars Sacramento to Ogden and El Paso, and tourist cars to Chicago, St. Louis, New Orleans and Washington.
Connecting at San Francisco with the several steamship lines for Honolulu, Japan, China, Philippines, Central and South America.
See agent at Ager station, or address
C. H. MARKHAM, G. P. A.,
Portland, Or.

Ager-Lakeview Stage Line.

S. L. McNAUGHTON, Proprietor
Office, Hotel Linkville
Klamath Falls, Or.

Leave Lakeview at 6:30 a. m.; arrive at Bly in 11 hours.
Leave Bly at 6 a. m.; arrive at Klamath Falls in 15 hours.
Leave Klamath Falls at 7 a. m.; arrive at Beswick in 9 hours.
Leave Beswick at 5 a. m.; arrive at Ager in 7 hours.

Makes connection with all trains at Ager, Cal.

Easy Coaches

Excellent Accommodations
Passenger, express and freight traffic solicited. All business entrusted to us will be expedited.

G. W. WISE.

General Merchandise,
First-Class Hotel.
The Plush House,
Tonsorial Parlors.
Plush, Lake County, Oregon.

Kodol Dyspepsia Cure

Digests what you eat.
It artificially digests the food and aids Nature in strengthening and reconstructing the exhausted digestive organs. It is the latest discovered digestant and tonic. No other preparation can approach it in efficiency. It instantly relieves and permanently cures Dyspepsia, Indigestion, Heartburn, Flatulence, Sour Stomach, Nausea, Sick Headache, Gastralgia Cramps and all other results of imperfect digestion.
Price 50c. and \$1. Large size contains 2 1/2 times small size. Book all about dyspepsia mailed free.
Prepared by E. C. DeWitt & Co., Chicago.

Lakeview Drug Company.