

looked to me like a lake and tule marsh from one foothill to the other. The western portion seemed to be particularly low. The water was dark the same as the water in the tule and marsh; no part of said land could have been cultivated successfully to crops on account of the water. I was there in 1877 during the harvest season and again in '72, after the harvest season; it was all under water.

[A. D. Frakes case.] In 1871 it was all under water, and there was nothing but tule and water grass and such vegetation as grows in the water; it was overflowed; it was all a lake from the west to the east side. A lake of tule; it was a marsh. I was again upon the land in November, 1872, and the condition was the same. I should judge that the depth of water on this land in 1871 and '72 was all of four or five feet.

[R. F. Winkelman case.] First observed these lands in August '71 and November '72. All of said land was under water.

[T. R. Wakefield case.] I was first in the vicinity of the land in August '71; was at the dugout a little west of and about a quarter of a mile from the land in controversy. It was all under water. I was next in the vicinity of the land in '72; it appeared about the same as in '71; the waters in '71 came up within 10 feet of the dugout.

[C. Linton case.] I first saw the lands in controversy in November '66; said lands are situated in Warner Lake Valley. I was on an Indian expedition from where I stood it looked like a marsh; there were a few tules, but mostly water. The water in controversy could not have been successfully cultivated to crops in '66, because the most of it was under water. I next saw the land in May '67; it was all a sheet of water from the sandhills as far as we could see.

[Q. What was the condition of the ground along the present traveled road immediately west of the land in controversy? A. In places you might have got along the road, but in places you could not get along; it was running right up against the foothills.

[I was near the land in July '70. There was not much difference in the land; the lake was some lower; in '70 water stood all over the land except some of the sandhills. In the spring of '71 I observed the water that was over these lands from a raft; we were all over the land on a raft getting cattle off. The cattle were in there in the winter on the sandhills; in the spring the ice from the sandhills came down and then into the water that we had to build a raft to get them out.

[Q. Are the waters higher or lower now than they were in 1867? A. They are considerably lower now than they were in 1867.

[Q. How deep was the water in the immediate vicinity of the lone rock which you saw in the lake at the time you judged between two and three feet? A. I should judge between two and three feet.

[John T. Maupin case.] From 1866 to 1868 it was all covered with tules and the water went off it in the fall.

[D. A. Linton case.] I first settled in Warner Valley in 1869. I saw said lands at a distance in '69, or rather saw where they should be; was west of the lands on the hills on the old wagon road; it had the appearance of a lake with some tules growing on it. The road ran as close to the waters as possible; and in one place the road ran into the lake a few feet; passed the road in December, 1869; the lands had the appearance of a tule marsh; there was not any water in the lake.

[Q. State whether or not there was a well defined beach along the water edge on the west side in 1867? A. Yes, there was a beach there where the grass and tule had been thrown up by the water. I did not see the lake at the time I present the appearance of a permanent lake or did it appear to be a temporary overflow. I refer to your visit in 1867? A. It had the appearance of a permanent lake. The land in controversy was a tule with water over it. I judge it was a foot and a half deep over the biggest portion of it. I was in the vicinity of the land in 1874, and saw them getting cattle off from this land with a raft. The land was then under water.

[W. H. Byars case.] I am the identical individual, who, acting as Deputy United States surveyor, established the meanders of T. 36 S., R. 24 E. The line was established in July or August, 1873. The line then ran along the margin of the marsh; in order to ascertain whether there was any dry land east of the marsh I attempted to run the south and east lines of Section 18, but was unable to do so on account of the water and the marshy nature of the ground. The marshy nature of the ground, the growth of vegetation and the general appearance of the shore line indicated a permanent overflow.

[Q. Did you see anything to indicate that the waters of Warner marsh had been higher than they were when you made the survey of this township? A. Yes, debris deposited on higher ground and marks on the hills.

[Francis Linton case.] I first saw the land in 1880 in January; was next on the land in February '81; attempted to cultivate some land on the Wallace place situated similarly to the land in controversy in '81; it was a total failure; in May the water came up and flooded it.

[M. W. Folsom case.] After having testified to facts showing that the Willey tract was a swampy tract as to the greater portion thereof in 1878, and that the gradually grown dryer, the witness was asked: Q. From your knowledge, what would you believe was the condition of each forty-acre tract in this entry in 1860 and prior thereto? A. Taking into consideration the way the water has fallen since I have known it up to the present time, that in 1860 and prior thereto, it must certainly have been a lake.

[Charles Smith case.] I reside at Ft. Bidwell, Cal. I first saw the land in July 1866. It was all under water and marshy; was again in sight of said land in May or June, 1867; the condition of the land was the same as in 1866. No part of said land could have been cultivated because it was all overflowed with water; saw it again in 1882; some of the land was dry and some had sloughs that was entirely covered with water in 1866; I should think the water was at least four feet lower than in 1866. In 1866 and '67, it did not, in passing these lands, go over the present road; we went east over the hills.

[Q. What was the condition of the present traveled road along the west side of Warner Lake in '68? A. The lake came out to the road and in some places into the road. Q. How far is the lake from the road now? A. The nearest lake is off about four or five miles. From where I camped in 1866 and '67, the water is about fifteen or twenty yards, was six feet deep.

[A. Snider case.] I saw the land in June 1867; during the years 1866, '69, '70, '71 and '72 resided at Camp Warner most of the time; and during the first year or three years of residence made two or three trips from Camp Warner, near the north end of Warner Valley along the western part of the marsh to Camp Bidwell.

[Q. What was the character of the land at the south end of the Warner marsh lying east of the road you traveled? A. A great deal of that was marshy and swampy east of the road at that time, the marsh in many places close to the road. Q. State if this water was standing or running water? A. I suppose it was standing water. Of course there were streams coming out of the mountains and flowing into the marsh, but the water I judged to be standing water in the marsh. Q. How near to the foothills did the water of Warner marsh come during those years at the south-west extremity of Warner marsh? A. My recollection of the country is that in places it came quite near and in other places there was quite a strip of land running down before it struck the marsh. Q. How near did the water come to the road in '68? A. In a number of places it came right up close to the road. Q. State whether in your opinion the country lying north from the dugout could have been surveyed in the field; that is by actually running the lines? A. I don't think it could. The water at that time was two or three feet over the Stone Bridge.

[William M. Colvig case.] I was in the command of Colonel Drew's Oregon Volunteers, which, in 1864, went

from Ft. Klamath by way of Warner to Ft. Boise. Warner Valley was then known as Christmas Lake. I was suffering from a fractured arm and rode in an ambulance wagon. I do not remember how long we camped in the vicinity of Warner Lake.

[R. M. Curry case.] T. B. Wakefield case.—I am a surveyor and civil engineer by occupation. I was first in the southern part of Warner valley in 1865 or 1866. The south end appeared to be a marsh or lake. There were tules growing above the water over the greater portion of it. You might say the whole south end of it presented the appearance of a marsh. It appeared to us as though it was just a basin there, as though the water came right up to the sage brush. I ran a line of meanders for special Agent Shackelford. His instructions were to run out as far in the marsh as "God Almighty and a pair of gum boots would let me."

[Geo. Conn. case.] T. B. Wakefield case.—I was in Warner Valley either the last of August or the first of September, 1865. I was in the military service as an escort to the surveyors of the Oregon Central Military Wagon road Company. I crossed Warner marsh in T. 37, R. 24 and 25 E. We crossed the marsh by constructing a bridge of tules three fourths of a mile in length. The tules were high and large, and we selected as narrow a place as possible. It took seventy or eighty men a day or a day and a half to make the bridge. I did not measure the depth of the water all the way. The marsh appeared to extend south as far as the base of the foot hills.

[Lincoln Taylor case.] J. M. Willey case.—I am a surveyor by occupation and at present hold the position of surveyor for Lake county. I was on this tract for the first time on the 23rd of May, 1890. My purpose was to take a level of the country and ascertain the elevation of this tract [J. M. Willey] above the adjoining marsh. I followed as far as possible the general water fall. I found the average fall to be eight feet to the mile. There was about eighteen feet difference in the level of this land and that at the Stone bridge. The water in the lake north of the Stone Bridge was about two feet lower. The distance of the land in controversy from the Stone bridge is about twenty miles.

[Q. What kind of soil is it through which the creek passes? A. I did not examine the soil very closely, but I think some of it is a deposit of sediment brought down by the creek and some of it is salt grass knolls. Appearances indicate that in places the sediment has raised the banks of the creek. The lone rock is about 200 yards from the N. W. corner lot, Sec. 7, T. 40 S., R. 24 E.

[C. E. Moore case.] J. M. Willey case.—I ran a level over the land claimed by J. M. Willey on May 10, 1890. Found the fall to be about two feet to the quarter mile, or eight feet to the mile.

[A. C. Willey case.] A certified copy of an affidavit executed by A. C. Willey, Nov. 1, 1879, attached to lists of selections made by the State of Oregon of Swamp and overflow lands, showing character of the land by smallest legal subdivisions was introduced as an admission against interest.

[A copy of an extract from the journal of Brevet Captain, afterwards General, John C. Fremont, was introduced in evidence by the state of Oregon and the Warner Valley Stock Company, which December 23, 1843] The weather is mild, the thermometer at daylight 38°, the wind having been from the south for several days. The country has a very forbidding appearance, presenting to the eye nothing but sage and barren ridges. We rode up towards the mountain, along the foot, we found a lake which we could not approach on account of the mud, and passing around its southern end, ascended the slope at the foot of the ridge, where in some hollows we had discovered bushes and small trees in which situation a sure sign of water. We found here several springs, and the hill side was well sprinkled with a species of lettuce, a better grass than we had found for many days. Our elevated position gave us a good view over the country, but we discovered nothing very encouraging. Southward about ten miles distant, was another small lake, toward which a broad trail led along the ridge, and this appearing to afford the most practicable route, determined to continue our journey in that direction.

[December 24.] We found the water of the lake tolerably pure and encamped at the farther end. There was some good grass and canes along the shore, and the vegetation at this place consisted principally of chenopodaceous shrubs.

[December 25.] We were aroused on Christmas morning by a discharge from the small arms and howitzer, with which our people saluted the day, and the name of which we bestowed on the lake. It was the first time, perhaps, in this remote and desolate region in which it had been so commemorated. The day was sunny and warm and resuming our journey, we crossed some slight dividing grounds into a similar basin, walked in on the right by a lofty mountain ridge. The plainly beaten trail still continued, and occasionally we passed camping grounds of the Indians, which indicated to me that we were on one of the great thoroughfares of the country. In the afternoon, I attempted to travel in a more easterly direction, but after a few laborious miles was beaten back into the basin by an impassable country. We encamped on the valley bottom, where there was some cream like water in ponds colored by a clay soil and frozen over. Chenopodaceous shrubs constituted the growth, and made again our fire wood. The animals were driven to the hills where there was tolerable good grass.

[December 26.] Our general course was again south, the country consists of larger or smaller basins into which the mountain waters run down forming small lakes; they present a perfect level from which the mountains rise immediately and abruptly. Between the successive basins the dividing ground is usually very slight, and it is probable that in seasons of high water many of these basins are in communication. At such

times there is evidently an abundance of water, though now we find scarcely more than the dry beds. On either side the mountains, though not very high, appear to be rocky and sterile. The basin in which we were traveling declined toward the southwest corner, where the mountains indicate a narrow outlet, and turning around a rocky point or cape, we continued up a lateral branch valley, in which we encamped at night on a rapid pretty little stream of water, which we found unexpectedly among the sage on the ridge on the right side of the valley. It was bordered with grassy bottoms and clumps of willows, the water partially frozen. This stream belongs to the basin we had left. By a partial observation to night, our camp was found to be directly on the 42nd parallel.

[After oral arguments 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 Nov. 6, 1890, the same was signed and duly promulgated. On November 30, 1890, said decision was temporarily vacated, for further consideration, my attention having been called to the omission 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 X E California, N W Nevada and Southern Oregon, Atlas sheet No. 38 B," survey executed by Lieutenant Wheeler, U. S. A., 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, 1890. A copy of said map was filed in this office by res- [Continued on next page.]

Letters from The People.

EDITOR EXAMINER, Lakeview, Ore.:

Your article regarding the accident a few weeks ago in which I suffered a broken leg attracted my attention in your last issue received, and was correct in everything but the condition of the driver of the stage (sleigh). Will you kindly correct this and state that the driver was not drunk or even under the influence of liquor?

The accident was caused by the criminal negligence of the owners of the Hatcher Creek Mountain Toll Road, in allowing the road to be in the condition it was, and also to the poor equipment of the stage company in trying to haul passengers in sleighs that would disgrace a wood camp, and teams that can hardly pull themselves.

The driver (Mr. Hobson) did everything in his power to get over the road, and was as obliging as a man could be, although he had cause to do most anything, even down his troubles in drink.

I am at home and doing as well as can be expected, although it is slow work and I do not expect to again take up the burden of an "angel of commerce" until about May 1st.

With kind regards to all my Lakeview friends and best wishes for your "Monarch of Oregon," I am, yours truly, L. E. C. JORDAN.

P. S.—I have not been a "Judge" on cake walks since our decision was reversed. Sacramento, March 19, 1901.

EXAMINER, Lakeview, Oregon:—Well, boys, I have been having a jolly good time of it "back here in the States." We visited the Luray Caverns, and I think it one of the greatest wonders of the world. The place is filled with images of stalactitic formation. Saw the Butter Falls, the Fish Market, the Maiden's Veil, and heard the great pipe organ and cathedral bells which make the sweetest of music. I bought a few specimens or souvenirs from the guide, but they sell them "out of sight," and I didn't feel able to buy the cave and then attend the Inauguration.

We went to Washington on the 3d of March, and there we found the largest crowd of people we ever gazed upon. A million people was the estimate of some who pretended to make a guess. I counted fifteen brass bands in the parade and some of them must have had 150 instruments; one band had fifteen tenor drums.

We also visited Mount Vernon, a beautiful place and grandly kept. Mount Vernon is sixteen miles from Washington, across the Potomac River. We went over on the Charles McAlister, a fine boat of 2,000 capacity, and we had 1,500 passengers aboard; it was a jolly crowd.

We expect to start West in two weeks. I am afraid to stay here much longer for fear of becoming afflicted with the gout. I speak personally, as I believe Mrs. Hawkins is so struck with this country that it will be hard work to get her to leave it. I found the country quite natural and familiar, and many of my old friends I knew as soon as I met them. Of course, twenty-three years makes many changes in places as well

as faces. I have not visited any of the old battlefields yet, but think I will go there soon. Kind regards to all Lake county friends. Yours truly, R. A. HAWKINS.

Toms Brook, Va., March 16, 1901.

Wm. Lemon of the firm of Lemon & Hartzog, New Pine Creek merchants, has returned home after an absence of several weeks at the sick bed of his father at Boise, Idaho. Lemon senior is recovering his health rapidly.

David Young, one of the thrifty stockmen of Warner Lake, was in town last Thursday and called on the EXAMINER. Mr. Young some time since sold out of the horse business to Mr. Shirk, of Cedarville, and it is his intention now to engage in the raising of thoroughbred Durham cattle.

W. T. Mitchell, the creamery expert arrived from Alturas last evening, and will talk with our business men for a few days regarding the establishment of a creamery in Lakeview. The EXAMINER hopes that our people will give Mr. Mitchell the encouragement such an enterprise deserves.

T. J. Brattain and sons Dell and Paul of Chewancan have purchased from the Bank of Tehama county, Cal., 2600 acres in Sican known as the 2X ranch, formerly owned by Schroder Brothers, at one time extensive cattle growers of this county. This is a fine possession and the Messrs Brattain got a bargain in it.

N. S. McKinsey, superintendent of the Cal. & Or. Telegraph Company, was in Lakeview from his home in Susanville several days during the week. Mr. McKinsey went to Paisley to attend the meeting of the stockholders of the Lake County Telephone & Telegraph Company, and made an offer to build the line from Lakeview to Silver Lake for

\$5,000. He informs us that he will be up again the 29th of May accompanied by Mr. Dunaway, superintendent of the N. C. O., who will look over the county and interview the people along the line of the proposed route of his road to this place. He speaks in high terms of the railroad official both from the standpoint of a well-informed railroad man and as a social gentleman.

The New Era tells of a 4-year old heifer belonging to Luke Mulkey of Davis Creek, giving birth to twin calves in March, 1900, and two weeks ago gave birth to twins again, making four calves for the year. That is very good for the Davis Creek cow, but it does not compare with the prolificacy of John Loftus' mare, charged by a Lakeview paper with giving birth to a "pair of twins" (4) in one day. The Lake county animal takes the medal.

NOTICE TO FURNISH TELEPHONE & TELEGRAPH POSTS & POLES

NOTICE IS HEREBY GIVEN that bids will be received on Tuesday, April 16, 1901, at the office of the Secretary of the Lake County Telephone and Telegraph Company, at Lakeview, Oregon, for furnishing good peeled tamarrack poles 7 inches in diameter at butt, and 4 inches at top, 12 feet long, cut square with saw at both ends; (30 poles or posts to the mile) said posts and poles to be let in sections as follows: From Lakeview to Lower School House on Willow Creek; from Willow Creek to opposite Tucker ranch; from Tucker ranch to Paisley; from Paisley to Kelly ranch; from Kelly ranch to Sherlock ranch; from south end of Sherlock ranch to summit silver Lake mountains; from summit said mountains to the town of Silver Lake.

The Board of Directors of the Lake County Telephone and Telegraph Company reserve the right to reject any and all bids. WM. HARVEY, President. V. L. SNELLING, Secretary.


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