

Lake County Examiner

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LAKEVIEW, LAKE COUNTY, OREGON, THURSDAY, FEBRUARY 13, 1908.

NO. 7

IMPORTANT LAND DECISION GIVEN

Commissioner Affirms Receiver's Decision

CASE OF MESERVEY VS. BRYNE

Homesteader Wins Out Over Contestant, Though Land Contains Timber

DEPARTMENT OF THE INTERIOR
General Land Office, Washington
D. C. January 28, 1908.

H. E. No. 3431. Contest Dismissed. Register reversed Receiver affirmed. Mason C. Meservy vs. William F. Bryne.

Register and Receiver, Lakeview Oregon.

Sirs:—
May 8th 1905, William F. Bryne made H. E. No. 3431 for Lot 1, Sec 2 T. 37, S. R. 10 E.

February 10th 1907 F. Mason C. Meservy filed an affidavit of contest against said entry, charging, in substance that defendant had failed to reside upon, cultivate and improve said land as required by law.

Notice of said contest was issued April 1907, and personally served on defendant April 16, 1907. Pursuant to said notice, testimony was taken at different times before George Chastain, County Clerk of Klamath County, Oregon and final hearing was had June 5, 1907. Both parties submitted testimony, upon which the Register rendered a decision July 3 1907 in favor of plaintiff recommending the cancellation of said entry, and on the same day the Receiver rendered an opinion in favor of the defendant, recommending that the entry be held intact. August 20, 1907, you transmitted the record to this office, and the fact that there are disagreeable decisions by the local officers brings the case before me for consideration.

There are 174.72 acres of land in the tract involved in this case. The altitude is about five thousand feet above the level of the sea, and it contains from three to four million feet of valuable timber. There is little testimony as to the character of the soil, but the field notes of this office show that it is second and third rate.

In September 1905, defendant went on the land and partially constructed a small barn. In October of that year he erected a house about 12x16 feet, and seven feet in height. He furnished it with necessary household effects, and began living there about the last of November of that year. During that winter he built another house 14x20 feet in size, with an addition 4x8 feet, and a veranda 4x12 feet. It has two doors, three windows, a good floor and is celled on the inside. It is much better than the average homesteaders' shack and is well furnished. It contains about everything in the way of household effects that a man living there under all the surrounding circumstances would desire.

The house is located in a rather open place in the timber, and around it defendant has something like one acre well cleared, but he has not built any fence, and has cultivated practically none of the ground. In the spring of 1906, he planted a few beans and potatoes, but did not cultivate them.

It does not appear that plaintiff or his witnesses are very well informed as to the defendant's residence upon the land, and on this question it is necessary to depend very much upon defendant's own testimony. It is clearly shown that he established residence upon it in the fall of 1905, and lived there during the winter of 1906-1907. He stated at the hearing that he left there May 10th, 1906 and went to McCloud, California, where he was employed continuously until about the first of November of that year. November 7th 1906, he returned to the land and remained until the 18th of that month, when he again went to McCloud, where he remained until March 18, 1907, when he returned to the land, after he had heard of this contest.

Land that is covered with valuable timber, if agricultural in character when cleared, may be entered under the homestead laws. There is no temptation however to persons who desire to own it for the timber to enter it as a homestead, and therefore the fact that it is timbered may be taken into consideration in determining the good faith of the entryman as a permanent homesteader.

At the hearing in this case, plaintiff testified that before making said entry he "was looking for a timbered claim," and paid \$125 for the relinquishment of a former entry to this one. He further testified that he did not want any sage brush claim, for the simple reason that he did not know anything about one; that he had no way of working one, and did not want such a claim.

There are some circumstances shown in this case that do not indicate good faith on the part of the defendant in making said entry for a homestead. There is some evidence tending to show that he desired it chiefly for the timber, but the facts that he has erected a good house on the land and

furnished it well, that he established a residence thereon and remained continuously for several months and has not been absent therefrom for as much as six months at any one time, taken together with the fact that the entry was made less than two years before the contest was brought, indicate good faith on his part in entering it for a home.

The evidence as a whole fails to establish plaintiff's charges. Said contest is, therefore, dismissed, and the entry held intact. The action of the Register is accordingly reversed and that of the Receiver affirmed.

So note on your records, advise the parties in interest and plaintiff of his right of further appeal.
Respectfully, Fred Dennett, Ass't Commissioner. Board of Law Review by J. H. Thomas, W. B. Pugh.

Death of George Walker

Death ended the sufferings of George F. Walker, the son of Mr. and Mrs. J. E. Walker, of this city, Monday, Feb 10, 1908. Deceased was 18 years, 1 month and 25 days old. It seems sad that manhood should thus be plucked in the bud. George was not a strong boy, however, and the immediate cause of death was said to be hemorrhage of the lungs. He has been sick for some time. The funeral was held at the M. E. church Tuesday, at 2 o'clock, P. M., and burial immediately afterward, in the I. O. O. F. cemetery. The many friends of the deceased and his family deeply sympathize with the bereaved ones in this hour of sorrow. The Examiner extends sympathy.

Mrs. Adin McCall Dead

Mrs. Adin McCall, of Silver Lake, died Tuesday, Feb 4. The Silver Lake Oregonian says of the sad affair: "Mrs. McCall was just recovering from an attack of pneumonia and a complication of ailments, and it was thought by all that she was entirely out of danger. Tuesday morning she arose and dressed herself for breakfast, but complained of feeling dizzy and her husband assisted her back to bed. After she had lain down she said she was feeling all right again, and Mr. McCall left her, to eat his breakfast. When he returned a few minutes later, after finishing his breakfast, he found her dead, with one hand over her heart and the other at her throat. Death was due to heart failure and must have come very suddenly and with little or no pain, as she had made no struggle or outcry."

The funeral was conducted at Silver Lake on Wednesday, by Rev. Short, of that place. Deceased was but 22 years of age, and leaves a husband and one little son.

Will Lease Lands

Jack Kimball, representing the Weyerhaeuser Lumber Company, which owns vast tracts of timber lands in this section of country, arrived here first of the week. The Examiner last week mentioned his coming soon, for the purpose of leasing the company's lands in this county. In an interview Mr. Kimball stated to an Examiner reporter that the company would give resident stockowners the preference of leases on the portion of the range they have used heretofore.

He says they have received applications for nearly all these lands from large non resident sheep owners, but would not lease to them without first giving resident stockmen an opportunity to lease. Parties may lease these lands for one, two or three years, or for one year with the privilege of two. The price, so we understand, will be made to correspond as nearly as possible to that charged by the Forest Service. The latter charges by the head of stock running in the forests.

The Weyerhaeuser people own about 100,000 acres of timber land in and adjoining Lake county in which Lake county stock men are interested from a range standpoint. Mr. Kimball will remain in Lakeview about a month.

Jim Partin, who has been employed in the Ahlstrom harness shop for the past five or six years, has resigned his place at the saddlers' bench and accepted an apprenticeship with Dr. W. R. Boyd, the dentist. He began his new profession Monday morning. A neighbor near where Dr. Partin sleeps nights says he was awakened about two o'clock Tuesday morning by a noise outside, and upon investigation, found Jim pulling the fence posts up from around the front yard. When asked what he was doing he said "Oh just practicing," and then woke up and went back to bed.

Frank Morine has returned to Paisley, where he is engaged in repairing the telephoneline of the Lake County Tel. and Tel. Co.

WHERE TAX MONEY GOES

Court Only Has Authority To Levy Tax as Prescribed by Law

New Pine Creek, Oregon, February 6th.

Editor Examiner:
In order to decide a dispute, will you please tell me if the County Court has authority to fix the amount of the tax levy for the state, county and school taxes, and also the amount levied for each purpose for this year.

The salaries of the County Officers, which are fixed by law, amount to about \$8,800 per annum. The cost of the three elections for this year, Primary in April, State in June and the Presidential in November will amount to probably not less than \$3000, so that these two items alone will exceed the total amount levied for all county purposes, and as the Examiner pointed out in a former article on this subject, that the County Court will have to use the pruning knife on every item of expense for the next year to make both ends meet.

A tax levy of 1-2 mill was made for County Roads. This small levy was made this year, no doubt, for roads, for the reason that the Road Law has been so changed as to make each road district a Unit for the purpose of building and repairing County roads, as the new road law, which is modeled after the school law, provides that the taxpayers of each road district may levy such a tax, at a meeting called for that purpose, for road purposes as may be deemed necessary to build and improve the roads in their district.

The Court also made a levy of 7 mills for the purpose of completing the Court House building, so that the total tax levied for all purposes, which the taxpayers of the County will have to pay is 17.3 mills.

This amount does not include the special levy made by the town of Lakeview and also by the several school districts of the County. The town of Lakeview made a tax levy of 9 mills for town purposes, and the Lakeview school District levied 1.8 mills to pay the interest on its bonded debt, so that the special tax levied on the property values of Lakeview amounts to 10.8 mills, or one half a mill more than the entire tax levied for state, school county and road purposes combined, which amounts to only 10.4 mills. Paisley school District has a special levy of 2.4 mills, and Silver Lake School District 6 mills, so that the taxpayers in Lakeview will pay a total tax of 28.1 mills, Silver Lake 23.3 mills and Paisley 19.7 mills, while in all other portions of the county the tax levy will be only 17.3 mills.

Resolutions

Hall of Rebekah Lodge No. 22, Lakeview Oregon, Jan. 29, 1908.
To the Officers and members of Lakeview Rebekah Lodge No. 22, I. O. O. F.

Whereas, it has pleased the Supreme Ruler of the Universe to remove from the family the beloved mother, therefore be it

Resolved, That in the death of Sister Schlager this Lodge has lost a faithful member. Although sickness and affliction were her lot for many years, her heart was in the work. While we deplore her loss we know it is well with her. That her sweet Christian spirit we would do well to emulate.

Resolved, That we as a Lodge, tender our heartfelt sympathy to the bereaved daughter and family in the hour of their affliction and commend them to Him "Who doeth all things for the best"

Resolved, That we spread a copy of these resolutions on our minutes and send a copy to the bereaved family. Also a copy be furnished the Lake County Examiner for publication. Submitted in F. L. T.

Alice R. Bunting.
L. J. Magilton.
Minnie L. Willits.

Gus Schlager returned to Lakeview last Thursday, from Cleveland Ohio, where he has been for the past two years. He was motorman on a street car in that city, and also conducted a small store, which his wife looked after. Gus will remain in Lakeview indefinitely, as he has gone back into the brewery saloon. The lease of his half interest in that business to Geo. Ayres having expired.

Resolutions

Hall of Lakeshore Lodge No. 77, A. O. U. W.

Lakeview Ore. Jan. 23, 1908.
To the Officers and Members of Lakeshore Lodge No. 77 A. O. U. W.

Whereas, The Supreme Ruler of the Universe, in his infinite wisdom, has removed from our midst, Brother J. S. Dewey, who died in Glendale, Or. Jan. 10, 1908. Therefore, be it

Resolved, That as we mourn the loss of our departed brother, we know he has not lived in vain, but in our minds his life will draw us closer to the beautiful teachings of our Order, living not for ourselves but for each other as well.

Resolved, That Lakeshore Lodge No. 77, extend its heartfelt sympathy to the bereaved wife.

Resolved, That a copy of these resolutions be spread on the minutes of this Lodge, that a copy, under seal of the Lodge be transmitted to the wife of the deceased. And a copy be sent of the Lake County Examiner for publication.

Fraternally Submitted,
Mary D. Moss.
Vida Gunther.
Selma Price.

Nineteen New Measures

The Examiner wrote to the Secretary of State for a list of the measures to be considered under the initiative and referendum laws by the voters at the polls in June. Not less than 19 measures will be on the ticket. Four laws enacted by the last legislature will be subject to the referendum. Eight amendments to the constitution will be considered, one of which was submitted by the legislature and seven by petition. Six bills proposed by initiative petitions, will constitute the list of questions to be decided by the voters in June.

The bills passed by the legislature

on which the referendum has been invoked are:

To increase the annual appropriation for the State University to \$125,000.

To require railroads to lease passes to all state, district and county officials.

To appropriate \$100,000 for National Guard armories.

To give Sheriffs exclusive control of county prisoners.

Amendment to the Constitution for which petitions have been filed are:

To increase the number of judges of the Supreme Court from three to five (by the Legislature.)

To give political parties proportionate representation in the Legislature.

To provide for the recall of public officials and for the election of their successors.

To take from the District Attorney the power of indictment and vest it exclusively in grand juries.

To exempt certain property from taxation.

To prevent the legislature from amending or repealing initiative laws (by the State Grange.)

To give to each city or town the sole right to regulate its business houses, theaters and the like, on Sunday.

To extend suffrage to women.

Petitions for the following bills have been filed:

The corrupt practice act, limiting the amount of money candidates may expend for campaign expenses. (By U'Ren.)

Requiring all Legislative candidates to subscribe to Statement No. 1.—By U'Ren.

For the division of Wasco county and the creation of another county, with Hood river as the county seat.—By the people of Wasco county.

Prohibiting fishing for salmon and sturgeon in the Columbia river above the Sando.—By Astoria fishermen.

Restricting the amount of fishing gear employed on the Lower Columbia and providing a weekly and an annual closed season.—By the fishermen of the Upper Columbia.

Extending the powers of the Port of Portland in the interest of better navigation on the Lower Willamette and Columbia Rivers.—By the people of Multnomah County.

While the actual cost of placing these measures before the voters cannot be accurately estimated, the Oregonian has figured that the cost to the state and counties will be approximately \$15,214. Act governing procedure under the initiative and referendum requires the Secretary of State to have printed, all measures, together with the arguments for and against the measure, in one pamphlet, and mail each voter in the state a copy of the pamphlet. County clerks are required to furnish the secretary of state with the name and address of each registered voter in his county. There are about 100,000 voters in the state, therefore the names and addresses of these will have to be written twice, once by the clerk and once by the secretary of state. The pamphlets will contain 125 pages and the postage on them will be \$5,000. It will cost \$7,500 to print them, a part of which expense will be borne by the parties who furnish the arguments for or against the measure. It is estimated that the extra expense of printing the ballots will be \$1,000. The envelopes will cost \$714. One thousand dollars is allowed in the estimate for writing the names and addresses, and owing to the increased number of questions voted upon, it is estimated that clerks and judges at the election will draw \$10.00 more pay.

Hammersley-Bryant

A very happy event is scheduled to take place at the J. C. Shellhammer ranch in Crooked Creek valley next Sunday at 11 o'clock. Frank, the eldest son of J. M. Hammersley is to be married to Miss Nora Bryant, niece of Mr. and Mrs. F. B. Houston, of South Warner valley. The wedding is somewhat of a surprise to a great many, as both young people were raised here, and people who have only seen them occasionally, hardly realize that they have grown into manhood and womanhood, and only after thinking back over many years could one believe that such a thing as love could enter these young hearts; but time flies and they are both of age. The many friends of these young people will be glad to learn of this happy event. Rev. Armstrong will perform the ceremony. The Examiner extends hearty congratulations, and best wishes for a long and happy life.

ORGANIZE FLOUR MILL COMPANY

Papers Sent to the Secretary of the State

WILCOX, SHERLOCK, BUNTING

The Benefits to be Derived From a Flour Mill in Lakeview Are Inestimable

The Lakeview Flouring Mill Co., was organized last Saturday evening at a meeting held at the court house called for that purpose. Dick J. Wilcox, C. E. Sherlock and F. O. Bunting are the incorporators. The papers were sent to the Secretary of state for filing. As soon as the papers are returned stocks already subscribed for will be issued, and other shares will be put on the market. This is one of the most important moves made in this town. The needs of a flour mill can hardly be realized by one who has not studied the benefits to be derived. With a flour mill in Lakeview, every team leaving here for the railroad after freight will load out with flour. Every farmer will raise wheat, and where now stand high sagebrush will soon be waving wheat fields, and Lake county will then see its importance as a food stuff producer. Thousands of farmers will find room in this county when a market is made for what they can raise. Hogs will be raised and made into bacon to supply the local demand, which is now supplied by bacon from other places. Farmers will not live without keeping cows, and the butter now made in some other country and shipped here at a big expense, will be produced right here at home, each farmer will have his orchard, and raise the apples and other fruits that take so readily in every market in the world today. See what the consequences of a flour mill in the world today. See what the consequences of a flour mill will be in Lakeview. It cannot come too quick.

Miss Mirth Boone and Mr. John Brammer were married in Reno on the 24th of January, and immediately took their departure for Kansas, where they will spend their honeymoon. The happy young couple are now located at Ellsworth, Kansas, where they will remain for a while, at least. Miss Boone was raised in this county, being the daughter of Mr. and Mrs. Daniel Boone, and has many friends here who admire and love her. Mr. Brammer has lived in Lakeview for the past two or three years and gained the friendship of every one whom he met. All will join in congratulating Mr. Brammer on winning so sweet a young lady.

The band boys returned from Paisley somewhat scattered, but they all came back. They report having had a good time, and say their dance was well patronized. The receipts were \$75, and while they paid it all out for expenses of the trip, they do not regret having gone. They speak in very high terms of the treatment they received at the hands of the Paisley people, and wish Paisley was closer, so that they could visit that beautiful little town oftener. Some of the boys had never been there before, and were astonished to find such a progressive and pretty village.

T. J. Cleaton, a prominent attorney of Portland, has been chosen by the Oregon delegation as U. S. attorney for Oregon. Senator Bourne has withdrawn the nomination of Chris. Scheibel, and as Mr. Cleaton was a friend of all the delegation, his name will probably be presented for nomination by the president.

The jury in the John H. Hall conspiracy case returned a verdict of guilty after 3 hours' deliberation. The charge upon which Hall was convicted is punishable by a fine not to exceed \$10,000, or imprisonment not to exceed 2 years.

H. F. Belknap, of Prineville, is a candidate for joint-representative from this district. Mr. Belknap has served in this same capacity at the last legislature, and is a capable and honest worker.