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SUPREME COURT TAKES FALL OUT OF FORREST SERVICE

By an evenly divided court the supreme court of the United States Monday affirmed the decision of the federal court of California, which held that the grazing of sheep without permission of the forest reserve was not a violation of the law.

The question arose in the cases of Pierre Grimaud and J. P. Carajous, who were indicted in 1907 in the federal courts of California on a charge of grazing sheep without permission in the Sierra forest reserve within the state of California.

The indictment was brought under the act of January 4 1897, which authorized the secretary of the interior and later the secretary of agriculture to make provisions for the protection of the public lands in the forest reserve against destruction by fire and depredations. Punishment for violations of the provisions was provided for.

Wednesday's Statesman gives A. F. Potter's interpretation of the decision. Mr. Potter is chief of grazing land.

Mr. Potter states that the decision affects only this legal phase of the question and does not bring into question the department's right to regulate the grazing on reserves, nor does it, in his judgment, curtail the right to impose a fee for grazing on the reserves. Both practices, he says, will be continued, unless, upon further analysis of the court's ruling, they are found to be unlawful.

The Statesman says: Never before has a court decision so vitally affected the sheep industry, especially in the western states. The fight that has been precipitated thereby promises to develop into one of the largest and hardest fought contests ever witnessed in this part of the

country. Probably no other state is so largely affected by this decision as is Idaho.

The decision is taken to throw the national forests wide open to all who care to graze sheep over them. The territory affected includes that part of Idaho south of the Salmon river, taking in the Weiser, Boise, Sawtooth, Hailey, Caribou, Teton, Lemhi, Minidoka, Emmett, Payette and other national forest reserves.

A call was issued for all members of the executive board of the Idaho Wool Growers Assn. will meet Wednesday in Boise. At this meeting plans will be discussed as to what action of the association, as a body, will take regarding the affects of the supreme court's decision, and a campaign will be formulated with a view to having a law passed by congress specifically enacting as a statute the old rules and regulations of the forestry department.

Samuel Ballantyne, one of the most prominent sheepmen in the state, and secretary of the Idaho Wool Growers' association, when the contents of the special dispatch from Washington was read to him at 1:30 o'clock this morning, said: "I don't see how Potter's interpretation of the supreme court's decision alters the case in the slightest degree. It appears to me that the proposition remains practically where it was. It looks as though the supreme court has tied up this matter sadly. Granting Potter's views to the effect that the supreme court's decision merely holds that congress cannot delegate to the secretary of agriculture the authority to make regulations which would have the force of law, and hence holds that persons violating such regulations are not subject to criminal

prosecution—granting all this, how does that change the status of affairs?"

CAN'T ENFORCE REGULATION.
"Suppose the forestry department still claims authority to levy the stipulated fee of six cents a head in the grazing season; and suppose that in view of the supreme court's decision, the sheepmen without permits simply go right out and start to graze their sheep on the reserves; and suppose the ranger steps in and says: 'Here, you cannot graze your sheep without a permit,' and suppose that the sheepman says, 'Well, what are you going to do about it?'. I can't see how the forest reserve can enforce these regulations after what the supreme court has decided in the matter."

"In the first place, many of the sheepmen got together and they consulted high legal authority some time ago, even going so far as asking Senator Borah for his opinion, and we were informed that we could go ahead and graze our sheep without a permit, and graze our sheep without a permit, and we were advised further,

that if we were arrested the courts would uphold our right to graze our sheep without a permit, and we could not be prosecuted for a criminal violation of the law, for the reason that there is no law in the premises at all.

"Now the sheepmen can all refuse to pay grazing fees, and they can go out and graze their sheep on the reserves, and what is the forestry department going to do about it? Another thing: It won't be right to compel the sheepmen who already have permits to pay the fee, and yet the sheepmen without permits graze their sheep free."

In my humble opinion, the supreme court has hopelessly complicated affairs. By an evenly divided court, it has decided a question in a way which leaves it more undecided than ever, and now the only possible solution of the difficulty will be to have congress pass laws expressly covering the disputed points.

"It is certain that regulations of the forestry department, without power to enforce them, are absurd and useless."

THOMPSON MAY BE A CANDIDATE

The news that Hon. J. M. Thompson might be a candidate for judge of the Seventh Judicial District is meeting with general favor with the people of Caldwell and Canyon county. Mr. Thompson is a lawyer of standing and reputation and would run like a race horse. The people of this judicial district have the utmost confidence in Mr. Thompson. The Republicans of the county have been looking for a candidate and the suggestion that Mr. Thompson was available meets with their hearty approval.

SHORT LINE GETS DEWEY ROAD.

Two releases of mortgages were filed with the county recorder Saturday by the attorneys for the Oregon Short Line Railroad Co. Both mortgages were on the Idaho-Northern Railroad and were in the sum of \$50,000.00 each. It is said that the Oregon Short Line interests rather than the Hill interests have secured the road.

Cashier Pedigo, of the State Bank of Notus, was a business visitor in Caldwell Tuesday.

WILL START RRAN NEW TOWN SOON

J. F. Bow yesterday deeded 10 acres of ground to the Idaho Northern in the west half of the northwest quarter of section 2, township 1, range 2 west, Boise meridian. The ten acres donated to the Idaho Northern will be used for sidetracks, depot grounds, etc. The remaining 70 acres of the 80-acre tract will be platted by Mr. Bow put on the market. The site lies some into business and residence lots, and seven or eight miles south of Nampa, and is surrounded by a fine body of land. The Kuna High Line irrigating canal runs through the territory, and will afford water for all the land in that section.

With the amount of good land to be developed it seems reasonable to believe that a few years will see a nice little town there.—Nampa Leader-Head.

DEATH OF LUTHER BOWMAN.

Luther Bowman died at the home of his father, Captain Bowman, Friday aged 30 years. Mr. Bowman suffered from tuberculosis for a number of years. The funeral was held Saturday. A number of relatives survive him.

RELEIL FOR THE PROJECTS IS NECESSITY

Regardless of whether a desert entryman has purchased a water right, unless he makes expenditures as required by law upon the land his entry will be held for cancellation, according to an opinion handed down by the register and receiver of the United States land office recently in the case of Alasdie L. Hoobler vs. George Treffry assignee of Silas D. Clifford, involving a tract of land in the vicinity of Mountainhome. It is held that an entryman cannot rely entirely upon such a contract when there is a possibility that the water will not be furnished within a reasonable time. The decision is in part as follows:

"It is clearly shown by the stipulation that the law has been complied with. Four years had elapsed after the making of the entry before this contest was filed. No part of said land had been reclaimed up to the time of filing of the affidavit of contest. The law requires that all the irrigable area of a desert entry must be reclaimed within four years after the date of entry; that one-eighth of the

area must be put into cultivation, and that at least \$3 per acre must be expended in the reclamation of the tract.

EXTENSION OF TIME.
If upon application and in the exercise of the discretion vested in the commissioner, an extension of time for reclamation of the land be granted the fact that reclamation has not been effected will not operate to bring about cancellation has been allowed, though one has been applied for.

"It is shown that the entryman and his assignee have relied entirely upon the purchase of a water right, and that they have done nothing whatever toward improvement of the land during the period that has elapsed since it became evident that water could not be furnished within a reasonable time, and was not likely to be furnished at all by the company from which this water right was purchased. We refer to this feature of the case because of the allegation of the contest affidavit that no expenditure had been made for the purchase of a valid water right."

JUDGE SMITH HAD A SPLENDID TRIP

Judge Frank J. Smith returned home Saturday from an extended trip through several southern and eastern states. Judge Smith went from Caldwell to Portland thence to San Francisco, Los Angeles, San Diego, California, then San Antonio, Austin and Galveston, Texas. He went from Galveston to New Orleans, Montgomery, Savannah, Washington, New York and Chicago. He says he had a most pleasant and enjoyable trip. At Washington he had the pleasure of listening to an able argument by Senator Heyburn on the constitutionality of the postal savings bank bill at that time before the Senate. With the standing and reputation of the Idaho delegation in Congress, Judge Smith was highly gratified. He says Senators Heyburn and Borah are considered strong, able, hard working men. Representative Hamer is also coming to the front. He has made a good record for a new member. While he had a most pleasant trip the Judge says he was very glad to get back to Caldwell.

Mrs. Smith and children are at San Diego and have enjoyed a pleasant winter.

DEATH OF CHESTER GLENN.

Chester E. Glenn died at his home near Notus Saturday night, after a sickness of over two years. About two years ago he injured his leg, and it became necessary to amputate it. A sarcoma formed which reappeared in the chest. During the past two years he has suffered intensely. Deceased was the son of Mr. and Mrs. R. E. Glenn. He was born November 10, 1893. He leaves a father, mother and sister. The funeral services were conducted by Dr. W. J. Boone of Caldwell at the Lower Boise Presbyterian church. Interment was in the Lower Boise Cemetery.

FARM STORE BRIDGE COMPLETED.

W. R. Hall, superintendent of the construction for the Forbes Construction company, was in town over Sunday. He has just completed the rebuilding of the Payette river bridge at Falks Store, which was washed out last winter, and it is now open for travel. He left Monday for Parma to put the finishing touches to the waterworks system which the Forbes company is installing and water will be turned into the pipes in a few days.—Emmett Index.

Jas. S. Napton, the well-known farmer of Homedale was in the city on business last Tuesday.

INTEREST IN ALASKA TRIP INCREASING EVERY DAY

The last week has been an extremely busy one for the candidates, all of them taking advantage of the big special vote offer which closed Wednesday evening. Most of the contestants succeeded in closing all of their promises while others were not so fortunate. All of them, however, secured the required number of subscriptions entitling them to extra ballots. The extra votes secured during this offer may be voted at any time, some of the contestants are holding for the final week, so the present standing is not wholly to be relied upon. The leaders should not become over-confident, rivals lower down in the list may have enough votes to take the lead at any time they wish.

Every day the interest in the contest is becoming more intense, and in a few weeks will be at fever heat. Wherever you go you hear the people talking about it. Where their favorite stands and how many votes she gained in the last count, are the points that interest the readers. When the paper is received the first thing read is the standing. The subscribers know that the result of the contest rests with them and all of them have a favorite whom they want to win. The prizes will be distributed in accordance with the wishes of the people who live in the different districts. It is up to the candidates to interest them in their behalf. They must let the people know they are out and trying to win. No one wants to be on a loser's side; they will help the hustler every time.

The candidates should devote all their spare time to the work for the few remaining weeks. The prizes are valuable and well worth working for. Every young lady has her hundreds of friends who are working for her and want her to win. Show them

that you appreciate their efforts and that you intend to put up a hard fight for the prize, and they will redouble their efforts in your behalf. Don't delay; the contest will close in a few weeks and every day that you lose now means just that much more for you to do during the last few days.

Old subscribers desiring to help any of the young ladies in the contest can do so by paying their subscription at the regular rate. Everyone gets the same number of votes with their payment, whether they are paying arrears, in advance or are new subscribers. There is no discrimination. Old subscribers should grasp this opportunity. You intend to pay for the paper anyway, do so now and help some deserving young lady win one of the grand Alaskan trips. If you are in doubt as to when your subscription expires, call up the office and the information will be gladly furnished. If you prefer to pay in the office a vote certificate will be issued to who ever you wish and you may vote it at the time or give it to your choice.

Following is the standing of the candidates. As it appears today includes only the votes that were cast before six p. m., Wednesday. If your favorite is a few thousand votes behind help her get the lead next week.

DISTRICT NO. 1.	
Mable Dutton	32,000
Jane Miller	29,000
Maud Decker	26,000
Mary Smith	17,000
Helen Isham	10,000
Edith Johnson	8,500
Hazel Harrington	5,000
DISTRICT NO. 2.	
Mamie Joselyn	11,000
Kate Peterson	9,000
Ethel Crites	6,500
Nora Dennerline	2,000
Pearl Hall	1,000

BORAH BILL REDUCES THE TIME FOR HOMESTEADERS

According to his promise to the people of Boise Valley, at the time of the visit to Caldwell last summer of the Senate Reclamation Committee, Senator W. E. Borah has introduced a bill which provides for the reduction of the term of residence required on reclamation homesteads from five to three years repealing the act of June 17, 1902, proof of residence it is provided, however, must be submitted within five years after the date of allowance to the entry. Its provisions are as follows:

"Be it enacted by the senate and house of representatives of the United States of America in congress assembled, that section 2291 and section 2297 of the revised statutes of the United States be amended to read as follows:

Section 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry, and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead, his widow, or in case of her death, his heirs and devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section 2288, and that he, she or they, will bear true allegiance to the government of the United States; then, in such case, he, she or they, if at that time citizens of the United States shall be entitled to

a patent, as in other cases provided by law:

SUBJECT TO PROOFS.
Provided that the required period of residence on lands that may have heretofore been entered subject to the provisions of the act of June 17, 1902, or that shall hereafter be enacted subject to the provisions of said act of June 17, 1902, shall be three years, and that proof of residence on entries of such lands must be admitted within five years after the date of allowance of the entry.

"Section 2297. If at the time after the filing of the affidavit, as required in section 2290, and before the expiration of the five years mentioned in section 2291, it is provided, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence or abandoned the land for more than six months at a time, then and in that event the land so entered shall revert to the government: Provided, That where there may be climatic reasons the commissioner of the general land office may, in his discretion, allow the settler 12 months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe: And, provided, further, That entries made subject to the provisions of the act of June 17, 1902, shall thus become subject to contest if they be abandoned for more than three months but this provision shall not obtain or attach in any case in which the period of absence from the land on the part of the entryman may have begun prior to the passage and approval of this act."

THE REQUESTS FOR FISH MUSN BE FILED

The state fish and game department will have 1,500,000 small trout for distribution from the various hatcheries about May 1, and will strive to make the first planting for the year equitable as possible. In doing this the co-operation of the people of the state is solicited. "Governor Brady is manifesting much interest in the work of the department," Chief Deputy Warden T. B. Livingston stated yesterday. "He is especially desirous that the people of the state shall profit so far as possible by the expense to which the state has gone in establishing fish hatcheries and providing fry for restocking the streams.

"The fish and game department is now outlining a plan for the spring delivery of eastern brook trout. This delivery will commence not later than May 1. We are desirous of making this distribution to all counties that will make proper application. For the convenience of parties wishing fish we have printed forms and will furnish them to all who take an interest in the work.

CARE IN SELECTING STREAMS.

"Fish from the state fish hatcheries cannot be planted in waters which are

not available for the use of the general public. In my judgment, great care must be taken in selecting suitable streams in each county as this means much to the future fishing in the state of Idaho. Fish planted in small or muddy streams that will not afford ample protection in low water is simply a waste of time. When the fry is planted it should be in very shallow water. I refer to the little rivulets that run into the main streams.

"The department has carefully investigated the methods adopted by similar departments in other states, and it has been found by those states, after years of experience, that unless the fish are planted in the shallow water where the large fish cannot pursue them, they will be destroyed.

"Full information and instructions with reference to the planting of the fish will be furnished by the department at all times. We stand ready to help those who are interested in the propagation and protection of fish and game, and will gladly answer all correspondence of this nature promptly."

Blank forms of application furnished applicants upon request.

TWO COMPANIES COMBINE FORCES

Attorney John C. Rice was a business visitor to Ontario Monday. Mr. Rice went down to attend a meeting of the stockholders of the Owyhee Ditch company. At the meeting the company voted to affiliate with the Boise-Owyhee Irrigation company, thus removing the last obstacle in the way of the consummation of the latter company's project for the formation of an irrigation district which will reclaim 150,000 acres of land. The action of the stockholders consolidates all interests in the big project and construction work will now proceed without further hindrance.

In an election Monday 4800 shares voted for consolidation and 1900 voted in opposition. The Owyhee ditch irrigates some 8000 acres and has one of the oldest water rights. It was desirable that this land should be included in the irrigation district in order that the maximum acreage possible should be reclaimed and for that reason active construction work was deferred pending the action of the Owyhee Ditch company's stockhold-

ers. The Boise-Owyhee Irrigation company has been preparing for construction work for some time and is ready to throw an army of men on the work immediately. Several contractors have been on the ground for weeks awaiting the determination of the land owners under the Owyhee Ditch company's canal and now that the way is clear they will proceed without delay.

The Boise-Owyhee project is one of the largest and most attractive irrigation projects in the west. It was financed some time ago, but owing to local complications, which were slow in untangling, it was impossible to proceed along the desired lines.

CALDWELL LOSES RURAL

Word has been received at the Caldwell postoffice that Rural Free Delivery Route No. 3 will be discontinued as the Postoffice inspector had so recommended. This is the route that goes down toward Notus. We understand that Inspector Nelson informed the Caldwell Commercial Club that he would not recommend this change. He evidently changed his mind as soon as he left the city.

Judge Frank J. Smith visited Boise Tuesday.