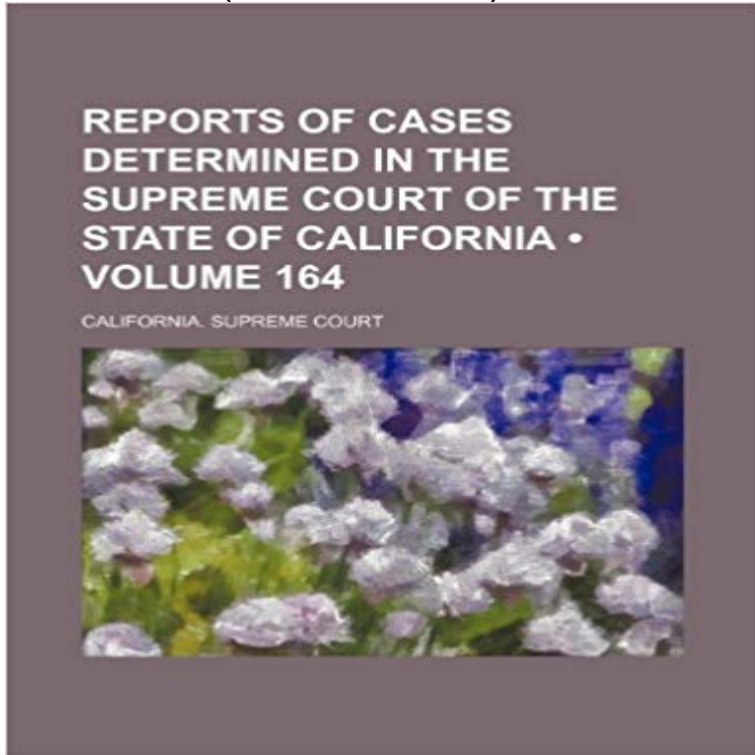


## Reports of Cases Determined in the Supreme Court of the State of California (Volume 164 )



This historic book may have numerous typos and missing text. Purchasers can download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1913. Excerpt: ... in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. (*Blood v. McCarty*, 112 Cal. 561, 44 Pac. 1025.) In the present action the court made a finding to the effect that the board of supervisors of each of the counties of Calaveras and Amador did, before granting the franchises of April fourth and fifth, 1898, make a determination that the expense of maintaining and operating the bridge was too great to justify the respective counties in so maintaining and operating it. This finding is attacked by appellants, their position being that the determination in question, which is prerequisite to the validity of the order (*Bedell v. Scott*, 126 Cal. 675, 59 Pac. 210), must appear affirmatively upon the record of the board, and, if not so appearing, cannot be proven otherwise. The records of the respective boards do not, as already stated, show such determination. While the point thus urged finds some support in the case last cited, the weight of authority seems to be to the effect that parol evidence is admissible to show that a court or board of limited power has acted within its jurisdiction, in the absence of a statute requiring such facts to appear in the minutes or other record of its proceedings. (*Jolley v. Foltz*, 34 Cal. 321; *Reclamation Dist. v. Goldman*, 65 Cal. 638, 4 Pac. 676; *In re Williams*, 102 Cal. 70, 77, 41 Am. St. Rep. 163, 36 Pac. 407; *Freeman on Judgments*, 4th ed., sec. 523; *Black on Judgments*, sec. 282.) But it is unnecessary to decide this question here. The respondent herself suggests, and we think correctly, that subdivision 33 of section

4041 has no application to the case of a bridge across waters separating ...

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