

THE OBSERVER

BRUCE DENNIS, Editor and Owner.

Entered in the Postoffice at La Grande, Oregon, as second class matter.

SUBSCRIPTION RATES. Daily, single copy 5c. Daily, per week 15c. Daily, per month 65c. Daily, per six months in advance \$3.50. Daily, per year in advance \$7.00. Daily, by mail per year, in advance \$4.00. Weekly Observer-Star, per year in advance \$1.50.

Advertising rates on application. Ad copy for display advertising must reach the office the day before the ad appears.

Address all communications to THE OBSERVER, 1710 Sixth Street.

FARMERS' WEEK AT HAND.

Monday morning, bright and early, begins the greatest gathering of farm, home, horticulture, animal husbandry, etc., experts that Eastern Oregon has ever seen at one time. They come to La Grande to conduct a college course in one week that farmers, townfolks and all may have the advantages of higher learning brought to their doors. Now it is not for Union county alone that these men and women are coming, but for Eastern Oregon. It is merely incidental that La Grande was selected for this work, but that fact, however has a local importance. Are La Grande people going to rise to the occasion? Are they going to be genial hosts? Do they realize that her citizenship must do their share to make the new scheme successful? Does La Grande realize that unless the plan is a flat failure in the standpoint of numbers that the hotels and restaurants will be flooded? It is well that these things are realized before the week begins.

On the other hand. Never in the history of Oregon Agricultural college education has so gigantic an undertaking been attempted outside her campus, and it is now up to Union county farmers to take advantage of it. One day or one evening can't bring much good. Farmers must make arrangements to take in the whole course, and to bring their wives and daughters along so they can profit by that which will be taught for their benefit. It is going to be a big week. Come, people, make the best of it.

In the January Woman's Home Companion a sixty-year-old dancer tells how old people can learn the new steps, enjoy them thoroughly, and even cut out the younger generation by their graceful manner of dancing. He himself did not begin to dance until after his sixtieth year and he tells of a coterie of hoary-headed fox-

trotters who are going ballroom mad. "Besides White," he says, "I have a number of other elderly friends and acquaintances that dance. I know a wealthy man of sixty-eight who has been taking lessons for two years. He calls up his teacher early in the morning, and orders her to his residence and dances an hour before breakfast. I have another acquaintance who dances beautifully with his granddaughter, a girl of sixteen. I know an old fox-trotter who is preferred as a partner by girls to any of his three sons, all of whom are fair dancers. He says that he used to practice in his bachelor days with a chair for a partner."

The L. D. S. church is a firm believer in teaching athletics to its young, yet never forgets to develop the mind and tongue at the same time. Such a plan of oratorical, story telling and athletic combination as was heard last evening at the Amusement hall speaks well for the church, well for participants, and is a compliment to the broadness of the church heads.

Hardtack War Memento

Litchfield, Minn. Jan. 15.—A piece of rusty hardtack carried in a knapsack by her brother, Enoch Leavitt, when he marched under Colonel Buford against the famous Morgan raiders is a memento of the Civil war possessed by Mr. James Lowater.

Following Morgan's capture near Cincinnati Mrs. Lowater's brother was granted a furlough and brought the ancient piece of army bread home to his sister. She has had it now for 52 years. Though it is a little green from age, it is still in a fairly good state of preservation.

INJUNCTION SOUGHT.

(Continued From Page One)

ers, and permits all circumstances of necessity and mercy to be pleaded in defense. This law applies only to the particular business named and has no application to labor and traffic generally, and it can hardly be said to be a law creating a day of rest and recreation, as it only prohibited the keeping open for labor and traffic of certain places of business on Sunday, and otherwise did not prohibit any one from engaging in any kind of labor or traffic on Sunday.

The first Sunday law in Oregon was passed by the territorial legislature January 15th, 1854 and is found in the Territorial Code of 1853 and 1854, on page 283, under the title "An Act to prevent Sabbath Breaking." The first section of this Act reads as follows: Sec. 1.—"Be it enacted by the Legislative Assembly of the territory of Oregon, that no person shall keep open his or her store, shop, grocery, ball alley, billiard saloon, tipping house, or any place of gaming or amusement, or do any secular business, other than works of necessity and mercy on the first day of the week, commonly called the 'Lord's Day' or Sunday; provided, however, that this act shall

not be so construed as to have effect where the circumstances of the case render it necessary that the above provision be not observed. "It will be seen that the above Act applied not only to all secular business, except works of necessity and mercy and created Sunday a day of rest and recreation from all secular labor and business. After Oregon became a state, Legislature in 1864 adopted a Code Criminal Procedure section 653 of which was a re-enactment of the former Territorial Sunday law in a modified form under the sub-title of "Profanation of Sunday," and may be found in "Deady's Code" as section 653 on page 564, and is in the following words: "If any person shall keep open any store, shop, ball alley, billiard room, tipping house, or any place of amusement, or shall do any secular business or labor, other than works of necessity or mercy, on the first day of the week, commonly called Sunday, of the Lord's Day, such person, upon conviction thereof, shall be punished by fine not less than five nor more than fifty dollars." It will be seen that this section was general in character and applied not only to the specified businesses therein named but to all secular business and labor, except only works of necessity and mercy. The Legislature in 1865 under the following title repealed section 653 above of Deady's Code and enacted in its stead what is now section 2125 L. O. I. "An Act to amend and not act entitled 'An Act to provide a Code of Criminal Procedure, and to Define Crimes and their punishment approved October 22, 1864.'" In this last enactment the words "or shall do any secular business or labor, other than works of necessity or mercy" were eliminated and omitted from the law, thus limiting the law to the particular business and labors named in the section, and depriving the same of all of its general application to all classes of business or labor except works of necessity and mercy, so that the law as it now stands and has stood since 1865 is no longer a law creating Sunday as a day of rest and recreation, except as to these certain business named. This is such an arbitrary classification and applies to such a limited number of business and callings as to render the law in no sense a law creating a day of rest and recreation for the benefit of the health, peace, quiet and good order of the people in the exercise of the police power of the State, and violates both the constitution of the State of Oregon and the United States. This is the real question pending and must be determined by the Supreme Court of the United States, and we have stated this matter thus fully in order to apprise the court of the fact of the seriousness of the issues in the suit pending before that court.

In addition to the fact that the body of this law does not create Sunday a day of rest and recreation from all secular business and labor except works of necessity and mercy, it is apparent from the title of the various Acts above referred to that the controlling idea, intent and purpose of this legislation was to prohibit the desecration of Sunday as the Lord's Day, and not primarily to enforce a day of rest. In this respect, we suggest that it was the evident intent and purpose of this legislation, not to bring about a day of rest and cessation of labor on one day in seven, but to enforce as against the businesses named a strict religious observance of the Sabbath. This being the intent and purpose of this legislation it clearly violates both the constitution of this State and of the United States. (Dist. of Columbia v. Robinson 30 App. Cas. (D. C.) 283, 12 Ann. Cas. 1094.)

All circumstances of necessity and mercy may be pleaded in defense. The Minn. Statute prohibited "All manner of public selling or offering for sale of any property upon Sunday," except that meals might be sold, and prepared tobacco and fruits, confectionary, newspapers, drugs, medicines and surgical appliances might be sold in a quiet and orderly manner. In State v. Justus (Min.) 1 Ann Cas 91 the court held these exceptions reasonable, and the sale of confectionary and tobacco matters of necessity the court there saying: "It is undoubtedly the custom of a large number of our people in the cities to visit public parks, which have been to a considerable extent provided by the liberality and civic spirit of our municipalities for the enjoyment of the occasion. The statute clearly prohibits the sale of intoxicating drinks in any form on Sunday, and only allows confectionary to be sold, which is on many occasions required by parents for children and the more youthful class or visitors thereto. Tobacco has become to be among a very large portion of the respectable people of this country a necessity in the appreciation of appropriate Sunday rest and recreation which cannot in a practical way be provided before-hand in the suitable enjoyment of the period of recuperation which makes the day of rest beneficial."

The Idaho statute provides that "it shall be unlawful for any person or persons in this state to keep open on Sunday for the purpose of any business, trade or sale of goods wares or merchandise, any shop, store, building or place of business whatever." "The statute, however, further provides among other things, that the statute shall not apply to news stands in the quiet sale and delivery of daily papers and magazines, and that non-intoxicating refreshments and candies and cigars may be sold. In State v. Dolan (Idaho) 92 Pac. 995, 1001, the courts hold these exceptions to the statute, and the classification of business for the purpose of Sunday observance reasonable, evidently upon the theory that these exceptions cover business that is necessary to the enjoyment of the people of Sunday as a day of rest and recreation. In enforcing statute making Sun-

Monday the Last Day of West's 18th Annual January Clearance Sale EVERY ARTICLE REDUCED Store Open To-night Till 9:30 N. W. West & Co. THE QUALITY STORE Read the Page "Ad" in Yesterday's Paper

RICHEY, PIANO HOUSE From Factory to Customer Knabe Ivers & Pond Sterling Estey Bennett Schulz Schulz Bush & Gerts Francis P. Bacon Haddorff Several other makes All direct from factories. Knabe No culls shipped from other towns. No worked over pianos. Do not buy from Portland retail Houses. Can save you from \$50 to \$150.00 upon each piano sold. Deal at home, your contract and account will be here. We are not a fly by night institution here one day some where else tomorrow. Get prices before buying elsewhere, as our prices will convince the most skeptical buyers. RICHEY BUILDING OPPOSITE ELKS' NEW TEMPLE

day a day of rest in the several states exempting works of necessity, the following have been held necessities within these statutes. Hauling to market dead ripe water melons, which otherwise would have been spoiled. (Wilkinson v. State 49 Ind. 416 26 Am. Rep. 84.) Making necessary repairs of a railway track on Sunday in order to avoid delaying trains on week days. (Yonoski v. State 79 Ind. 393, 41 Am. Rep. 614.) Delivering milk upon Sunday by a dairyman to his customers. (Topeka v. Hemphalsstead 58 Kansas 328, 49 Pac. 87) The sale of lemons. (State v. Campbell 206 Mo. 579, 105 S. W. 637.) Traveling on Sunday from one town to another for the purpose of visiting a friend, whom he knows to be sick and thinks may need assistance. (Doyle v. Lynn & Boston R. Co. 118 Mass 195, 19 Am. Rep. 431) Operating an Ice Factory on Sunday. (Henderson v. State 25 Tex. App. 597, S. Am St. Rep. 448.) "All circumstances of Necessity and Mercy may be pleaded in defense. If the sale of daily papers and magazines, nonintoxicating refreshments, candies confectionaries, and cigars may be exempted in Sunday statutes, on the ground that their sale is necessary to proper enjoyment of the people of Sunday as a day of rest and recreation, it is difficult to understand, why under our statute the plea of necessity would not be good and perfect defense for a person engaged in the sale of such articles to a prosecution for the offense of keeping open his place of business for labor and traffic in such merchandise on Sunday. What is meant by "all circumstances of necessity"? Under similar statutes to our statute we find this definition: "By the word, necessity we are not to understand a physical absolute necessity, but a moral fitness or propriety of this work and labor done under the circumstances of any particular case may be deemed 'necessary' within the meaning of the statute." (Hennersdorf v. State 25 Tex. App. 597, 8 Am. St. Rep. 448; Plagg v. Inhabitants of Millbury, 4 Cush. 245; Commonwealth v. Knox 6 Mass. 76; Pearce v. Atwood 13 Mass. 354) "Nor will it do to limit the word 'necessity' to those cases of danger to life, health, or property which are beyond human foresight to control. On the contrary,

THE NEW CIGAR McCARTHY'S IMPERIAL 5c, 10c and 2 for 25c Made in La Grande

D. R. FONG MEDICINE CO. CHINESE ROOT AND HERB REMEDIES Cures Bodily Diseases With Root and Herb Treatment. Free Consultation Phone 762 1412 Adams Ave. La Grande Ore.

I WILL GIVE \$1000 IF I FAIL TO CURE any CANCER or TUMOR I treat before it POISONS deep glands or attaches to BONE Without Knife or Pain No PAY UNTIL CURED WRITTEN GUARANTEE 20 X Day of relief Swindle. An Island plan makes the cure Any TUMOR, LUMP or SWELL on the face, neck or body long is CANCER; it never disappears! I will give \$1000 if I fail to cure it! FREE, 10,000 testimonials. Write to Seattle, Wash. Dr. R. M. Dr. CHAMLEY & CO. Chamberlain's Colic, Cholera and Diarrhoea Remedy. 434D & 435E Valencia St., San Francisco, Cal. KINDLY MAIL THIS TO THE GUY WITH CANCER.

Take a careful man's word for it. Your money is your best friend - put it in the Bank YOU HAVE HEARD ALL YOUR LIFE THAT "YOUR MONEY IS YOUR BEST FRIEND". IF YOU ARE LETTING YOUR MONEY SLIP AWAY FROM YOU, STOP IT. YOU CAN STOP IT IF YOU WILL. YOU WANT TO BE INDEPENDENT. THE ONLY WAY YOU CAN BECOME SO IS TO BANK YOUR MONEY. BANK WITH US. WE PAY 4 PER CENT INTERESTION TIME DEPOSITS La Grande National Bank LA GRANDE, OREGON Capital \$200,000.00 Surplus \$50,000.00 Resources \$1,000,000.00 Fred J. Holmes, President F. L. Meyers, Cashier C. G. Penington, Vice President E. Zundel and H. E. Coolidge, Assistant Cashiers. DIRECTORS: Fred J. Holmes, J. G. Snodgrass, J. F. Conley, C. G. Penington, H. S. Brownson, F. L. Meyers, A. Blokland, A. T. Hill, H. E. Coolidge