

# OREGON SPECTATOR.

Vol. 4.

"Westward the Star of Empire takes its way,"

No. 15.

WILLIAM STARK,  
Printer and Publisher.

Oregon City, (O.T.,) Thursday, April 18, 1850.

ROBT. MOORE,  
Of Linn City, Proprietor.

## BUSINESS CARDS.

JNO. H. COUCH, PROPRIETOR.  
**COUCH & CO.**  
WHOLESALE & RETAIL MERCHANTS,  
PORTLAND, OREGON TERRITORY.  
October 4, 1849.

BENJ. STARK, JNO. H. COUCH,  
EDWARD SHERMAN, JNO. H. COUCH.  
**STARK & CO.**

WAS. FRANCISCO, CALIFORNIA.  
REFER TO: Wm. S. Wetmore, esp., New York  
Messrs. Wetmore & Crider,  
Taylor & Merrill,  
Wetmore & Co. Canton.  
Oct. 4, 1849.

JNO. H. COUCH, BENJAMIN STARK,  
EDWARD SHERMAN,  
**SHERMANS & STARK,**  
COMMISSION MERCHANTS,  
NEW YORK CITY.  
Oct. 4, 1849.

**LAW NOTICE.**  
J. QUINN THORNTON,  
ATTORNEY & COUNSELLOR AT LAW,  
AND SOLICITOR IN CHANCERY.  
Office on Main street, opposite  
the Bank Store.  
Oregon City, Oct. 4, 1849.

A. V. SKINNER  
ATTORNEY & COUNSELLOR AT LAW,  
AND SOLICITOR IN CHANCERY.  
Office on Main street, opposite  
the Bank Store.  
Oregon City, Oct. 4, 1849.

Dr. A. H. STERLE,  
PHYSICIAN AND SURGEON,  
Office on Main street, opposite  
the Bank Store.  
Oregon City, Nov. 25, 1849.

E. H. W. C. HOLMAN  
I HAVE formed a partnership and will keep  
and sell a variety of Dry Goods, and Gro-  
ceries. They would select a small portion of our  
Goods.  
Oct. 4, 1849.

A. HOOD,  
MERCHANT AND TRADER,  
Office on Main street,  
January 21, 1850.

EMMETT & HOAR,  
ATTORNEYS & COUNSELLORS  
Office on Main street,  
January 21, 1850.

GEORGE GIBBS,  
COUNSELLOR AT LAW,  
SOLICITOR AND COMMERICAL AGENT.  
Custom House Building,  
ASTORIA.

WILLIAMS & SMITH, Oregon City  
W. W. FOSTER, Regt. U. S. A.  
Gen. J. S. Smith, Astoria  
January 10, 1850.

ROBERT CAUFIELD,  
MERCHANT and general dealer in Dry  
Goods, Groceries and Produce, on  
Main Street, near the bridge.  
Oct. 4, 1849.

W. W. CHAPMAN,  
ATTORNEY & COUNSELLOR AT LAW,  
PORTLAND, OREGON.  
Portland, March 5, 1850.

F. A. CHENOWETH, W. L. MATLOCK,  
**CHENOWETH & MATLOCK,**  
ATTORNEYS & COUNSELLORS AT LAW  
AND SOLICITORS IN CHANCERY.

WILLIAMS & SMITH, Oregon City  
W. W. FOSTER, Regt. U. S. A.  
Gen. J. S. Smith, Astoria  
January 10, 1850.

ABRAHAM SUTGER,  
COMMISSION MERCHANT & AGENT  
PORTLAND, OREGON.  
On hand—1500 pounds tobacco,  
500 do. sad iron,  
1 cask stout iron hammers,  
1 cask essence peppermint  
REFERENCES:  
Gen. RILEY, U. S. A., California.  
Gen. F. F. SMITH, Oregon.  
DAVID S. BROWN & Co., Philadelphia.  
P. H. TITUS, New York.  
ENDICOTT & GREENE, San Francisco.  
January 24, 1850—11

GEN. RILEY, U. S. A., California.  
GEN. F. F. SMITH, Oregon.  
DAVID S. BROWN & Co., Philadelphia.  
P. H. TITUS, New York.  
ENDICOTT & GREENE, San Francisco.  
January 24, 1850—11

**GEO. ABERNETHY & CO.**  
MERCHANTS,  
OREGON CITY, OREGON TERRITORY.  
GEO. ABERNETHY, HIRSH CLARK,  
JAS. K. ROSS  
March 21st, 1850—11

**SALT**  
143 Sacks Liverpool salt,  
30 Sacks Syracuse table salt.  
For sale by  
GEO. ABERNETHY & CO.

## The Nicaragua Question.

We think it advisable under all circumstances to keep cool each man of us, nor "let slip the dogs of war" or even a promissory warning of the existence of such animals, until we are perfectly satisfied that "war to the knife" must inevitably grow out of our Nicaraguan difficulties; for, after all, we find nothing very wonderful in the news which has come up of late from that country.

Let us fully understand the question which has assumed an importance seemingly to provoke bloodshed as the only means of its adjustment.

It has long been excitingly known in the States as the Mosquito Question—a very ominous appellation forsooth—one prying long bills and bloodshed, much buzzing about, and on account of its diminutive ethereal body and flimsy cobweb legs, not easily "circumvented." But, seriously, the King of Mosquito and the government of Nicaragua, are but the lesser fish in the fry. England has long considered communication between the Atlantic and Pacific oceans a matter of absorbing importance, and that to the purposes of British commerce a right of way across the continent is a matter of immediate and imperative necessity. For the past four years, or ever since the acquisition to the Republic of States of California, Britain has regarded the foothold of Americans on the Pacific coast with a jealous eye, and that a mighty revolution in the commerce of the Pacific would soon grow out of this annexation she early entertained belief. It required no gift of second sight to assure her that ere many years elapsed the commerce of the Pacific would rival that of the Atlantic ocean, and full soon were her agents and emissaries dispatched to secure to British commerce the benefits and advantages to accrue from an easy communication between the oceans.

Across the country at some undetermined point this transit of British commerce was to be effected; but John Bull, always heavily footed, even in matters of the most vital importance, requiring prompt and efficient action, was distanced by his nimble offspring, and there seemed a likelihood of the entire exclusion by Brother Jonathan of the great English commercial interests from the Pacific seas. Three routes were negotiated for, and rights of way obtained. A company of American citizens have entered upon the work of constructing a railroad across the Isthmus of Panama. Another company of Americans have been successful in obtaining the right to build a canal in the Isthmus of Tehuantepec, and we have published as the third and last a treaty between an association of American citizens and the government of Nicaragua, by which the right of way for a canal across that country from the mouth of the San Juan river to Lake Nicaragua has been conveyed to our countrymen. Of course at these successive triumphs of Yankee enterprise and diplomatic skill our formidable ancestor across the water is wofully chagrined and soured, and nothing loth to attempt impossibilities for the accomplishment of this object, or seize upon the veriest shadow of pretence for the promotion of his purposes. Finding the chestnuts in the fire, and possessing too much of the properties of caloric to be handled "without gloves," the paws of an imbecile monarch are used to recover them.

England at once espouses the demand of the Mosquito King to that portion of the Nicaragua coast embracing the mouth of the river San Juan, and which is included in the treaty with Americans citizens, and the point at which the ship canal is to be commenced. The Nicaragua government resists these claims of the Mosquito King, and the United States Minister very quietly takes possession of the ground claimed in the treaty with that government. Our next news from this country was that the United States flag had been hauled down by the British squadron off the coast, which gives at once a new and serious aspect to the affair.

Thus, briefly, are presented the prominent features of this Nicaragua or Mosquito Question, and thus the posture of affairs at the time which we write. We do not conceive it by any means certain that even in this critical state of the case there exists a probability of rupture between the two great nations. England has an indelible dread of collision with the great American power, while ours is a peace policy and, despite his warlike acquirements, we have a peace President. The final issue of this matter then will be, the withdrawal of the Mosquito claims so far as they affect the privilege already conveyed to the canal company, which perhaps will be strengthened by English capital when that nation finds that it is

for immediate communication between the oceans that the Yankees are striving, and which shall be for the benefit and interests of English as well as American commerce.

That the right of way at the only three practicable places of transit from coast to coast has been secured by Americans, rather goes to show that after all the French parley and British bluster about an Isthmus route, for the past several years, the indomitable spirit of enterprise and well-directed energy of the "manifest destiny" power has outstripped either nation, and that work in its hands once commenced, cannot be retarded. There is something wholesome, substantial and proper in the situation of our affairs on this part of the continent, and even should we be forced to the extremity of taking the "bull by the horns" it is infinitely preferable to coming "round the Horn" with our heavy ships and valuable merchandise, and our right of way would then be exclusively our own. But we are not disposed to speculate upon the probabilities of a war with England; a calamity which has been averted under circumstances so threatening to the peace of the two nations before, may by wise statesmanship and an intervention of enlightened and humane policy be turned aside again.— [Alta California.]

## Habeas Corpus—Trial at Chamber in Oregon City, March 29th, 1850.

JAMES CURTIN, Complainant.  
JOHN S. HATHAWAY, Respondent.

In this case, the Complainant alleges, in his petition for a discharge, that he is a soldier in the army of the United States; that at the time of his enlistment, assurances were given him by the recruiting officer that subsistence and comfortable quarters would be furnished by the government for both himself and family; that his family is now deprived of rations and quarters by the act of his superior officer. —and that, as a consequence of it, his wife and child are in a state of destitution. He further avers, that Major J. S. Hathaway, the respondent, who pretended to enlist him, was not at the time a recruiting officer, having authority to enlist. Making out, on the face of his petition, a case not only of gross fraud and deception, practiced by an officer of high rank upon a simple and inoffensive man, but deeply aggravated by an utter disregard on the part of the United States of the obligations, due to the soldier and those dependent upon him for support, by the conditions of his enlistment. The petition being sworn to, and containing ample reasons for the issuing of a writ of habeas corpus, the prayer of the applicant was granted, and the Respondent ordered to bring up the body, and show cause, &c. The answer denies fraud or imposition, admits the detention of the Complainant and avers that he is held to service as an enlisted soldier, and further denies that any assurances whatever were given at the time of enlistment of support for his family. By the proofs, on the hearing, it appeared that Major Hathaway did not enlist the soldier at all; that no promises or pledges were given him by Lt. Smith, the recruiting officer, in the matter of furnishing rations to his wife; that she was, however, by orders from head quarters, not only supplied with subsistence and transportation from New York to Oregon, in company with her husband, but after arriving there, made by Maj. H. one of the laundresses of the company; and as such, furnished with both quarters and rations so long as she was willing to act in that capacity. About the quality of the rations there was no fault found, but the absence of fire in the quarters, occupied by the Complainant and his wife, was a subject of complaint. It appeared, however, that the quarters were as good as the nature of the service and the condition of the country would permit, and that it was out of the power of the commandant of the post to furnish fire in the separate quarters which Complainant and his wife preferred to occupy. Rations were drawn for both up to the last of Nov., and during that month Mrs. Curtin threw up her duties as laundress, left the post, and went to Oregon City in the midst of a storm. It seems she neither asked for leave to go away, nor obtained one; and the commanding officer, afterwards, very properly gave directions to stop the rations issued to her, in the event that she did not return to duty. This act, so far from being reprehensible, was the dictate of fidelity to public trusts, and highly praiseworthy. It was a proper punishment for wilful neglect of public service. The excuse for omission to do duty as laundress, on account of ill health, would weigh

against the propriety of suspending rations to the woman, if sustained by proof. On the contrary, while it does not appear that Major H. was ever apprised at all of her inability to do washing, the fact of her leaving the post without notice of leave, in the midst of a storm, to travel in an open boat in the month of November twenty-five miles or more, is a sufficient answer to the only evidence offered of bad health, to wit: "that she did not look well in the eyes of the sergeant about the time of her leaving." From the testimony, then, it would seem that neither imposition has been practiced, fraud committed, or wrong done to this soldier or his family, by the agents of the government. This result can be no less gratifying to the gallant officer charged with gross injustice than mortifying to the discomfited soldier, who, by instituting this proceeding, under the solemn obligations of an oath, has incurred responsibilities for which he may at some future day be made criminally amenable. Such charges as are contained in the petition before me should only be brought against persons, whether public or private, high or low, after the most serious consideration and careful advisement; for, if true, the wrong doer, let him be officer or private, however honored or humble, should at once be degraded and punished for fraud and oppression; but if found false and unfounded, equal justice requires that the reckless and vile who make them should be followed up by prompt criminal proceedings. We have made the foregoing remarks to indicate our views touching all improvident applications made for the writ of habeas corpus; and trust, that in future, great care and circumspection may be used, by all concerned, in applying for the benefits of that valuable writ which is so easily brought into disrepute by its abuse.

The point raised by counsel, that the army regulations were not conformed to in the enlistment of this soldier and that as a consequence of it the contract is void, we have duly considered, no less from respect to gentlemen who suggested it than from an anxious desire to correct any errors of opinion heretofore formed by us on that subject. Even if it could be admitted that those regulations have the force and effect of laws of Congress, and as such entered into and formed a part of the contract of enlistment, it would avail nothing in this case; for, in the absence of proof to the contrary, the presumption of law is that an officer, acting within his proper jurisdiction, has done all by law required of him. To place him in the wrong, the burden of proof would rest on the party seeking relief. No such testimony was offered. We cannot admit, however, that the army regulations have the force of statutes. By the constitution of the United States, Congress has power to raise and support an army and navy, and the President is the commander-in-chief of both. General laws of Congress authorize the President to enlist soldiers and seamen, for both arms of the public service; and while those laws limit the period of enlistment and fix the pay, the details of the manner of accomplishing that object are left to be regulated by him. The Executive, or commander-in-chief of the army, issues from time to time, through the Secretary of War, orders in the shape of regulations for the guidance and direction of the public service. This is an exercise of power, which, if not expressly conferred, is at least incidental to his authority as commander-in-chief. The provisions, therefore, in the army regulations, prescribed to recruiting officers tending their duty in enlistments, are merely directory; and are issued upon general grounds of policy. If this be correct, it follows that it does not lie with those who have enlisted to say that the recruiting officer has not done his duty. Whether an enlistment has been made, not in all respects conformable to the regulations, is for the consideration of those alone to whom the recruiting officer is legally amenable for the proper execution of the will of the President of the United States.

The consideration addressed to us, that this is a case of peculiar hardship which in and of itself ought to commend the Complainant to our favor, we must here freely admit has less weight with us than with counsel who apply for him. The faithful soldier is fed, clothed, and sheltered at the expense of his government, in addition to receiving almost as much pay as is given in many of the States to the ordinary laborer; and in this case the wife has at all times been furnished with means of subsistence when at the post of her husband in the discharge of her duties as laundress. Until the contrary is shown, we must presume that her absence without notice, to the proper officer, of her inability to do duty or willingness to re-