



# THE SPECTATOR.

OREGON CITY:  
THURSDAY, MAY 23, 1851.

D. J. SCHNEELY, EDITOR.  
For Delegate to Congress,  
GENERAL JOSEPH LANE.

### Contents.

"THE FOUNTAIN IN THE WOOD," is the title of an article on the fourth page—it is well expressed, and there are many of our lovers and loved ones just now at the period that will enable them to appreciate its meaning and feel its force.

Gen. Scott.—By reference to the first page of to-day's paper, it will be seen that there has been a meeting between General Scott and Gov. Marcy. At this meeting a reconciliation of former differences took place, and compliments passed for both sides. We may expect the "lasty plate of soap" difficulty all settled, and never again to be reiterated. So note it be.

TEMPERANCE.—The article on our outside headed "Temperance," is aptly illustrated, and we are told well reported.

Mrs. SWISHELM.—An article on the first page from the *Pittsburgh Saturday Visitor*, by Mrs. Swishelm, is truly the voice of a right thinking woman. Would that our land was filled with such women. We admire her fearlessness and candor.

HUMAN LIFE.—A true picture of man's progress through life—his first and last minute—will also be found on the first page. We direct special attention to the several pieces alluded to above.

The Black Hawk, a steam boat, arrived at our landing on Sunday last. She is owned by Mr. Charles Clark, and is designed, we believe, to run daily between this city and Portland. One year ago there was no such thing as a steamboat of any kind plying on the Willamette and Columbia rivers. It is now becoming almost an every day occurrence to see steamboats arriving at our landing. We are looking up, and our people are growing big with their future importance. The navigation of the Tualatin from thirty odd miles above to within four miles of this city, by steamboats, is a thing which, if carried into effect, will be a great benefit to the country. A small steamboat, capable of freighting from 30 to 50 tons, would pay well. But this would make a plank road or rail road indispensable to connect this or Linn City with the lower terminus. The people of Clatsop and Hillsboro, need not be surprised to see, in less than a year, a steamboat on the Tualatin river. We are told that the Tualatin is without obstructions for at least 20 miles.

The opinion of Hon. O. C. Pratt, respecting the law of naturalization, will be found in to-day's paper. It is a well considered little treatise, and we think it is the true purport of the law. Judge Pratt has given his opinion at length, which has been prepared with care. We ask for it an attentive perusal.

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### The Post Whitecomb.

The recent arrival of this steambot at our wharf has demonstrated the fact that the Clackamas rapids can be navigated successfully. It has, hitherto, been looked upon as a matter of impossibility for boats to ascend or descend the rapids with safety, excepting at such times as the back water from the Columbia should remove the obstruction; but the appearance of this steamer has removed all doubt as to its practicability, and has gone so far towards establishing the inutility or groundlessness of doubt upon the subject, that we believe the river can be navigated to this city at least nine months in the year. We believe too, that the Lot Whitecomb, under the superintendence of her present commander, J. C. Axtworthy, is the boat to fill the bill; some few alterations may be necessary to better qualify her for the full requirements of the trade.

If boats can now ascend the rapids without difficulty, for they are much worse at the head since the great rise in the Clackamas river, than they will be at any other time, save at extreme low water; and such will continue to be the case so long as the obstruction is suffered to embarrass and retard the great and growing interests of a large district of the best portion of Oregon.

The success with which this steamer has met, is an evidence that boats, suitable to the wants of the country, can be built in Oregon as well as anywhere else. It requires more capital, it is true, — we have the materials to build with, and when labor, as well as every thing else, shall be reduced to a proper standard we can employ advantageously the capital in building our boats and thereby keep the money in the country. When we take into account the high price of labor, board, and in fact the fictitious value of everything else, at the time the Lot Whitecomb was undertaken, and since, we have no hesitation in pronouncing it a work of extraordinary enterprise, such an one as but few other men could have accomplished under so many disadvantageous circumstances.

Apart from all other considerations we consider the building of the steambot Lot Whitecomb, not only a credit to the person whose name she bears, but she is a credit to the Territory—she deserves the confidence, and there is not much doubt but that she will receive it, and patronage of our citizens generally. But few men would have undertaken the building of so large a boat at that time, and fewer would have succeeded.

The Post Master admits that he has not taken the lawful mode of ascertaining the extent of circulation of the paper containing for the post office printing. There is one thing certain, he never examined our books nor asked us to swear to them, as the law requires; but contents himself with his own suppositions and a party preference.

The Post Master imagines the editor of *The Spectator* wishes to accomplish in three days what he can do in three months. We have devoted more time to him than was our duty, and we are convinced that his evaluation was occasioned by his evaluation and disregard of duty.

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### PRINTING IN THE PENITENTIARY.

member of the Ohio Legislature introduced into the Senate a bill, the object of which was to learn the opinion of the State Penitentiary enough of the printing to enable them to print the books that may be ordered by the State. The bill provides that suitable persons, not criminals, shall superintend the printing, &c.

The Printers in the *Journal* and other offices remonstrate against the manufacture of printers by the State, to be let loose upon the world, under the respective terms of service shall be stipulated, to take their places among the respectable men of the fraternity. It is suggested that a law school be opened, and that a lawyer was chosen to be a committee that reported the bill. A Typo lets loose upon the world the following strain:

"The convicts in the Ohio Penitentiary are thus to be made Printers by the State, and sent forth into the world to take their place along side of honest men, editors and teachers of others. Mr. Lawrence is placed on the board of Law School. Would it not be well to defend scoundrelism 'for the sake of the young ideas' as the Logans would have them to play the rat and take the bread from the mouths of honest men? Should the bill pass, it is to be expected that the Logans will be the first to apply to the convict asyleum for a good living by an honest avocation. TYPO ANTI-BLASTERS."

"THE NEW ENGLAND BOAT MAN."—The distinguished individual who proposes in the above title will do us the honor to pay it a visit to-morrow evening. Read his advertisement, and the handsome portrait of himself in our *Forgetting* page, for particulars. He is destined to make a sensation. The Chris. type of him "that double distilled quinine" of the Yankee tendency to the *unwarrantable* and the practical—that Des. Johnson of latter, that Homer of souls, the *Harvard D. P. Gardner*, the New England man. D. P. Gardner is an orator and a poet in a high and practical sense. The *Logans* expended in soft soap at the *Logans* would lead him to the same *Logans* he is winning by expending it on the *Logans* of hard soap to his fellow *Logans* on the broad field of the world. All who go to his lecture, *Logans* out for their vest buttons.

The above from the *Salon*, is another exhibit of the progress of the age. We have seen and heard of the far-famed "Brazo stop man" *Logans* off by the *Logans* while the *Logans* rushing in upon him from *Logans* reasoning not the least *Logans* nishing a good stop to *Logans* had a good quarter and *Logans* with his dimes. We thought *Logans* business of shaving had little *Logans* but when the peddling of *Logans* made a theme for the post, we *Logans* dumb, and confess that we *Logans* ever impressed with the *Logans* world has not attained the *Logans* development.

BRITISH GOLD DID IT!—The *Logans* correspondent of the *Logans* says, "Letters were received *Logans* from the last Steamship *Logans* most respectable sources, *Logans* was a strong probability that *Logans* persons who received bribes *Logans* for aiding to obtain the *Logans* the Tariff law of 1846, *Logans* from the headquarters of the *Logans* League, where they were *Logans* This suggestion seems so *Logans* credible, at the first blush, *Logans* the strongest doubt, but when *Logans* which have already been *Logans* considered, and placed in *Logans* the authority upon which these *Logans* are founded, there is too *Logans* to believe that corrupt means *Logans* employed to bring about that *Logans* change in the policy of the *Logans* government. Time may yet *Logans* on this subject than has been *Logans* received."

PANAMA RAILROAD.—The *Logans* from Navy Bay, *Logans* and ready *Logans* relating to Oregon. It *Logans* like other Territorial *Logans* date of its organization. *Logans* by the only right power *Logans* making needful rules *Logans* and without protection, *Logans* in spite of all neglect by *Logans* accumulated within its limits *Logans* American citizens, and *Logans* to become such, all loudly *Logans* and an immediate extension *Logans* to enforce them. A great *Logans* interest: a savage war was *Logans* in the midst of a civilized *Logans* and the people composing *Logans* without aid either in *Logans* or money to process it, *Logans* and supported by no other *Logans* than that of *Logans* public opinion, seemed *Logans* in imminent hazard of *Logans* extermination. In *Logans* this emergency, Congress *Logans* upon the necessity of the *Logans* late provisional government; and, in *Logans* addition to extending the laws of the U. S. *Logans* over the Territory, it was declared that the *Logans* laws thus adopted

The St. Louis Republicans *Logans* a very interesting notice *Logans* of the *Logans* combustible hempen rope, *Logans* in that city. A piece of *Logans* and a piece of wire rope *Logans* and a smith's fire. The heat *Logans* would the strands of the *Logans* wire, whilst the hempen *Logans* rope was charred on the *Logans* outside. It was made: *Logans* the piece of rope *Logans* and the iron brought to *Logans* and the cordage was but *Logans* little affected by the *Logans* fire than in the *Logans* experiment.

BEAUTIFUL REMARK.—*Logans* "The longer I live, the *Logans* more I am convinced that *Logans* the great difference *Logans* between the great and *Logans* insignificant, is not *Logans* visible determination—*Logans* as soon as fixed—and *Logans* then. This quality will *Logans* do the world; and so *Logans* talented, no opportunity, *Logans* will be logged, creature *Logans* a man will be

### Legal Opinion.

To the exclusion of much other matter, we publish the opinion of Hon. O. C. Pratt, solicited by Mr. Holderness and others. As it involves the rights of a great many persons in the Territory, we delay our paper a little beyond the usual time, to give it as early a circulation as possible. There have been various opinions expressed upon this subject, and there is not a little misapprehension existing in the minds of the public respecting it; in consequence of which we cheerfully give it publicity without comment, as it speaks for itself:

OREGON CITY, O. T., May 17th, 1850.  
Hon. O. C. PRATT, Linn City:

Dear Sir—I take the liberty to ask your opinion on a subject of importance to myself and others in this community. I filed my intention to become a citizen of the United States, with Geo. L. Curry, Clerk of the Circuit Court of Clackamas County, on the 27th day of March, 1849. This was after Gov. Lane's arrival and Proclamation issued, and before the arrival of the Judges appointed by the President for Oregon. The question having arisen, whether such filing of intention was good, as a preparatory step to become a citizen of the United States; you will confer a favor on myself and others by giving an opinion, which, with your permission, I will have published for the satisfaction of those who are alike circumstanced with myself in reference to this question. I remain, Yours respectfully,  
S. M. HOLDERNESSE.

LINN CITY, May 16th, 1851.

DEAR SIR:—Your letter of the 17th inst., propounding an enquiry whether the Clackamas county circuit court, as it existed on the 27th day of March, 1849, was a competent court within the meaning of the naturalization laws, in which a declaration of intention by an alien could be legally made, as a preparatory step to become a citizen of the U. S., is before me; and I hasten to answer that, while I do not feel myself at liberty to give any opinion whatever, touching any particular case in advance of its adjudication before the proper tribunal, I can see no objection to giving my views on the general question presented by your case and others similarly situated.

Under the Constitution of the U. States, the power of naturalization is vested exclusively in Congress; and, without going into detail of the provisions adopted and modified from time to time on the subject, it is sufficient to say that substantially the several acts, in force, provide that application for this purpose may be made to any circuit, or district, or territorial court of the U. S., or to any State court which is a court of record and has a seal and a clerk. The declaration of intention may be made before the clerk of one of those courts, as well as before the court itself. This being the description of courts in which such proceedings could be had, the enquiry now is, was the circuit court of Clackamas county in the district of Oregon, on the 27th day of March, 1849, a territorial court of the United States? Congress alone has authority to make all the rules and regulations respecting the Territory and other property of the U. S.; and that power was first exercised in the country or district of Oregon, and an organized government given to it, by the Congressional Act of August 14th, 1842. It went into effect and had a legal existence as a Territory from and after its passage. (See section 1st, page 192, laws, 1842.) The laws of the U. S. were, at the same time, declared to be extended over the Territory. (See the 14th section.) And, as a matter of course, amongst the rest that regulating the naturalization of aliens—for, it was of a general nature and intended for use in all the States and organized Territories wherever citizens could be found who desired to avail themselves of its provisions. But, it must be admitted that although the laws of the U. S. were extended over the Territory by express enactment of that date, still, the rights to be derived from proceedings to be had under them and the protection intended to be furnished by them would be practically valueless unless the machinery of justice was, at the same time, provided to aid in their administration and enforcement. This was not omitted. And, the great care manifested by Congress, in that respect, found ample reasons in the extraordinary state of things existing in the Territory relating to Oregon. It is unlike other Territorial districts, in date of its organization. Left for years by the only right power having authority to make needful rules for its government, and without protection, it had, in spite of all neglect by Congress, accumulated within its limits large numbers of American citizens, and others who wished to become such, all loudly demanding aid and an immediate extension of laws to enforce them. A great distance intervened: a savage war was waging in the midst of a civilized community; and the people composing it, without aid either in arms or money to process it, and supported by no other government than that of precarious public opinion, seemed in imminent hazard of extermination. In this emergency, Congress sitting upon the necessity of the case, provided unusual means to meet the emergency. Without waiting to go through the ordinary routine of directing the electing a legislative body to assemble and frame a code of statutes, it was provided for the Territory that it should be immediately furnished by the late provisional government; and, in addition to extending the laws of the U. S. over the Territory, it was declared that the laws thus adopted

should be and remain in force until modified or repealed. It is immaterial to stop here and enquire what an anomalous and unusual state of affairs this course of proceeding might produce; it being sufficient for our enquiry to know that Congress had the power and deemed it expedient to exercise it by legislating and making its own a system of laws which had been used by the people before the Territory was called into legal being. Amongst those laws, the offspring of necessity as they all were, was one creating and establishing certain courts of record in each county of the District or Territory, known and called circuit courts; and one of those courts composing the circuit was that for the county of Clackamas. The court, the creature of that law and everything legally appertaining to it, was thus made by Congressional adoption its own, and protoposet to work as a Territorial court of the U. S., for the use of the people over whom the laws had been extended. This will be apparent on reading the 14th section, which declares that all judicial and ministerial officers who should be in office within the limits of the Territory when the act went into effect, which, as we have seen was at the date of its passage, should be and were thereby authorized and required to continue to exercise the duties of their respective offices as officers of the Territory of Oregon until others should be appointed and qualified to fill their places in the manner directed in the act. (See U. S. Sess. laws 1848, p. 201, Sec. 14.)

The permanent judicial power was provided for in section 9 of the act, and when the Judges or Justices thereof should be appointed and qualified and enter upon the discharge of their duties, the Judicial and Ministerial officers of the temporary courts, adopted and recognized by the act of 14th August would, and not until then, be suspended. The provisions of the 9th, 14th, and 15th sections of that act are not only consistent with each other, but constitute together a plain and intelligible system of enactments by which an immediate and lasting extension of laws, both of the U. S. and those of a local character, could be made and enforced for the benefit of the people of the Territory without at all creating a conflict of powers or jurisdiction between the temporary courts adopted and the permanent ones to be afterwards established. Both were Territorial courts of the U. S.; for the former became so by adoption of Congress and the latter by its original establishment through the same power; and each in its allotted way and time designed to fulfil its appointed purposes in harmony.

Where the words of a statute are expressed plain, and clear, they ought to be construed according to their generally understood signification and import only, unless by such an explanation a contradiction or inconsistency should arise; and, where an act of Congress enacts any matter or thing, it tacitly gives the right of carrying it into effect by all legal means, and therefore, though the words used are not express as to all the matters necessary for the purpose, the court will so construe the statute that its object will be attained. Even where the parts of a statute are seemingly repugnant, if they can be reconciled, that shall be adopted, so that the object of the law giver can be reached and the remedy furnished. The rule then in this case should be that such a construction should be put upon the law in question as may redress the mischief, guard against subtle intentions and evasions for the continuance of it, and give life and strength to the remedy or statute according to the true intent and meaning of the makers of the law.

It was necessary to extend the laws of the U. S. over Oregon, and it was done, Aug. 14th, 1842—as well those concerning the naturalization of aliens as others. It was further necessary to provide courts in which legal proceedings could be had and the laws thus rendered efficient; and this was also done in a manner, as we have shown, adapted to the exigencies of the country. In this way, as I conceive, the Circuit Court of Clackamas county became and was from and after Aug. 14th, 1842, until superseded by the effective organization of the District Court for the same county on the 23rd day of May thereafter, to all intents and purposes, a Territorial court of the U. S. and as such was competent, either by itself or through its clerk, to entertain preliminary proceedings under the naturalization laws of Congress. For the court had a judicial officer, or Judge, as was required by and did so in fact.

It is not necessary to enquire whether the Judge of the Circuit Court did not exercise his jurisdiction, or whether the law did not exist, in contemplation of law, to exist even though there was no Judge to do its duties. It is understood, however, that the Clerk continued in office and in charge of the records the whole time and until long after the District Judge, who succeeded the Circuit Judge, entered upon duty. This view is consonant to, and in aid of the carrying out the object of Congress expressed in the 6th section. In providing for the qualification of voters, at the first election under the act, it was known that there were in Oregon not only American citizens but a large population of aliens already settled, and it was supposed from their acts of remaining and settlement, after the treaty of 1846, that they intended to continue permanently within our limits, and as soon as the U. S. laws were extended over the country, would take upon themselves the obligations and duties of citizens. It was desirable, therefore, to furnish legal facilities without delay within in the reach of this class of persons to en-

able them to declare their intentions. And if they desired to vote, in advance of the five years required to perfect their naturalization, it was provided that they could do so if in addition to their previous declaration to become citizens of the U. S. they should also take an oath to support the constitution and the provisions of the organic law. It has been suggested that the "declaration" referred to in that section was only for the purpose of enabling aliens to vote at the first election, and that it might have been made before a common magistrate. This view I do not think sound. The "oath to support the constitution of the U. S. and the provisions of the organic act," which was only a part of what was required from the alien voter, if it is true, could have been taken before the Judges of election; but the "declaration of intention under oath to become citizens of the U. S." which was the first and most important part of the qualification, could only have been made agreeably to the form and before the court or clerk prescribed in the naturalization laws.

Allow me, in conclusion, to say that understanding there is some diversity of opinion touching this question, and feeling much anxiety to be neither misled myself nor instrumental in misleading others concerning it, I am free to confess I have occupied me much longer than at first I had supposed necessary. That, where must plead the proponent apology for so long an answer. My first impressions were different from those herein expressed, and, with deference to the contrary opinion of others, some of whom were formerly in high places under the government of Oregon, whose views on such subjects are entitled to, and do receive great respect, I must be permitted to add that my own error, (as may also have been that of others) grew out of a hasty view of the 11th section of the act, which was supposed to cover the whole ground. On the contrary, I find that it does not touch the question at all. It relates to other matters altogether—to a provision for the final disposition of unfinished business pending and undetermined Aug. 16, 1848, in the courts of the late Provisional Government, and not to proceedings or business had or done in the courts established by the act, after that date and after the valid organization of the Territory. Perhaps a more careful investigation of the law may correct others as well as myself.

Liberty is given to do with this reply as may best please you, while I remain  
Respectfully yours,  
O. C. PRATT.  
S. M. HOLDERNESSE, Esq., Oregon City.

GROWTH OF THE REPUBLIC.—The London Times predicts that at the end of the next half century the Americans will number a population of one hundred and ninety millions, and "there cannot be a doubt," it adds, "that if the Union lasts that time, the United States will be the greatest nation the world ever saw." The contingency upon which the future greatness of America is here made to depend, is the continuance of the Union—the indispensable condition of our progress and prosperity.

We understand that the firm of Woodward & Co., of this city, have received the contract for carrying the United States Mail through to the Great Salt Lake. The contract stipulates that the Mail shall leave each point once a month, so that we shall have advices from the Great Salt Lake City once every month. The bids for this contract were of a most varied character. The one which probably obtained the contract was rising \$14,000. We know one gentleman put in a bid for the same contract, at \$95,000. This goes to show the difference in the estimates in this great and growing country. It is a fair sample of the variety of opinion in regard to the cost of work in California. The \$95,000 bid did not come within a "stone's throw" of receiving the contract.—[Sacramento Transcript.]

LITERARY SIGN PAINTING.—The Police in Paris have appointed a committee to correct the orthography and punctuation of Sign-boards. They regard the blunders exhibited, as a sort of disgrace to the French national literature. It is rare to see a sign correctly painted, even where there is but a solitary name. We have one daily before our eyes where there is a full point after the first name, and none at the end of the second.

The Los Angeles Convention has elected the following officers:

MR. JAMES H. HARRIS, President.  
MR. JAMES H. HARRIS, Vice President.  
MR. JAMES H. HARRIS, Secretary.  
MR. JAMES H. HARRIS, Treasurer.

Subject to the decision of a "Woman's Rights" and "Niggers Wrongs" convention.

Eliza Burritt says, that the best drops for young ladies, are to drop the practice of dressing thin which they go out in the night air.  
EMIGRATION TO NEW SOUTH WALES.—The number of emigrants to Sydney during the past 18 years has amounted to 107,409, of whom 82,033 were sent out at the public expense.

### A. CITIZEN.

A certain Judge of the Supreme Court, addressing the bench, observed that that Court differed from the inferior courts, in having the last guest.