

The Oregon Statesman

"No Favor Sways Us; No Fear Shall Awe"

From First Statesman March 28, 1851

THE STATESMAN PUBLISHING CO.
CHARLES A. SFRAGUE, SHELDON F. SACKETT, Publishers
CHARLES A. SFRAGUE, Editor-Managing
SHELDON F. SACKETT, Managing Editor

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Ford-Parsons-Stecher, Inc., New York, 371 Madison Ave.;
Chicago, 188 N. Michigan Ave.

Entered as the Postoffice at Salem, Oregon, as Second-Class Matter. Published every morning except Monday. Business Office, 215 S. Commercial Street.

SUBSCRIPTION RATES:

Mail Subscription Rates: In Advance, Within Oregon: Daily and Sunday, 1 Mo. 30 cents; 3 Mo. \$1.25; 6 Mo. \$2.25; 1 Year \$4.00. Elsewhere 50 cents per Mo. or \$4.50 for 1 year in advance.

Curbstone Decisions

OUR own Judge McMahan bobs up with another of his "curbstone decisions" on legal questions. It was McMahan, he recalled, who in the language of the Portland Telegram "handed down an opinion" a few days prior to the meeting of the republican state central committee to the effect that the committee had no power to write a platform. This offhand "opinion" returned to plague the Telegram later when it was disposed to abuse the committee for not adopting nor endorsing the Joseph platform.

Now Mac is again at the Telegram's call with what that paper does not describe this time as an "opinion" but as "the following:"

"In view of the controversy now existing between Mr. Meier and Mr. Metschan over the governor's salary, let us get down to fundamentals and call the attention of both candidates to this fact: the governor's salary is \$1500 a year and no more.

"No governor ever did and no governor ever can, until the constitution is amended, legally take more than \$1500 a year."

There you have it, a judge of the circuit court, and that of the court which would hear the matter if it ever became a case at issue, "decides" the matter in advance and without a hearing. We are not concerned with the correctness of his "opinion" but with McMahan's impropriety in rendering an opinion before a case is ever filed. It might not be so bad if he were judge in a court where the issue would never be presented; but if the question is raised it would go before him for trial and decision. Most judges have a high enough sense of the ethics of their office not to comment on questions involving interpretations of the law and the constitution, and never do they do so if it concerns a matter which may come before them in a judicial capacity. But McMahan is restrained by no such sense of propriety—especially when the fortunes of his political bedfellows are at stake.

It should be noted also that this spontaneous opinion of McMahan's admits of no chance of error. He doesn't admit that the supreme court might take a different view of the section of the constitution to which he refers. Mac's word is final. He speaks "ex cathedra."

Even the layman can read article xiii of the state constitution and see that its language is by no means as clear as McMahan's rediculous opinion seems to indicate. This articles reads as follows:

"The governor shall receive an annual salary of fifteen hundred dollars. The secretary of state shall receive an annual salary of fifteen hundred dollars. The treasurer of state shall receive an annual salary of eight hundred dollars. The judges of the supreme court shall each receive an annual salary of two thousand dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their respective offices; and the compensation of officers, if not fixed by this constitution, shall be provided by law."

It will be noted that the language is not limited. The article does not say that these officers shall receive this much salary "and no more." In setting the compensation of legislatures it sets limits by these words: "A sum not exceeding \$3 a day"; and again: "such pay shall not exceed in the aggregate," etc. Courts might hold the use of a different phraseology regarding other officers permitted the legislature to raise their salaries.

Is the present salary of \$7,500 a year for the governor, \$5,400 each for the secretary of state and the treasurer constitutional? We do not know. We do know the salaries are not unreasonable. But anyone who so desires may bring a test case and have the question settled. It would have to come in McMahan's court and he has already given his curbstone opinion on the question. But the last word would be said by the state supreme court. If the Telegram is honest it will immediately start a test case to decide the question without making the Meier show of special and peculiar virtue a campaign argument for him. For him to turn back four-fifths of governor's salary to the state would be no sacrifice. His name would doubtless continue on the payroll of Portland's Own Store. The Telegram owes a duty to the state to stop the excess salaries to the governor and the secretary of state and the treasurer if their present pay is without constitutional warrant. If it doesn't it shows itself up as merely drawing a red herring across the trail. The Telegram should either proceed with a test case, or else shut up. We expect it to do neither.

Germany Faces Two Ways

THE Germans made two-headed Janus their god in the Sunday general elections. The nationalist party was stripped of power, the centrists and blocs of the right lost many parliamentary seats. The swing went two ways: toward socialism-communism and toward the opposite pole of fascism. The social democrats (describing what we would regard more as liberal democrats) won the most seats, 137; but the fascists rose to second place with 103 seats, whereas their former number was 12. The communists increased their representation from 54 to 75.

The swing to the extremes is ominous. It shows the desperation which comes from severe conditions, and the wild striking out to wound if not to restore normalcy. Germany has passed through deep valleys since the volcanicism of the world war. She spent her strength in that colossal effort, and the penalties of defeat have borne harder upon her.

More and more clearly does the world war stand out as a major catastrophe. It was civilization's great earthquake. Economics, morals, political institutions cracked under the strain of great seismic forces. Western culture was not fully submerged as was the Roman with the barbaric invasions of the empire; but it suffered a shock which takes decades to overcome.

Narrow is the defile through which organized society must pass. On either hand are political and economic chasms which extremists would fain plunge into. The German voting of Sunday indicates a blindness in voting that is deliberate but is born of despair. Fascism and communism, the poles of economic organization, both founded on dictatorships, both the confession of society's failure to organize and control itself rationally.

The Domestic Wheat Markets

"Where's the high domestic price that growers were to get if they would eliminate the surplus? Why is the American domestic price so low while domestic prices in France and Germany are so high? According to a department of agriculture bulletin the domestic price of wheat in Hamburg on August 8 was \$1.78 per bushel. It had been as high as \$2.10 per bushel. The Paris price early in August was \$1.85 per bushel. Why in the face of an unprecedented drought in this country should our domestic price remain so low? Is there a hole in the tariff wall and if so how come? It

HEALTH

Today's Talk

By R. S. Copeland, M. D.

Health comes first of all in importance. The child who has an immense advantage over those who have been handicapped by ill health.



I wish every kiddie could be well nourished and possessed of good health. So many children grow up about helplessly behind in their school work and burdened more than they should be by long hours of study and home work.

How about your child? Does he seem tired, pale and irritable? There is a real reason back of all this. The question of underweight centers about a good many contributing factors. Perhaps the first thing to consider is whether the child has any physical defects. It is well to have your doctor look him over and give his opinion on the subject.

Sometimes a child with defective eyesight or poor hearing will develop a serious physical condition. Very often a nervous, high-strung child who is behind in his school work will be found to have quite a worrisome system. If allowed to go on malnutrition and underweight might follow.

In the case of adenoids or diseased tonsils poisons are carried by the blood stream to all parts of the body. Such a condition should be attended to at the earliest possible moment. If the child seems to be underweight from this sort of thing it may be that the slight operation needed will bring him back to normal health.

It may be that your child is not getting the proper nourishment. Every child until he becomes of adult age should have at least a quart of milk every day, taken as a drink, or in his cooked food and with cereals. Milk should be the foundation of every child's diet, and nothing but the very best milk is good enough for your child.

A growing child should have fresh fruits and vegetables. These furnish those wonderful vitamins, minerals and other substances which promote growth and energy.

Every mother has a real task before her in looking after her growing boy or girl. She must be careful about their food and how they eat it, their sleep, their exercise, their air and sunshine, and goodness knows how many other things.

The hours of eating, rest and sleep should be on schedule time for the growing child, and kept up through adolescence. They may vary somewhat with the age of the child, but regularity should always be to the fore.

A one-year-old to a mother of a ten-year-old underweight child, "If you will see that your child gets 11 hours of sleep every night, two hours out-of-doors, and three good meals a day including a quart of milk, I can guarantee an increase in weight and improvement in his school work."

A child who is underweight must be milked. He should be encouraged gently but firmly in the right living habits. When his day has been reorganized and he has had time to build up his strength and ambition it will be worth all the time and worry you have put into it to see him well and strong again. Then when good habits have been formed they should be kept up diligently for all his growing years.

Answers to Health Queries
W. T. Q.—I am boy of 19 and I am troubled with my hands and fingers shaking at times. How can I remedy this?
A.—You are probably troubled with neurasthenia which is very difficult to relieve, because it requires so much faith and persistence. For full particulars kindly send a self-addressed stamped envelope and repeat your question.

Q.—Will carbonated water or sour milk produce acid on the stomach?
A.—No.

Yesterdays

... Of Old Oregon

Town Talks From The Statesman Our Fathers Read

Sept. 16, 1905
First suit involving the 1905 hop crop was filed in circuit court yesterday by George J. Wolfer of Hubbard. Defendants are W. S. Hurst and H. A. Hinkley who had a 19-year lease on the Wolfer hop yard. The lease expired last October.

The Spaulding lumber company is doing a record breaking amount of business these days. They are at present turning out a large order of bridge timbers for the Southern Pacific.

Mrs. J. F. Calbreath and family have returned from their summer's vacation at Newport.

O. L. Darling, former agent at the S. P. depot here, and Mrs. Darling are in the city for a few days from their home in Newberg.

Articles of incorporation for a bank, the Oregon State bank, at Aurora have been filed. Incorporators are W. L. Beals, of Butteville, W. S. Hurst of Hubbard and Henry A. Snyder of Aurora.

the marketing board cannot function under conditions that now prevail, why not?—Pendleton East Oregonian.

All of which is testimony on our judgment to the need for a more rational tariff policy which will recognize the menace of embargo tariffs which the nations have imposed since the war. Here farmers suffer because the foolish European tariff has almost prohibited importation of wheat from this country. Yet in those countries consumers suffer because they cannot get our wheat and enjoy cheaper living.

THE TIME TO ACT



The OTHER BULLET

By Nancy Barr Mavity

CHAPTER 37

"She's the ripest old lady, and lonely as hell. I wish you could have seen her flirting with me. You'll just have to go and see her—she needs friends," Peter told Barbara.

He had run up the front steps two at a time, seized Barbara by the shoulders and forced her into a chair, where she was compelled to listen to his account of the de la Montanya family, while her nostrils were assailed by the smell of burning cookies from the kitchen.

Barbara held it to her credit as a newspaperman's wife that she acquitted in silence, letting the cookies burn to cinders without a word of protest. As for Peter, nothing less than the arrival of fire engines at the door would have diverted him from his concentration.

"Well, it's all very interesting, but I don't see what it has to do with Mortison," Barbara said, cupping her chin in her hand.

"It's got to have something to do with Mortison! Didn't Callahan say that Mortison is Jerome's? And when I saw Jerome's picture in the morgue last night, I had to admit that Callahan is right."

"Any way you look at it there is one too many of them," Barbara said thoughtfully.

"Don't know if that's what's bothering me," Peter flared.

"I'll tell you what I think," Barbara continued, disregarding the interruption.

"I believe the old lady has a suspicion that Jerome wasn't the one who was killed in the study eleven years ago. There was a marked resemblance between the brothers, you know. Lynn would take it for granted that the man he saw was the man he expected to see, and the mother went all pious and was not in any state to notice details."

"I don't believe Cousin Maria is waiting for David's spook, or whatever it was that Mrs. de la Montanya's will told her to wait for. I believe she is waiting for Jerome."

"You mean it was David who was found in the study? She did give me a hint at the end that he mightn't have died when Jerome thought he had."

"Suppose he came back. Suppose Jerome found that he wasn't really out of the way for good—and all, as he'd thought. And suppose Jerome killed him. It might have been by accident, in a quarrel, or Jerome might have thought he'd keep David from emerging to bring more disgrace on the family. Then he realized what he had done, and that he'd have to duck out. So he ducked. That would account for Lynn's catching sight of his face in the mirror. He really did see it, as Jerome crossed the room and went out by the window."

"That's an idea—that certainly is an idea. But it doesn't seem to get us any nearer to who killed him in the end," Peter objected.

"I was inventing it, I'd make Cousin Maria do it—but I'm afraid that's too much to hope for," Barbara ventured.

"A nice disposition you have," Peter said severely.

"It was just being a perfect wife," Barbara answered demurely. "It would make such a lovely story for you."

"Well, I won't have Cousin Maria slandered. I'm completely smitten with the old lady."

Peter's championship of Cousin Maria was cut short by a ring at the telephone. Barbara took advantage of the interruption to dart into the kitchen and turn off the gas under the oven. Wrinkling her nose at the pungent smoke which filled the air, she smoked the charred remains of the cookies into the garbage can.

"If Peter's gods wait a burnt offering, they've got it," she murmured as she scraped the last remaining cinders from the tray.

"They ought to do something handsome for this."

As if in answer to her words, Peter burst into the kitchen, his eyes shining with excitement.

"That was a long distance call from Aline," he said whirling Barbara about with complete disregard of the cookie tray which fell clattering to the floor. "By jimmie, I believe we're going to get something at last. I'm going out there right away. Maybe I'm silly not to let the sheriff in on it—we may need help before we are through. But it may be a false alarm—and if it isn't, I'd like mighty well to get the dope right myself. It's our exclusive tip, and I don't yearn to share it."

Barbara tilted her chin upward. Her small figure was drawn to its full height, determination in every line of it.

"I'm going alone. I'm going to help," she announced.

"I don't mind if you drive up with me," Peter conceded. "In fact, I enjoy your society quite a lot. But for all I know, we may be running into real trouble. I might ask for police help, but I'd rather handle it alone if I can. If I can't, well, I'll just be a matter of luck. That's all. I'll have to risk it."

"No, you don't, Peter," Barbara insisted. "How do you suppose I'd feel if whatever it is you're after, slipped through your fingers, just because you parked the car somewhere out of harm's way? How would you like it if you had to sit on the sidelines yourself? I share in the results of what you do—if you failed, I'd share the failure. It isn't as if I were dumb or helpless or silly or frightened. I'm not any of those things, am I, Peter?"

"You bet you're not! But still..."

"I promise I won't do anything rash. I'll just be somebody around to take orders—an extra pair of feet and hands, if you need them. Of course, if you think I'm the kind of fool who can't be trusted in an emergency..."

"You know perfectly I don't think that! And as a matter of fact, an extra pair of feet and hands may mean a lot. Max has gone back to the dam," Peter capitulated. "We don't even know what we're up against yet. I want to get there before dark, and we will have to hustle."

Barbara wasted no time in questions until they were hurtling along the highway. Even then she chose her moments for speech with care, for Peter's idea of hustling included taking bumps in the roadbed as a series of hurries. Barbara wanted leaping in to the air, Barbara, hatless and with the wind whipping her hair across her face, clung to the rods supporting Bob's tattered top, and hoped that she would not bite her tongue in a jolt against the roof if she ventured a remark.

"What is it, Aline found?" she shrieked against the wind.

Peter, his foot jammed on the accelerator, did not remove his eyes from the dipping curves of the road before them.

"Somebody's been prowling around the lodge," he shouted.

the wind tearing the words from his mouth. "She still has an idea that she might find the letters somewhere, and she's been looking for them. She's locked the place up, of course, and kept the key with her. Yesterday afternoon she went down there and it grew dark while she was still searching."

"Gragious!" Barbara exclaimed. "It took a good deal of nerve for her to go back to that room alone, after what happened."

"She has nerve—and she has a good deal at stake. I don't suppose it was easy, or pleasant. But she'd go through anything on earth to find those letters. As a matter of fact, she had a terrible scare, for just as she reached up to turn on the light, she saw a man's face disappearing from outside the window, as if he'd been watching her, and the light had frightened him away. That's why she called me up. She was sure that someone else is waiting for a chance to get into that room. If that's true, he'll come back."

Peter added grimly, "and we'll be ready for him. I told her I'd come a-running, if she'll learn anything more to tell, we'll learn it when we get there."

"Provided we don't break a couple of necks on the way," Barbara qualified.

Pete recklessly removed one hand from the wheel and laid it across her shoulders.

"I never broke your neck yet, old dear," he said. "I'm sorry if you're getting bounced, but we do have to make time."

"Once would be quite enough. I'll never forgive you if you smash me up before we find out the end of this."

For quite half a mile Peter apologetically held Bossy down to forty miles an hour. When they jarrred to a stop in front of the ranch house at last, in the sunny quiet of later afternoon, the stillness seemed breathless and unnatural after their wildly careening progress.

"I'd forgotten there was anything but wind in the world," Barbara said, as Aline, who had been watching for them from the porch, led the way into the living room.

It was the room where Peter had firs teenAline-wide-eyed with terror, frantically denying Julio's accusation that she had killed Mortison. But only his memories were sinister. The fresh bowls of flowers on the window seat reminded Peter of the flaunting beauty of the costumes in which Aline had arrayed herself for her trial, the pride with which she had clung to every careful appointment in the face of disaster. Steam rose into the sunlight from the spout of a shining copper kettle on the table, and Peter, who disdained tea, found himself obliged to balance a translucently thin cup in his hand while he listened to words oddly inappropriate to tea-table conversation.

"I rushed out and around the house when I saw the face, but I took time to lock the door behind me, so I missed him. I caught just a fleeting glimpse of someone vanishing in the shadows across the fields," Aline said. "But the queerest thing of all was—that there was someone else. Did I give you enough Sugar, Mrs. Piper?"

"Oh, yes—never mind the sugar!" Barbara would not have noticed if her tea had been flavored with salt. But despite the galling nonchalance of Aline's manner, Barbara noticed that the sugar tongs rattled against the silver bowl as she held them in shaking fingers.

"There were two of them, then?" Peter asked.

(To be continued)

BITS for BREAKFAST

By R. J. HENDRICKS

Buried with the Indians:

In interviewing William T. Jaker at his home in Lafayette, Yamhill county, several years ago, Fred Lockley of the Portland Journal secured the following from him:

"I happened to be in the Dalles when Vic Trevitt's burial was shipped up there for burial. Vic Trevitt was not a large man but he had lots of grit. He was a veteran of the Mexican war. He kept a high-class saloon at The Dalles. He was born in New Hampshire in 1827. As a boy he served as a printer's devil. He enlisted in the Mexican war at a state senator from Wasco county. He served in the Yakima Indian war of 1856-56. Vic, when they asked him where he wanted to be buried, said, 'I won't have any chance to get to heaven, unless I slip in among the Indians. The Indians will keep their word and St. Peter will let them work right into heaven while he's baring out a lot of white men.'

"Vic died in California on January 23, 1883. He was 56 years old. He had been married to the widow of Judge Frank E. Miller. Vic's body was shipped to Portland on board the State of California and was consigned to Colonel John Krakken, who, I suppose, was a veteran of the Mexican war. The body was taken to the Clarendon hotel, where it was taken in charge by Captain Thomas Mountain, who had also served in the Mexican war. The Columbia river was closed by ice, so the casket was not shipped till along in February. Vic was a Mason, so Wasco lodge, No. 15, took charge of his funeral. Frank T. Dodge came up from Portland to preside at his funeral.

"When Vic was shipped to The Dalles the monument on Memorial island was not finished, so his body was stored in a building belonging to old man Savage. Fred Stump, one of the officials of the Oregon Steam Navigation company, gave me a pass on the boat to attend Vic Trevitt's funeral. When we approached the island all of the passengers went to one side of the boat and nearly tipped the boat over. The body was put in the brick arch and was sealed up by a brickmason. They put on the monument. 'Vic Trevitt. Died January 23, 1883. Age 56 years.' I suppose hundreds of thousands of people going up and down the river by boat or on the highway have noticed the 13-foot shaft resting on the basalt rock on Memorial island that marks the grave of Vic Trevitt. The Indians, of course, have never disturbed the grave.

"When I was there attending Vic's funeral there were a lot of little board shanties in which there were good many hundred Indians buried. I remember seeing the body of a young girl with a buckskin shirt on which there must have been 100 elk teeth. The white men later stole all of the Indian beadwork and elk teeth from these Indian graves, and still later they came over on a carrier, was the Indian skull and pratty near every thing else that was loose there."

It was a rather strange idea.

MRS MILLER BETTER
SCOTT'S MILLS, Sept. 15 — Mrs. J. H. Miller, who is taking treatment in state tubercular hospital, is improving, and hopes to be able to return home before long.

Easy to Remove
DANDRUFF

You have to wash your hair, anyway—and now you can remove every speck of unsightly harmful dandruff at the same time. Try Fitch's Dandruff Remover Shampoo today, and tomorrow be rid of disagreeable, unpleasant dandruff.

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