

### The Oregon Statesman

"No Favor Sways Us; No Fear Shall Awe"

From First Statesman, March 28, 1851

THE STATESMAN PUBLISHING CO.

CHARLES A. SPRAGUE, SHELDON F. SACKETT, Publishers  
 CHARLES A. SPRAGUE, Editor-Manager  
 SHELDON F. SACKETT, Managing Editor

Member of the Associated Press

The Associated Press is exclusively entitled to the use for publication of all news dispatches credited to it or not otherwise credited in this paper.

Pacific Coast Advertising Representatives:  
 Arthur W. Stynes, Inc., Portland, Security Bldg.  
 San Francisco, Sharon Bldg.; Los Angeles, W. Pac. Bldg.

Eastern Advertising Representatives:  
 Ford-Parsons-Stecher, Inc., New York, 271 Madison Ave.;  
 Chicago, 360 N. Michigan Ave.

Entered at 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. 50 cents; 3 Mo. \$1.25; 6 Mo. \$2.25; 1 Year \$4.00. Elsewhere: Daily and Sunday, 1 Mo. 55 cents; 3 Mo. \$1.30; 6 Mo. \$2.50; 1 Year \$4.50. By City Carrier: 45 cents a month; \$5.00 a year in advance. Per Copy 2 cents. On trains and News Stands 5 cents.



### BITS for BREAKFAST

By R. J. HENDRICKS

The supreme court: Where was it held? Law of self defense.

(Continuing from yesterday.)

The decision of Judge Boise went on to say: "I understand, by these instructions, that the court held the law to be, that an actual assault with the pistol was necessary to justify the killing, which means that there must have been, on the part of the deceased, an attempt to shoot the prisoner; and until such attempt was made, the prisoner would not have been justified in acting on the defensive, and in shooting the deceased, although deceased appeared before him with a drawn pistol, and had threatened his life. If such be the law, then there is no such thing as available self defense — when the assailant makes his attack with a pistol, or any other kind of firearm; for the assault and discharge of the weapon are simultaneous, or so nearly so, that resistance would be almost impossible. Suppose A., who had threatened the life of B., appears to B. suddenly, at the house of the latter, at an unusual place, armed with a gun, and in a threatening attitude, and B., induced by the previous threats and unusual appearance of his adversary, and believing his own life in imminent danger, and having himself a pistol, shoots A. and kills him, before A. actually makes an attempt to level his gun. Would that be murder? I think not. Such a case, unchanged by other evidence than the killing, would lack all indications of malicious intent, which is necessary to constitute murder.

"If B., under such circumstances, acting from appearances, and believing he was in actual and imminent danger of death, or great bodily harm, should kill A., I think he would be justified. By the common law, one acting from appearances in such a case, and believing the apparent danger imminent, would be justified, though it afterwards turned out that there was no real danger, and that the gun of the assailant was only loaded with powder. This is, certainly, as strong a case for justification as when one, alarmed in the night by the cry of thieves, rushes forth in the dark, and, by mistake, kills an innocent person; and, in such a case, the slayer would be excused at common law. Such was the dictum in the Lovett case, which has been approved by the English commentators. (Citation.)

"In the case before us, there was evidence tending to show that when the prisoner first saw deceased, at the time the fatal shots were discharged, deceased had a pistol in his hand, and was standing on the door-step of the prisoner's private room, which was an unusual place for one who had threatened the prisoner's life, and whom he considered his enemy. And I think the court should have instructed the jury, that if believed, from the evidence in the case, that there was reasonable ground for Goodall to believe his life in danger, or that he was in danger of great bodily harm from the deceased, and that such danger was imminent, and he did believe, and acted on such belief, killed the defendant, he was excusable; and that it was not necessary that he should wait until an assault was actually committed.

"The whole doctrine of self defense was most ably examined and illustrated in the case of Thomas G. Seifridge, tried in the supreme court of Massachusetts; and the doctrines of the case were adopted in the state of New York, in the case of Shorter vs. The State, where it is declared by Bronson, Judge, in speaking of the same case, that when, from the nature of the attack, there is reasonable ground to believe that there is a design to destroy his life, or commit any felony upon his person, the killing of the assailant will be excusable homicide, although it should afterwards appear that no felony was intended. 'To this doctrine,' says the learned judge, 'I fully subscribe; a different rule would lay too heavy a burden on poor humanity.' He further says, that the authority of the Seifridge case was followed by the reviewers in framing the statutes of New York touching this question. And our (Oregon) statute is a copy of the New York statute, and if the doctrine is properly applied there, then it is applicable here also.

"As to what will constitute reasonable grounds of belief in such cases, sufficient to justify taking life, must depend to a considerable extent, upon the circumstances of each particular case. And the reasonableness of the appearances under which a party claims to justify, may vary properly be left to a jury, under the instructions of the court. And I think it is going too far to lay down a general rule that an actual assault must be committed; for such a rule would take away, or at least, render almost unavailable, the right of self defense, when firearms are used.

"It is also assigned as error that the court instructed the jury, that the killing being admitted by the accused, it devolved on him to prove that he was justifiable. I think this instruction in conformity with the common law; but it is not necessary to examine on this subject, for our statute, in the fourth section of the chapter, provides, 'there shall be some other evidence of malice than the mere proof of killing, to constitute murder in the first or second degree.' This, I think, was the evident intention of the legislature, by this statute, to impose on the prosecution some further burden than the mere proof of the killing to establish malice, which, under our statute, is not to be presumed from the mere proof of the killing, and I think the instruction of the court was in error.

"There is another ground of error assigned, which is that the court erred in permitting the declarations of Potts to be given in evidence, made to his son prior to the killing, and declaring the reason why he was going to the house of Aldrich, where he was killed. I think the evidence was improperly admitted, and that the declarations of the deceased which are competent are dying declarations, or those which are part of the res gestae. (Literally, things done.)

"Judgment reversed."

This decision established the law of self defense in Oregon, and it was the evident intention of the legislature, by this statute, to impose on the prosecution some further burden than the mere proof of the killing to establish malice, which, under our statute, is not to be presumed from the mere proof of the killing, and I think the instruction of the court was in error.

The late Judge R. F. Boise read into the laws of the state and of the land and of the world, many advanced principles, in his decisions, and in his labors as a member of the Oregon constitutional convention.

The Bits man believes the self defense decision was rendered in the old Bennett house, the hotel built by Capt. Chas. Bennett where the Masonic temple now stands, State and High streets. Bennett was with James W. Marshall and Stephen Staats, all from Salem or its vicinity, when they discovered gold in California, at Sutter's mill, Jan. 24, 1848. Part of the gold brought back by Capt. Bennett was used in building the famous old Bennett house, finest hotel of this section of the period. Some of that gold was used in putting the first steamboats on the Willamette. Capt. Bennett, heading his Salem company of citizen soldiers, was killed in the Indian war, at Walla Walla, in 1855, in the skirmish that ended the life of old Poopocomox, celebrated and wily chief of the Walla Walla branch of the Cayuses. His monument in the I. O. O. F. cemetery in Salem is lettered with the statement that Capt. Bennett was the discoverer of gold in California. Staats averred that he was more so than Marshall; that Bennett saw the shining metal first, and first realized that it was gold.

### Daily Thought

"It is only shallow-minded pretenders who either make distinguished origin a matter of personal merit, or obscure origin a matter of personal reproach. Taunt and scoffing at the humble condition of early life affect nobody in America but those who are foolish enough to indulge in them, and they are generally sufficiently punished by public rebuke. A man who is not ashamed of himself need not be ashamed of his early condition."—Daniel DeBater.

### Daily Health Talks

By ROYAL S. COPELAND, M. D.

HARELIP is a common deformity seen at birth, due to an incomplete joining of certain structures of the face. The deformity may occur on one side or both sides of the lip. It is usually in the center of the lip, but usually just beneath the middle of one nostril.

Harelip may be complicated by a defect in the union of the palate. This cleft or fissure is the condition commonly spoken of as "cleft palate," and is not an uncommon complication as harelip. It may involve only the soft palate, or it may extend into the hard palate, producing a wide gap in the roof of the mouth.

Many persons are under the impression that harelip or cleft palate is hereditary, but this is not true. The deformity results from some alteration in the normal development of the body before birth. This condition does not run in families, and there is no evidence that it is transmitted from mother to child. It is a purely structural disorder without hereditary influence.

Either harelip or cleft palate may seriously interfere with the nursing of the infant. Frequently the child is unable to take sufficient amounts of nourishment, and in these cases it is imperative that an operation to correct the deformity be performed as soon as possible.

For the healthy child that is taking nourishment well and has steadily gained in weight, the operation may be performed at any time after the second week. Whenever possible, it is best to perform the operation after the baby has become well established in feeding and is definitely gaining.

Delay in deciding on an operation may prove very serious, for when nursing is difficult the child rapidly loses weight and becomes undernourished, and is susceptible to many infections.

In cases where the defect interferes with nursing, the mother's milk should be pumped and fed to the child with a spoon or medicine dropper until the operation can be performed. Bear in mind, too, that in many instances of cleft palate postponement makes the operation more difficult, because of the setting and hardening of the soft tissues and bones.

The operation is not serious and should not be feared. In the hands of a competent surgeon, the operation is successful and the results gratifying. Neglect or continued delay is far more serious than the operation.

### Answers to Health Queries

Mr. F. Q.—What do you advise for protruding ears in a baby five months old?  
 A.—Strapping the ears to head with adhesive tape may help. But if the case is very pronounced, surgical treatment may be needed.

Copyright, 1932, King Features Syndicate, Inc.

## HEART STRINGS By EDWINA L. MACDONALD

**SYNOPSIS**

"Marriage is like reading a novel without suspense. No matter how charmed you may be at first with the words, a sustained effort demands little surprise, little moments of not knowing what's going to happen." Pamela Warren informed her lovely, young niece, Patricia Braithwait, as they basked in the Palm Beach sunshine. Eight years before the wealthy Pamela had married the handsome Jimmie Warren, and in spite of an overwhelming love, their marriage had failed. Pat was shocked to learn that her father has lost his fortune. Aunt Pam suggests that Pat insure her father's and her own future by marrying the wealthy, middle-aged Harvey Blaine, warning that the glamour of love wears off. Pat goes to an isolated spot, alone, to solve her problem, where she meets a handsome young man who only reveals his first name—Jack. He tells her of his admiration for "Baggie's Nest" where he hopes to go some day with the "right" girl. A strange peace envelops Pat in Jack's company and she wishes the witchery of the moment might continue forever, but—thoughts of her father's financial predicament break the spell. Jack, too, is fascinated by Pat and can hardly resist embracing her. For the first time in her life she wants a man to kiss her, but... realizing the futility of continuing their friendship, she tells him to suggest that he visit her. He assumes she is married. Back at the hotel, Pat tells her father, Pam and Blaine. Mr. Braithwait adores his only child, Pat, to whom he has been an ideal companion.



"If I were you and really wanted to win, I should not get sentimental," advised Pamela.

wait to be made love to by the male of the species."

Warren chuckled. "I can't make up my mind, Pat, whether you are an infant prodigy, or merely a prodigious infant," he grinned.

"I prefer prodigal. It's generous. The other words make me either improbable or huge. And I don't care for infant at all. It sets life back."

A feverish gaiety possessed her. Her voice, naturally low-pitched even in hilarity, was in a higher key, her laughter strained and rather wild, breaking forth on the slightest pretext as if she had perhaps been drinking and was in slightly muddled high spirits.

Mr. Braithwait glanced at his child with a puzzled expression.

"Oh, there you are," called Arthur Savage, sinking out of the lounge. "Come on, let's get out of here," he hissed. His tired dark face and thin lounging figure bent over her. His posture, voice and expression seemed to say, "Life is a mess. Let's make the best of it."

He held himself upright by leaning heavily on her chair.

"I like it here," laughed Patricia.

"Ye gods!" Arthur groaned. "Oh, well—" With the air of a man going straight off to shoot himself, he left her.

"There's a desperate lover for you, little lady—just-out-of-school, if a heart-breaking is your game," grinned Warren.

"Arthur says I'm Madame de Pompadour, a woman with a blonde head instead of a red heart," declared Patricia. "I crave to be the Cleopatra type." Her small pointed face was unruined and very pale.

"Aunt Pam, you're the Cleopatra type."

Mr. Braithwait's old eyes were twinkling. "All home-wreckers—if that's your ambition—have had heads—blonde or dark—instead of hearts," he smiled.

Blaine, who had found no opportunity to edge into the conversation which seemed to him to fit about swiftly, never lighting anywhere, now took occasion to point out to Patricia that the sea was like green glass.

"Pardon, Mr. Blaine, what did you say? Oh yes, green glass. Grand opera of the sea, she missed. She closed her eyes, letting her mind play with the picture of her-

### NOMINATIONS MADE FOR STAYTON POST

STAYTON, Aug. 12.—Nominations for officers for Stayton Post, American Legion were made at the recent meeting. Those nominated were: for commander, Ben Chamblain, Tom Tate, W. V. Adams and Leonard Jordan; vice president, Ernest Miller and Earl Allen; second vice president, Herman Hassler, C. B. Surry and H. S. Brown; adjutant, George R. Duneau; finance officer, Fred Albus; chaplain, Conrad Spencer; sergeant at arms, Edwin Forestier; historian, Dave John; executive committee, R. V. Carlson, Hugh Westman, E. A. Ditter, Don Brotherton and E. A. Barney.

Officers will be elected at the September meeting.

Those nominated for officers of the Legion auxiliary here are: president, Mrs. Bertha Allen, of Mill City; first vice president, Mrs. Thres Duncan, Stayton; second vice president, Mrs. Ida Fleetwood, Mill City; secretary, Mrs. Beatrice Hiatt and Mrs. Thelma Surry, both of Lyons; treasurer, Mrs. Eva Humphrey, Stayton; sergeant at arms, Florence Adams, Stayton, and sergeant at arms, Mrs. Mary Carter, Mill City.

Since the regular meeting of the unit comes during the national convention, officers will not be elected until September 19. On this date the ladies will meet with Mrs. Thelma Surry, at Lyons. Their last meeting was at the home of Mrs. Mary Carter in Mill City and following the business session the hostess, assisted by Mrs. Ida Fleetwood, served a tasty lunch.

**Agreement Upon Columbia Valley Policy Reached**

PORTLAND, Aug. 12.—(AP)—Representatives of communities

### Hoover Increases in Stature

PRESIDENT HERBERT HOOVER made the most masterful address of his life Thursday in accepting the republican nomination.

It was a chastened, wearied, less confident Hoover than the optimistic recipient of the party's honors who accepted them at Palo Alto in 1928. But it was a greater Hoover. His command of the governmental situation, his analysis of its problems, his proposals of relief were couched in as concrete, forceful and sincere terms as one could wish from a candidate. The republican party and the nation now have a clear-cut exposition of what it may expect from its standard-bearer. The democratic forces need not complain of ambiguity.

The thesis of the address was depression, its cause and cure. The hearer of the president's message was bound to approve of the direct manner in which he plunged into the subject, the clarity of his exposition of the world-wide condition of business collapse which the last three years have brought. Instead of the return of prosperity 18 months ago as Mr. Hoover had predicted, there came from abroad "a blow of such dangerous character as to strike at the very safety of the republic," declared the president. "We might have done nothing," he said. "Instead we met the situation with proposals to private business and the congress of the most gigantic program of economic defense and counter attack ever evolved in the history of the republic. We put it into action."

Mr. Hoover then turned to the specific remedial measures which his leadership has seen enacted into law. "We have held that the federal government should give leadership to the initiative, the courage, the fortitude of the people themselves. New government instrumentalities should be of the character as not to supplant or weaken but rather to supplement and strengthen the enterprise of the people," he stated. On this axiom of government action, the successive actions to avert stark panic and restore recovery have been built, the president declared.

The president cut new ground for himself and his party in his stand on prohibition. His stand is incisive and clear: "It is my conviction that the nature of this change, and one upon which all reasonable people can find common ground, is that each state shall be given the right to deal with the problems it may determine, but subject to absolute guarantees in the constitution of the United States to protect each state from interference and invasion by its neighbors, and that in no part of the United States shall there be a return of the saloon system with its inevitable political and social corruption and its organized interference with other states."

Mr. Hoover goes beyond the party's platform at convention which calls only for resubmission with the safeguards of the 18th amendment in all events to continue the saloon boycott and the traffic between states. Mr. Hoover not only wants resubmission; he wants amendment of the 18th amendment. The extreme "drys" cannot be satisfied with this stand but for an alternative they can only seek the hopeless fold of the prohibition party or embrace the more radical, more destructive absolute repeal plank of the democratic party. The "drys" may win at Hoover's plain stand but they will come to it if they vote for either of the two major candidates. The mild "wets" who still hate the saloon—and they are legion—can see in Hoover's stand a more sensible alternative than the complete repeal proposed by the democrats and heartily agreed to by Mr. Roosevelt.

Hoover's 20 terse paragraphs of policy summary on the issues of army and navy, power regulation, tax reduction, governmental improvement are so clear they need no comment. They confirm to the principles most people ardently hope can in time be effected in government.

The opposition may ridicule the plaintive note in the address where Hoover declares:

"No man with a spark of humanity can sit in my place without suffering from the picture of their anxieties and hardships before him day and night. That would be more than human if they were not led to blame their condition upon the government in power. I have understood their sufferings, and have worked to the limits of my strength to produce action that would really help them."

But the American people with the discernment of individuals who also have borne great tribulation will appreciate and take to heart this statement. They may see more clearly than in the cautious, critical years now past that a high-minded, courageous, able, noble-minded man has been at work in the White House.

The president's acceptance message dwells convincingly on the moral and spiritual aspects of American life. Hoover points to the fact that for the first time in the history of depression, dividends and profits have been reduced before wages have suffered. In another connection he says:

"Underlying every purpose is the spiritual application of moral ideals which are the fundamental basis of happiness in a people. This is a land of homes, churches, schoolhouses dedicated to the sober and enduring satisfactions of family life and the rearing of children in an atmosphere of ideals and religious faith. Only with these high standards can we hold society together, and only from them can government survive or business prosper. They are the sole insurance to the safety of our children and the continuity of the nation."

There are nearly three months ahead before the election. Hoover's forceful, sharp, broad-visioned outlook has been clearly revealed. It appears quite probable that the American people, discerning a greater man than they at first believed their president, will give him a marked majority as a verdict on the wisdom of his administration.

The Pendleton East Oregonian expresses itself as "amazed that a man of Dr. Zook's type should be considered for the chancellorship." The editorial was printed the day the eastern doctor landed in the state. It seems the newcomer had once expressed himself as doubtful of the wisdom of the federal government help for agricultural extension, and Pendleton has an extension station. Pleasing everyone in the higher education mess is going to be harder than making Finland popular in the Olympics.

The Statesman notices an increasing number of persons who leave town and beat their newspaper bills. The practice is bad, not alone because it is dishonest but because the newsboy, not the "soulless corporation" which publishes the paper loses the money. A carrier kid who gets up at 4:30 a. m. winter and summer to bring your paper and makes a purchase of it at wholesale so he can advance you credit, deserves to be paid.

### New Views

"What were your reactions to President Hoover's acceptance speech?" This question was asked about town yesterday by reporters for The Statesman.

Mrs. C. A. Ferguson, housewife: "I liked it very much. He was very plain-spoken, I thought."

B. R. Greene, commander Sunbelt Division, Bonus army: "I didn't hear it. I was making a speech myself then."

Theodore Roth, wholesale grocer: "It was a great speech."

Jack Hughes, confectioner: "I haven't had time to read it. I don't like Hoover. If I should vote for him it would be with great reluctance."

Mrs. George Naderman, homemaker: "I think silence on his part would have been a much wiser part."

Mrs. James Alton, homemaker: "I haven't had time to really digest his expressed opinions."

E. F. Slade, banker: "I thought that was an excellent statement of the situation. He analyzed the condition of the country very well. His program of reconstruction should do much toward gradual recovery."

Thomas R. Miller, farmer: "I don't agree with Hoover on prohibition but I think he was right about business slowly improving."

on both the Washington and Oregon sides of the Columbia River valley agreed by unanimous vote at a meeting Thursday to forget local differences and preferences and present a united front when the senate subcommittee on irrigation holds a hearing in Portland, September 6 and 8.

The group decided to join in support of the general program of river development outlined by the board of army engineers.