

# LIBERAL REPUBLICAN.

VOL. 4,

DALLAS, OREGON, SATURDAY, APRIL 19, 1873.

NO. 5.

The Liberal Republican

OFFICIAL PAPER FOR POLK COUNTY.

Is Issued Every Saturday Morning, at Dallas, Polk County, Oregon.

P. C. SULLIVAN PROPRIETOR, SUBSCRIPTION RATES.

SINGLE COPIES—One Year, \$2 00. Six Months, \$1 25. Three Months, \$1 00. For Clubs of ten or more \$1 75 per annum. Subscription must be paid strictly in advance.

ADVERTISING RATES. One square (12 lines or less), first insert, \$2 50. Each subsequent insertion, 1 00.

A liberal deduction will be made to quarterly and yearly advertisers.

Professional cards will be inserted at \$12 00 per annum.

Transient advertisements must be paid for in advance to insure publication. All other advertising bills must be paid quarterly.

Legal tenders taken at their current value.

Blanks and Job Work of every description furnished at low rates on short notice.

THE ILLUSTRATED PHRENOLOGICAL JOURNAL, is in every respect a First-Class Magazine. Its articles are of the highest interest to all. It teaches what we are and how to make the most of ourselves. The information it contains on the Laws of Life and Health is well worth the price of the Magazine to every Family. It is published at \$3 00 a year. By special arrangement we are enabled to offer the PHRENOLOGICAL JOURNAL as a Premium for a new subscriber to the OREGON REPUBLICAN, or will furnish the PHRENOLOGICAL JOURNAL and OREGON REPUBLICAN together for \$4 00. We commend the JOURNAL to all who want a good magazine.

PROFESSIONAL CARDS, & C

R P BOISE P L WILLIS  
**BOISE & WILLIS,**  
Attorneys at Law  
SALEM, OREGON.  
Will practice in all the courts in the State  
F15 73 1y

**JOHN J. DALY,**  
Att'y & Counsellor-at-Law.  
DALLAS, OREGON.  
Will practice in the Courts of Record and Inferior Courts. Collections attended to promptly.  
OFFICE—In the Court House. 41-11

**P. C. SULLIVAN,**  
Attorney & Counsellor-At-Law,  
Dallas, Oregon,  
Will practice in all the Courts of the State. 1

J. R. SITES, M. D. | J. C. GRUBBS, A. M., M. D.

**DRS. SITES & GRUBBS.**  
Physicians and Surgeons,

OFFER THEIR PROFESSIONAL SERVICES to the citizens of Dallas and vicinity.  
OFFICE—In rear of Nichols & Hyde's Drug Store. Feb 22 73 1f



**W. H. RUBELL,**  
DENTIST.  
Office one door North of the Post Office  
DALLAS, OREGON.  
Particular attention given to the regulation  
All work warranted Jan 11 73 1f

## NEW ADVERTISEMENTS.

### REAL ESTATE.

GEO. B. JONES Real Estate Broker

**JONES & PATTERSON,**  
REAL ESTATE AGENTS.

Negotiate Loans, Make Collections,

AGENTS FOR  
**UNION FIRE INSURANCE CO.**  
of San Francisco; and

**MUTUAL LIFE INSURANCE CO.**  
of New York.

**OPERA HOUSE BLOCK**  
SALEM, OREGON.

### OUR RULES:

We buy or sell only on commission—charging a per centage for the amount which the property is sold or traded for our services, due when the contract of sale or trade is made.  
We will introduce purchasers to the owners of the property, and leave them free to make the best bargain they can, without any interference on our part.  
We pay all advertising expenses, depending on our commission, when a sale or trade is made.  
We show all property, where within reach, or give letters of introduction to reliable parties living near who will show it.  
All letters of inquiry promptly and fully answered.  
We have many applications from good, prompt paying men, who will pay 12 percent for money, and give first class personal or real estate security, and pay all the expenses attending making out the papers, &c. Parties having money to loan will do well to apply to us before placing it elsewhere. We charge the lenders nothing for our services; the borrowers pay an entire satisfaction given regarding the securities.  
Attention is called to description of property for sale in the WEEKLY STATESMAN.  
Feb 15 73 1y

### LOUIS BYRNE,

### STAR BAKERY.

### FAMILY GROCERIES,

### Cracker Manufactory,

Commercial Street, Salem Oregon.  
Feb 15 73 1y

### D. R. HUDSON A. M.

### PHYSICIAN & SURGEON.

OFFICE—Over Souther's Store,  
Cor Commercial & State Sts, Salem, Ogn  
With Dr. Richardson.  
Nov 9, 1f

### C. S. SILVER,

No. 136, First Street,

### PORTLAND, OREGON

Wholesale and Retail Dealer in

### DRY GOODS, CLOTHING,

### LADIES' DRESS GOODS,

### BOOTS AND SHOES, HATS & CAPS

### GROCERIES & PROVISIONS,

Highest Cash Price paid for all kinds of  
**Country Produce.**

### DALLAS LIVERY, FEED & SALE

### STABLE

Cor. Main and Court Streets,

**Thos G. Richmond, Proprietor.**

HAVING PURCHASED THE ABOVE Stand of Mr. A. H. Whitley, we have refitted and re-stocked it in such a manner as will satisfactorily meet every want of the community.  
Buggies, single or double, Hacks, Concord Wagons, etc., etc.,  
Furnished at all hours, day or night, on short notice.  
Superior Saddle Horses, let by the Day or Week.  
**TERMS, REASONABLE.**  
T. G. RICHMOND

## CONJUGAL RIGHTS.

There seemed a danger under recent decisions that there would be, in course of time, absolutely no limit to the "rights" of a wife and, as some would say consequently, no limits to the "responsibilities" of the husband. By a recent opinion of the Supreme Court in this State, however, it appears that while the newly-declared rights of the wife, to trade and so forth, on exactly equal terms with the husband, are admitted, the Court decides that justice is also due to the husband, in protecting him from responsibility from what is comprehensively known in law as the "torts" of the wife. The subject is an important one in this period of transition, when the generally-received notions as to marriage rights are being overturned on every side. The various decisions in the Cook County Courts, and the celebrated decision of Judge Blodgett, in which he declared that he must accept the new doctrine that a wife is entitled to trade as partner, either with her husband or any one else, have been given by the *Tribune*, and we complete the history of this new social revolution by drawing attention to its latest phase.

In the case under notice, Janet Robson sued one John Martin for slanderous words used respecting her by Margaret Martin, John's wife. In pronouncing an opinion, on the case coming up on appeal to the Supreme Court, Judge Thornton, for the Court, delivered an elaborate opinion, holding that the husband was not liable.

After considering the general question of the removal of the disabilities of a wife, His Honor proceeded:

### A LIABILITY

which has for its consideration rights conferred, should no longer exist when the consideration has failed. If the relations of husband and wife have been so changed as to deprive him of all rights to her property, and to the control of her person and her time, every principal of right would be violated, to hold him still responsible for her conduct. If she is emancipated, he should no longer be enslaved. For the policy and wisdom of the legislation which has effected a change so radical, the Legislature alone is responsible. The courts must guard against a construction which might prove mischievous and

### RESULT IN A PRACTICAL DIVORCEMENT

of man and wife, if such construction can be avoided. In *Cole v. Van Ripen* supra, this Court said that the Legislature never could have intended, by the enactment of 1861, to loosen the bonds of matrimony, or to enable the wife, at pleasure, to effectuate a divorce a mensa et thoro; or to confer the power to restrict the husband to the use of a particular chair, or to forbid him to take a book from her library without her permission. We shall not insist that such unwelcome conduct can even be justified since the law of 1869. The inquiry is therefore pertinent—What is left of the nuptial contract? What duties and obligations still exist? As the result of the marriage vow, and as a part of the contract, the wife is still bound to love and cherish the husband, and to obey him in all reasonable demands not inconsistent with the exercise of her legal rights; to treat him with respect, and regard him, at least, as her equal; and he is alike bound to protect and maintain her, unless she should neglect wholly her marital duties, as imposed by the common law, or assume a position to prevent their performance, and thus deprive him of her society, mar the beauty of married life, and disregard the household good. These duties and obligations upon husband and wife

were not the result of the arrangement of their property at common law, but of the contract of marriage, and the relation thereby created. By the marriage.

### SHE BECAME ONE OF HIS FAMILY

and he was bound to provide her a home and necessaries there, but not elsewhere. He must furnish her with necessaries from a principle of duty and justice. This doctrine is approved by Kent in his Commentaries, 2 vol, 146. The argument urged to maintain the responsibility of the husband for the torts of the wife, because he may still be bound to provide necessaries, is not appropriate. Upon the marriage at common law, his assent to her contracts for necessaries, was presumed upon proof of cohabitation. If she eloped, though not with an adulterer, the husband was not chargeable even for necessaries. But elopement did not release him from liability for her debts *done sola*, or from her torts. The rule at common law, as to the liability for necessaries is, if a man, without justifiable cause, turns away his wife, he is bound for her contracts for necessaries, suitable to her degree and estate. If they live together and he will not supply her, or the necessary means, she then can pledge his credit for necessaries strictly; but if he provides for her he is not bound by her contracts, unless their is evidence to prove his assent. He is not bound by her contracts unless they are made by his authority or with his concurrence, except he makes no provision for her. The plain reason for the obligation was the cohabitation, or the right to enforce it and the consequent right to her obedience and services. Even though she lived separate from him, supported her children, and earned a salary, the party owing her had no right to pay her after notice from her husband not to do so. He could in such case, sue for and recover the salary. Now how changed! Her earnings, except for services she may render to him and his minor child en, are her exclusive property, whether living apart from or with him. No principle is better settled at common law than that

### THE HUSBAND IS NOT LIABLE

for necessaries furnished to the wife, if she leaves him without any fault on his part. But he was responsible for her torts until a dissolution of the marriage, even in case of separation. Where the husband and wife lived apart, and she published a libel of a third person, he was held to be answerable, notwithstanding the separation. The foundation for the liability in the two cases is different. In the one case it was based upon cohabitation, and the enjoyment of the society and services of the wife, as a necessary consequence. In the other case it vested, more particularly, if not exclusively, upon the fact that the husband became the absolute owner of her personal property, and had the right to receive the rents and profits of her real estate. It is also urged as a reason for the continued liability of the husband for the torts of the wife, that this obligation was imposed upon him, at common law.

### WHETHER SHE WAS POOR OR WEALTHY,

and therefore the statutes have produced no different rule. If she did not enrich him with property; if she did not endow him with gold, she endowed him with a nobler gift, and a greater excellence. She enriched him with her society; advised and encouraged him, as one who had no separate interests, and freely gave to him, her time, industry, and skill. As a means of paying her debts and damage for her torts, her counsel and earnings might be as important as her accumulated

property. The distinction between the liability of the husband for the contracts of the wife before marriage, and for her torts during marriage, as for slander uttered by her alone, is too dim to be easily seen. He was made liable for her debts, at the period of marriage, because the law gave to him all her personal estate in possession, and the power to recover her personal property in action. He was bound to pay her indebtedness, because he adopted her and her circumstances together. The law made him liable to the debts to which he took her subject, because he acquired an absolute interest in her personal property; had the receipts of the rents and profits of her real estate during coverture, and was entitled to whatever accrued to her by her industry or otherwise, during the same period. The reason for the liability, according to some authorities, is that by the marriage the wife was deprived of the use and disposal of her property, and could acquire none by her industry, as her person and earnings belonged to the husband. Tyler on Infancy and Cov., sec. 216. The same author, after declaring the husband's liability for the debts and torts of the wife, says: "The reason assigned for such liabilities at common law, is that he was entitled to the rents and profits of the wife's real estate, during coverture, and to the absolute dominion over her personal property in possession." The common law was never guilty of the absurdity of imposing obligations so onerous, without conferring corresponding rights. Hence, besides the rights of property, the legal pre-eminence was exclusively vested in the husband. He was answerable for her behavior, and hence had the

### RIGHT OR RESTRAINT OVER HER PERSON.

Lord Kames, in his sketches, says: "The man bears rule over his wife's person and conduct; she bears rule over his inclinations; he governs by law, she by persuasion." In the matter of *Cochrane*, 8 Dowl. P. C., 682, the wife was, upon the hearing of a writ of habeas corpus, restored to her husband, upon the principle that she was under his guardianship, and that the law entitled him "for the sake of truth to protect her from the danger of unrestrained intercourse with the world, by enforcing cohabitation and a common residence." So long as the husband was entitled to the property of the wife and to her industry, so long as he had power to direct and control her, and thus prevent her from the Commission of torts, there was some reason for his liability. The reason has ceased.

### THE ANCIENT LANDMARKS ARE GONE.

The maxims, and authority, and adjudications of the past have faded away. The foundations hitherto deemed so essential for the preservation of the nuptial contract, and the maintenance of the marriage relation, are crumbling away. The unity of husband and wife has been severed. They are now distinct persons, and may have separate legal estates, contracts, debts and injuries. To this conclusion have all the decisions of the court tended. So far as the separate personal property of the wife is concerned, she is now the same as a *femme sola*. She need not join her husband in law in a suit to recover it, or for trespass to it, as her rights only are affected, and she must sue alone for any invasion of them. She may even prosecute.

### A SUIT AGAINST HER HUSBAND

for any unlawful interference with her property, contrary to her wishes. The right of action for personal injury to the wife is property. She may sue alone for the recovery of damages for such injuries, and the husband

cannot, without her consent, release them. In the same case it is said that she can maintain in her own name an action for slander of her character. If she alone is entitled to receive and appropriate to her own use damages recovered for slander to herself, she should answer for her slanders to others. Until the law of 1869 this court adhered to the common law rule, that the husband was responsible for the debts of the wife contracted before marriage. It was repeatedly declared that the liability rested not only on the fact that the husband upon the marriage became the owner of the wife's personal property, when reduced to possession, and of a life estate in her realty, but upon the ground that he was entitled to the entire proceeds of her time and her labor, and that notwithstanding the law of 1861, he was still entitled to her earnings.

### A MARRIED WOMAN MAY NOW BE SUED

at law, upon her contracts, as to her separate property. She may now execute a valid lease of her separate estate without joining her husband, and without his consent. So diverse are the rights and interests, the duties, obligations, and disabilities of husband and wife now, from what they formerly were, that it would be most unreasonable to hold him still liable for her torts, committed without his presence, and without his consent and approbation. If he is not bound to pay her debts, why should he be responsible for her torts?

### WHEN THE GROUND WORK IS GONE!

as to one, it is gone as to the other, and the structure of the past must fall before innovations of the present. She is now, to a very great extent, independent of him, and is clothed with rights and powers ample for her own protection, and, so far as her separate property is concerned, is responsible for her debts and contracts with reference to it. They are not one, as heretofore. They are one in name, and are bound by solemn contract, sanctioned by both Divine and human law, to mutual respect; should be of the same household, and one in love and affection. But a line has been drawn between them, distinct and ineffaceable, except by legislative power. His legal supremacy is gone, and,

### THE SCEPTRE HAS DEPARTED FROM HIM.

She, on the contrary, can have her separate estate; can contract with reference to it, can sue and be sued at law upon the contracts thus made; can sue in her own name for injury to her person and slander of her character, and can enjoy the fruits of her time and labor, free from the control and interference of the husband. The choices of the past have been broken by the progression of the present, and she may now enter upon the stern conflicts of life untrammelled. She no longer clings to and depends upon man; but has the legal right and aspires to battle with him in the contest of the forum; outvie him in the healing art; to climb with him the steps of fame, and to share with him in every occupation. Her brain, and hands, and tongue are her own, and she should be responsible for slanders uttered by herself. Our opinion is that the necessary operation of the statutes is to discharge the husband from his liability for the torts of the wife during coverture, which he neither aided, advised, nor countenanced.

The judgment is reversed and the cause remanded.  
Sheldon, J., files herewith a dissenting opinion, in which Scots, J., concurs also Brees, J.—Chicago *Tribune*.

Post Offices were first established in France in 1464; in England 1851; in Germany in 1641.