

Sherman County Journal

SHERMAN COUNTY OBSERVER, Established Nov. 2, 1888
GRASS VALLEY JOURNAL, Established Oct. 14, 1897
CONSOLIDATED, MARCH 6, 1931
WASCO NEWS-ENTERPRISE, Established 1891
CONSOLIDATED MARCH 4, 1932

Published Every Friday at Moro, Oregon, By
GILES L. FRENCH Managing Editor



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SCHOOL COSTS

The assumption that in case of consolidation of two or more districts of which one is a town or high school district and the others rural districts one group is likely to be injured is probably erroneous. From the audit of county schools recently released figures have been compiled to show that neither side of the controversy would gain any material advantage.

If the districts that now transport grade and high school children to Moro were to consolidate with Moro the present Moro district would have 37% of the total valuation. For 1934-35 the figures show that the taxpayers of the Moro district pay 38% of the total cost of the schools together with the transportation and other costs of all the districts.

In the Grass Valley vicinity three rural districts bring pupils to town for schooling. If they were all combined into one district the present Grass Valley district would comprise 39% of the total. It now pays 44% of the expenses of the four districts.

There is little doubt but expenses would be reduced to some extent if the districts were consolidated. The minor item of general control for instance would provide some reduction. Teachers might be hired to drive school buses at a reasonable increase over their present pay.

In any event the costs for the taxpayer in the several districts are so close together that it does not behoove either side in the controversy about consolidation to expend much energy to achieve its point.

BLUE BOOKS ARE OUT

Why the name "Blue Book" happened to be given to books printed for their informative value is not known to this writer at this time. However, it is certain that the new Oregon Blue Book sent out by the secretary of state, Earl Snell, is worthy of the title it bears.

If, for instance, you want to know the port commissioners of Douglas county, Judge of Wheeler, what the constitution says about holding office in both the executive and legislative branch of government, the duties of the planning board or, in fact, any question about the state of Oregon it may be found within the covers of the 262 page volume.

The state's history, geography, highways, timber, schools and finance are covered by articles and by statistics. All Blue Books of Oregon have been mighty informative and really good reading and they seem to be getting better and better.

BUNK

These times affect people strangely. Everyone acknowledges that there is something amiss in our economic system and everyone wants to change something. What and when and how allow an infinite variety of ideas. There is no objection to change if it can be shown that it will be better; if it is change merely to have it different it is probably of no value.

While the projected adoption of a new name for the Columbia river is not exactly an economic change it comes in the same class in that it is one of the foolish things people think of when trying to remodel conditions to suit them better.

There is no apparent reason why Portland in the Columbia river basin should not be as well known as Multnomah on the Willamette near the Oregon. No easterner would be able to properly pronounce any one of the three names.

EASY MONEY

It does appear that with 10,000,000 men unemployed, a threatened war, a huge national debt, an unbalanced budget, economic distress, no export market, public officials could find something of more importance to bother about than the names of the geographical landmarks of the country.

STATE AFFAIRS

(Continued from page one)

uals. A check on the use of state owned cars revealed that cars stood idle in their garages under the present system a total of 183 days during August. Under the proposed pool it is believed the state can either dispose of a number of cars or eliminate the practice of using private cars on state business at a charge of five cents per mile.

Word from Washington has it that PWA has turned down Oregon's application for a federal grant toward the purchase of a new capitol site. Governor Martin and Senator McNary, however, refuse to accept this decision as final inasmuch as PWA officials had encouraged the application and McNary had been assured of its approval before leaving Washington.

Governor Martin has announced that he will issue the call for a special session as soon as this phase of the capitol financing problem is settled giving the lawmakers ten days to two weeks notice before their presence in Salem is required. Attorney members of the legislature are urging that the session be convened as soon as possible since the present uncertainty is interfering with their legal business.

August was the biggest month in the experience of the state liquor control commission. Liquor sales for the month totalled \$508,571.41 with profits from all sources reported as \$157,804.82.

Another sign of returning prosperity is to be found in the increase in gasoline sales. During the eight months of the current year to August 31 gasoline sales in Oregon exceeded those for the same period in 1934 by more than 8,000,000 gallons.

Earl Hill, Lane county legislator is not a candidate for the speakership. He said as much while in Salem this week. However Hill did not say that he would not accept the honor if it should be thrust upon him. Many members of the House see a prospect of a deadlock in the speakership fight which might make it necessary to turn to some compromise candidate in which event Hill would appear to occupy a most strategic position as the leader of the republican minority and a member who is popular with the democratic members as well as with those of his own party.

Oregon is paying approximately \$5500 a month for the use of privately owned automobiles on public business, according to a survey just made by Dan Fry, secretary of the board of control.

In Other Days

From the Observer Oct. 5, 1906.

The Kent Recorder has turned its toes to the daisies. Resurrection will be at a new point some where in Clarke county, Wash. A Weston lady hung her stockings out to dry. Along came a fool calf and ate them which prompts the leader to point out a breach of etiquette. Stockings are made to be worn on the outside, not on the inside of calves.

Assessor Otto Peetz has completed his assessment roll for 1906. The footings show an increase of valuation of \$175,000. The values total \$3,251,785.

A farmer in Tygh Valley has produced 42 bales of fine quality hops. The crop was on the bottom land but another farmer near Kingsley has ten acres of a rich golden hue.

District Attorney Menefee is kept busy in his district which includes some wild and woolly territory. It is a relief to him to swing around into good old Sherman county and find a docket free from criminal actions.

From the Observer Oct. 6, 1916. A quiet wedding took place Sunday morning at 7:30 at the home of Mr. and Mrs. O. B. Messenger when Rev. Robertson united their second daughter, Violet Edna, in wedlock to John Francis Noonan.

The barn and granary on the Iver Hansen farm, leased to N. J. Bradley, burned Tuesday afternoon with a loss of ten tons of hay, a buggy harness etc., but no loss of grain.

Frank Spencer has resigned his position in the bookkeeping department of the Moro Trading Co., and will leave soon for his home in The Dalles.

John M. DeMoss and Miss Etha Dugger were married in The Dalles Saturday by Judge F. S. Gunning.

The local flour mill at the foot of First St. has been sold to a Mr. Apperson of Carson, Washington. We do not know his intentions as to operating the plant.

Mrs. Gassaway—So your husband has been deceiving you, has he?

Mrs. Gnaggs—Yes, I've been giving him a dime every day to ride to work on the bus, and now I find out that he's been walking and spending the money.

Review of National History Shows Constitutional Changes

By Wayne L. Morse

The doctrine of judicial review in the United States has not been gained without a struggle.

Walker in his book "Law Making in the United States" points out that a "somewhat similar power was exercised by the privy council in declaring void the acts of the colonies which seemed to be in conflict with the provisions of the royal charters."

As is pointed out by Corwin in his excellent book, "The Twilight of the Supreme Court," Lord Coke's views undoubtedly influenced the development of the doctrine in this country for it should be remembered that the American colonists were in conflict both with the crown and Parliament. They looked upon Parliament as an unsympathetic body in whose deliberations they had no representation.

Coke's influence is shown in the case of *Trevett v. Weeden* decided by the superior court of Rhode Island in 1786. An act of the legislature had imposed penalties on all who refused to take the state's paper money at its face value. Empowering any justice of the superior court or the court of common pleas to try an offender summarily without jury.

The court held that the act took away trial by jury which was contrary to the Magna Carta and fundamental rights and the court quashed Lord Coke in support of its decision holding the act of the legislature void.

Even prior to this, the Virginia court of appeals in 1782, in the case of *commonwealth v. Catron*, ruled that the court had power to declare any resolution or act of the legislature—or of either branch of it—to be unconstitutional and void.

John Blair, one of the signers of the federal constitution in 1789, was a member of the Virginia court and concurred in the opinion. Also in the North Carolina case decided in 1787, the Coke doctrine of judicial review was set forth.

Some critics of the doctrine of judicial review point out that the power is nowhere specifically granted in the federal constitution and that the United States supreme court has usurped the power.

However, Charles Beard, in his excellent treatise, "The Supreme Court and the Constitution" answers satisfactorily the usurpation argument by setting forth in great detail the known opinions of a majority of the framers of the constitution as to judicial review. He concludes:

"In view of these discussions and the evidence adduced above, it cannot be assumed that the Convention was unaware that the judicial power might be held to embrace a very considerable control over legislation and that there was a high degree of probability (to say the least) that such control would be exercised in the ordinary course of events."

Although John Marshall, in his famous decision in *Marbury v. Madison* in 1803, was the first formally to declare an act of congress unconstitutional, the issue of judicial review was before the United States Supreme Court in several previous cases.

In *Hylton v. the United States*, decided in 1796, the court exercised the right to pass upon the constitutionality of an act of congress imposing a duty on carriages. In that case, counsel for the appellant argued that the law was unconstitutional and therefore void; but the court, then headed by Chief Justice Ellsworth who had been a member of the constitutional convention—as had also one of his associates, Justice Paterson—sustained the law as constitutional.

It is interesting to note that as one of the attorneys of the *Hylton* case, John Marshall took the position that the supreme court did not have the power to declare congressional legislation unconstitutional, but in 1803 as judge, Marshall reversed his thinking on the subject.

Hayburn's case in 1792, was another early decision in which the judges of the supreme court took the position that they were not bound to enforce a law which they deemed beyond the power of congress; and a still more important case was probably *Calder v. Bull*, decided in 1798.

In that case Justice Iredell stated: "If any act of congress or of the legislature of a state violates those constitutional provisions, it is unquestionably void; though I admit, that the authority to declare it void is of a delicate and awful nature, the court will never resort to that authority but in a clear and urgent case."

However, it was for Marshall in 1803, in the case of *Marbury v. Madison*, to apply the first time in the name of the Supreme Court the principle that the federal judiciary has the power to pass upon acts of Congress.

In the course of his decision, Marshall states these now famous pronouncements:

"It is a proposition too plain to be contested, that the constitution controls any legislative act repugnant to it; or that the legislature may alter the constitution by an ordinary act."

"Between these alternatives there is no middle ground. The Constitution is either a superior paramount law, unchangeable by ordinary means, or it is on a level with ordinary legislative acts, and, like other acts, is alterable when the legislature shall please to alter it."

"If the former part of the alternative be true, then a legislative act contrary to the Constitution is not law; if the latter part be true, then written constitutions are absurd attempts, on the part of the people, to limit a power in its own nature illimitable."

"Certainly all those who have framed written constitutions contemplate them as forming the fundamental and paramount law of the nation, and, consequently, the theory of every such government must be that an act of legislature repugnant to the Constitution is void...."

"It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must of necessity expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each."

Marbury v. Madison was followed in 1810 by *Fletcher v. Peck*, and in 1819 by *McCulloch v. Maryland* in which cases the supreme court of the United States first held state legislation to be unconstitutional. All of the state supreme courts have now assumed the same power, so that in effect, in the United States, the judiciary has the final word as to the validity of legislation.

I have dealt at some length with the development of this theory of judicial review as contrasted with legislative supremacy, because it has served as one of the most important legal controls for adjusting and harmonizing conflicting and overlapping desires and claims under our constitutional government.

It has appeared as a political issue which has agitated the country at intervals ever since it was definitely applied by Marshall. Through the *Dred Scott* decision it must take part of the blame for the Civil war.

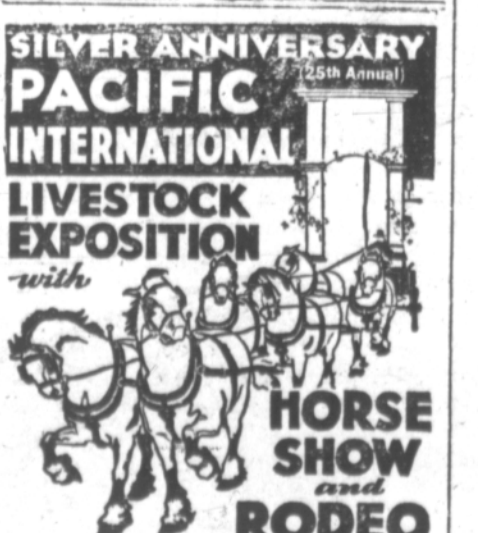
Truth in Meats

Exhibit Remains

The annual "Truth-in-Meats" exhibit will again be among the important educational features of the Pacific International Livestock exposition at Portland October 5 and 12, inclusive. It is sponsored by the animal husbandry department of Oregon State college in cooperation with the National Live Stock and Meat Board, the Oregon Woolgrowers' association and its woman's auxiliary, and the Oregon Cattle and Horse Raisers association.

The exhibit will include beef, pork and lamb, and will feature cuts that are economical but "different," as well as a number of new and fancy cuts for "special occasions." Characteristic differences of good and poor quality meats will be shown, as will the location of retail cuts on the animal carcasses.

A new refrigeration unit 27 feet long, eight feet wide and ten feet high has been provided by the exposition management this year to



PORTLAND, OREGON
October 5 to 12

19 Shows in One—11 acres under one roof. Exhibits of pure-bred livestock, Dogs, Poultry, Pet Stock, Wild Life, Land Products, Manufactured Products, 4-H Club and Smith-Hughes Vocational Education Work, Combination Horse Show and Indoor Rodeo.

LARGE PREMIUM LISTS
REDUCED FARES—ALL LINES

accommodate the "Truth-in-Meats" exhibit. This will be the tenth year this exhibit has been a part of the P. I. exposition. H. A. Lindgren, extension specialist in animal husbandry, at O. S. C. and U. S. Bert, specialist in visual instruction, O. S. C. have been in charge of it from the beginning, and will be assisted this year by A. W. Oliver, assistant professor of animal husbandry at the college.

NOTICE OF SHERIFF'S SALE

ON THE 2nd day of November, 1935, at the hour of 10:00 o'clock a. m. at the front door of the Court House in Moro, Sherman County, Oregon, I will sell at public auction to the highest bidder for cash in hand the following described real estate situated in Grass Valley, Sherman County, Oregon, to-wit:

Lot -9- of Block -5- of the original town plat of said Grass Valley, Oregon.

SAID SALE is made under execution issued out of the Circuit Court of the State of Oregon for Sherman County and to me directed in the case of Clara J. Baker, Plaintiff VS C. M. Plyler and Mildred Plyler Turner, defendants wherein judgment and decree was issued against said defendants and in favor of the Plaintiff and is duly docketed in Judgment Docket "A" at page 182 of said Court and County, and which said judgment still remains unpaid.

HUGH CHRISMAN
Sheriff of Sherman County Ore.

NOTICE OF SALE

Notice is hereby given, by virtue of an order of the County Court of Wasco County, State of Oregon, made on the 20th day of September, 1935, I will on and after the 26 day of October 1935, and before the 20th day of September, 1936, sell at private sale, all of the interest of Naomi L. Schenck, Deceased, in and to the following described property situated in the County of Sherman, State of Oregon, to-wit:

The West one-half and the Southeast Quarter of Sec. 28, in Tp. 3 S., R. 17 E. W.M. Also all of Sec. 36, in Tp. 2 S.; R. 16 E. W. M. and Sec. 31 in Tp. 2 S., R. 17 E. W. M.

The sale will be made for cash, if purchasers can be found desiring to buy for cash, otherwise the sale will be made for one-half cash and the balance to be payable within six annual installments, secured by a first Mortgage on the quantity of land sold. Bids will be received by Warnick C. Waldron, as Executor, at the office of Frank G. Dick, Attorney at Law, Room 20, Vogt Block, The Dalles, Oregon, at which place said sale will be made.

Warnick C. Waldron,
Frank G. Dick, Executor
The Dalles, Oregon

The Tygh Valley Mill Is Prepared to Grind Flour

For several years we have had trouble keeping up with the demands made on us by our customers. This summer we have installed a new water wheel and other new equipment and are ready for increased business.

OREGON GOLD FLOUR for Oregon people

This original estimate is made in compliance with section 231-A of the laws of 1921 and shows in parallel columns the unit cost of the several services, materials and supplies for the three fiscal years next preceding the current year, the expenditures and the budget allowance for the first six months of the current year and the expenditures of the current year.

ORIGINAL ESTIMATE AND ACCOUNTING SHEET

ACCOUNT	Used for 6 mo. 1935	Budget for 6 mo. 1935	1934	1933	1932
GENERAL FUND					
Recorder's salary	\$60.00	\$60.00	\$120.00	\$120.00	\$180.00
Treasurer's salary	60.00	60.00	120.00	120.00	180.00
WATER FUND					
Marshall & Water pumper	480.00	600.00	1200.00	1928.50	1500.00
Labor	53.80	100.00	200.00	179.38	1442.16
Payment a-c Conlee Well	448.00	448.00	472.00	496.00	
Supplies a-c Water System (including \$200. Hose)	289.61	175.00	200.00	298.59	
Power	193.62	225.00	400.00	404.32	
Fire Dept. Fund	54.78	250.00			
MISCELLANEOUS					
Emergency	133.84	250.00			
Power—Street Lighting	405.48	405.48	810.96	810.96	810.96
DEBT SERVICE					
Interest on Bonds		750.00		3822.00	
Principal on Bonds		500.00			
Insurance Fund	150.00	750.00			

I, L. H. Nahouse, do hereby certify that the above estimated expenditures for the year 1935 was prepared by me and that the expenditures and budget allowance for the first six months of the current year, and the expenditures for the fiscal years preceding the current year as shown above, have been compiled from the records in my charge, and to the best of my knowledge and belief are true and correct copies thereof.

Bonded indebtedness of Moro, Oregon, this date: \$62,700.00.
L. H. Nahouse, City Recorder.

Notice of the estimated expenses and receipts and the proposed tax levy for the City of Moro, Sherman County, Oregon, for the year 1936.

Notice is hereby given that in pursuance to a legislative Act approved by the Governor, February 19th, 1931, that on October 29th the Budget Committee of the City of Moro, Sherman County, Oregon, will be in session at the City Hall at the hour of 7:30 o'clock p. m. and that any taxpayer of the City of Moro will be heard in favor of or against the proposed tax levy as hereinafter itemized.

ESTIMATED EXPENDITURES	ESTIMATED RECEIPTS
GENERAL FUND	WATER FUND
Treasurers salary	Rentals
Recorders salary	Licenses
WATER FUND	TOTALS

Marshall and Water	1200.00	
Pumper	200.00	
Labor	424.00	
Payment a-c Conlee Well	350.00	
Supplies a-c Water system	450.00	
Power	400.00	
Fire Department Fund	250.00	
MISCELLANEOUS	810.96	
Emergency	840.00	
Power, street lighting		
DEBT SERVICE		
Interest on Water Bonds	1000.00	Amount to be raised
Principal on Water Bonds	300.00	by taxation
Insurance Fund	6464.96	\$3129.96
TOTAL		GRAND TOTAL 6464.96

Giles L. French, Chairman of Budget Committee. Dated at Moro, Oregon, September 24, 1935.
Wily W. Knighten, Secretary of the Budget Committee. Date set for the Hearing on the Budget October 22nd, 1935.