

LOCAL NEWS ITEMS

Amson Wright was in from Rhea creek Saturday.

E. Swanson, of Spray, was an arrival at the Patrick Friday evening. Mike Marshall, Boardman sheepman, was a visitor here a few days during the week.

Nell Doherty was in town Saturday from his ranch in the Wells springs neighborhood.

Sam E. Van Vactor left last Tuesday for Chicago on a business trip expecting to be gone about two weeks.

A fine son weighing seven pounds, arrived at the home of Mr. and Mrs. E. N. Gony in this city last Wednesday.

Elwood Orr, well known Heppner boy, who has been in Washington for several months returned to Heppner Friday evening.

"Doc" Brown, well known old scout of Condon, was a visitor here Sunday and Monday rooting some for his home town team.

McVilvie an extensive farmer in the Alpine country, was in town Saturday buying supplies. Mr. McVilvie says prospects in his section for a fine crop were never better.

J. B. Sparks and wife were here from Condon Sunday taking in the ball game. Mr. Sparks has sold his theatre in Condon and will go to Prineville to reside where he also has a picture house.

John McEntire was in town Saturday getting ready for shearing and incidentally refused an offer of 18 cents for his wool. They will have to talk 20 cents or better to get the boys here to jar loose," says Mr. McEntire.

J. W. Stevens, of near Hardman, was in town Saturday. "Pretty frosty out my way," quoth J. W., but it didn't nip my potatoes—yet. I fooled Jack Frost this time by planting late and the spuds are not up yet."

Mr. and Mrs. Ben Patterson returned Sunday from an auto trip to Portland and Seattle. They had a very enjoyable trip finding the roads fairly good with the exception of a few stretches on the Pacific highway through Coville and Lewis counties, in Washington.

Jack Frost paid Heppner a few visits during the week and played hob with some of the gardens and potato patches on the lower lands. Jack is a bad boy when he hangs around too late in the spring but hard to banish from the northern clime.

Tom O'Brien, prominent citizen of Butter creek, was in town Saturday looking mighty pleasant and with good reason. Mrs. O'Brien presented Tom with a fine son May 15th and who wouldn't be pleased. The youngster weighed 11 pound and the proud dad.

C. LaCont, of Walla Walla, was here Saturday looking over the Oregon-Washington highway with a view to taking a sub-contract from Oxman & Harrington, who were the successful bidder of the Lexington-Heppner and Heppner-Jones Hill sections of that work at Portland last Thursday.

Dave McAtee arrived from Tia Juana, Mexico during the week and will spend a few weeks visiting friends and looking after business matters here before going to Canada where he will spend the summer racing season. He says Mr. and Mrs. E. A. Patterson, who have been at Tia Juana all winter, expect to visit Heppner after the race meet at Reno, Nevada.

G. W. Duran, E. R. Duran and his son Charlie Duran, were here last week visiting the families of Sylvanus Wright, Shelly Baldwin and Ed Duran, their relatives. They are former residents of this county, the two brothers being sons of Wm Duran, a pioneer farmer of the Blackhorse section. G. W. helped build most of the first substantial buildings in Heppner and is credited with being the first man to sleep in the old Palace Hotel when it was completed some thirty years ago.

A. L. Strait, of Juniper canyon, was a business visitor in Heppner during the week and reports things about as usual in his section. Mr. Strait has recently made proof on a homestead a short distance north from Ione and is now arranging to take his additional allowance of government land in the Juniper canyon district. Mr. Strait expects to place on exhibitions at the coming Morrow county fair a violin he has made during his spare moments which he says compares more than favorably with many of the high priced instruments made by experts because of its sweetness of tone. He has already refused an offer of \$100 for the instrument which is made of the finest quality of maple and spruce lumber fashioned from the rough timber by his own hands.

DOUBT REGARDING OREGON LAW CLEARED BY SUPREME COURT

Telegram Salem Bureau

SALEM, Or., May 28.—(Special.) Any doubt that may have existed about the power of the Oregon primary and corrupt practices laws, or their ability to stand up in any court is brushed away by the decision of the United States supreme court in the Newberry case. Senator Truman H. Newberry was prosecuted and convicted under the federal corrupt practices act. The United States supreme court set aside the convictions and declared the federal corrupt practices unconstitutional.

Relative to the Oregon corrupt practices act the following reflections, backed by the best legal minds of the land, serve to establish its unquestioned potency:

The federal constitution is a grant of power. Congress may enact such laws as the constitution says it may enact, and no other. The federal constitution does not say that congress may enact a corrupt practices law. Hence the law was declared unconstitutional in the Newberry case.

The state constitution, unlike the federal constitution, is a limitation of power. That is, the state legislature may enact any law that is not expressly or by plain implication prohibited by Oregon for the United States constitution. There is no prohibition in the constitution against a state corrupt practices act. This alone would serve to give validity to the Oregon law even if the state constitution did not go further. But it does go further, and expressly directs the legislature to enact legislation to prevent corrupt practices relative to elections. (Article 2 sections 7 and 8.)

The Oregon corrupt practices act then has the plain sanction of the state constitution and does not conflict with the federal constitution.

In the decision of the United States supreme court, however, there was a division of opinion, with four of the nine justices holding the federal corrupt practices act constitutional. They were Chief Justice White and Associate Justices Pitney, Clark and Brandeis.

They, apparently were reasoning under article 1 section 4, of the federal constitutions which provides that "the times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof but congress may at any time by law make or alter such regulation, except as to the places of choosing senators."

Apparently the four justices held that this section would warrant congress in imposing a federal corrupt practices act. The other five judges apparently held that such an interpretation would give congress a power over primary elections, which under the seventeenth amendment to the federal constitution, the direct election amendment, it is not supposed to have.

According to press dispatches, the court's decision was that the direct election amendment does not affect article 1, section 4, which the majority opinion held, while it gives congress the power to regulate the manner of holding elections, does not confer on it authority to control primaries or conventions.

One of several notable court opinions that distinguish between the character of the federal constitution and that of the state constitution, and which has an application in the present situation is that of former Justice Wm. R. King of the Oregon supreme court in the case of state vs. Cochran, written in 1909. This opinion contains the following language:

"The constitution of a state, unlike that of our national organic law, is one of limitation and not a grant of powers, and any act adopted by the legislative department of the state, not prohibited by its fundamental laws, must be held valid, and this inhibition must be expressly or impliedly made to appear beyond a reasonable doubt.

"The foregoing principles appear so well settled by unanimity of decisions, not only in other jurisdictions, but in the courts of this state since its inception, that they may be deemed elementary but since the construction so earnestly relied upon by the plaintiff would necessitate a disregard of the foregoing principles, we deem it appropriate to call attention to a few declarations of our courts upon the subject.

"Before doing so however, we quote from that eminent text-writer and jurist, Judge Cooley, who, as an exponent of constitutional law, has no superior. In his work on "Constitutional Limitations," he states the rule as follows:

"It is to be borne in mind, however, that there is a broad difference between the constitution of the United States and the constitution of the states as regards the powers which may be exercised under them. The government of the United States is one of enumerated powers; the governments of the states are possessed of all the general powers of

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legislation. When a law of congress is assailed as void, we look in the national constitution to see if the grant of specified powers is broad enough to embrace it; but when a state law is attacked on the same ground, it is presumably valid in any case, and this presumption is a conclusive one, unless in the constitution of the United States or of the state we are able to discover that it is prohibited. We look in the constitution of the United States for grants of legislative power, but in the constitution of the state to ascertain if any limitations have been imposed upon the complete power with which the legislative department of the state was vested in its creation. Congress can pass no laws but such as the constitution authorized either while the state legislature has jurisdiction of all subjects on which its legislation is not prohibited."

GOVERNOR NAMES COMMITTEE

(Continued From Page One)  
Suit for the recovery of 5200 acres of swamp land in Klamath county has been instituted by the state land board against A. C. Marsters and others. Mr. Marsters lives at Roseburg, and formerly was a member of the state fair board. It is alleged that the land was fraudulently obtained by the use of "dummies" in 1903 and 1904.

In response to a series of questions asked by Governor Olcott, Attorney General Van Winkle has written an opinion interpreting the prohibition law. The main features are that it holds that county courts have legal right to employ law enforcement agents representing private or independent agencies and to pay them from the county funds, also that after a lawful arrest has been made the agents may search persons, vehicles or premises without search warrants.

During the month of April the Standard Oil company, according to its report to the secretary of state, sold in Oregon 2,419,331 gallons of gasoline and 1933 gallons of distillate. A tax of \$24,212.64 under the act of 1921. During the same time the Shell company sold in the state 290,143 gallons of gasoline and 433 gallons of distillate, paying a tax of \$2,993.60 under the 1919 act and \$2995.76 under the 1921 act.

Governor Olcott has sent out a public warning against the cutting down or disfiguring of trees and shrubbery along the public highways of Oregon, citing the state law which becomes effective May 25 prohibiting this destruction of scenery.

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