

Revisers Find Basic Provisions Good In Oregon's Bill Of Rights

"A NEW CONSTITUTION FOR OREGON"
(This is the seventh in a series of articles about the revised Constitution proposed by the Oregon Constitutional Revision Commission. The articles were written by Hans A. Linde, professor of constitutional law at the University of Oregon and a member of the Commission.)

When we speak of the constitutional guarantees of individual freedom, most of us think of the first ten amendments of the United States Constitution — the Bill of Rights about which students are taught in school. Few people recall that this federal Bill of Rights was added to the U.S. Constitution in order to limit the powers of the new federal government, not the state governments. Thus the First Amendment begins: "Congress shall make no law . . . abridging the freedom of speech . . ."

Today the U.S. Supreme Court has guaranteed some basic rights — such as freedom of speech and religion, and from unreasonable searches and seizures — also against state action, by finding them included in the "liberty" protected by the Fourteenth Amendment. But many others are still guaranteed only by the state, not the federal, Bill of Rights.

Oregon's Bill of Rights, adopted with the Constitution of 1859, antedates the Fourteenth Amendment and its subsequent interpretations. Although some of its language is awkward or archaic, its basic provisions are good. In some details it goes beyond the federal guarantees, but in others it falls short of them. And over the years some matters have been placed in the Bill of Rights

that rightly belong elsewhere in the Constitution. Thus the death penalty, and "liquor by the drink," appear ludicrously out of place in a Bill of Rights, along with fundamental human liberties. They were moved to Article XIV of the revised Constitution.

The Constitutional Revision Commission did not take away any right or freedom guaranteed to anyone by the present Constitution. In the revised Constitution, it strengthened some rights, added some not now provided for, clarified and improved the drafting and arrangement of sections, and moved some provisions to other parts of the Constitution.

Right To Counsel
A significant change is that the traditional guarantees in criminal trials have been expressly extended to "any offense punishable by loss of liberty." This means that they will apply equally to ordinance violations tried in municipal courts, which are not now considered "crimes," although the sentence may be the same term in the same jail as is pronounced for a misdemeanor in a state court.

The most important right so extended is the right to counsel. The revised Constitution guarantees the right to one's own counsel in all proceedings (not only court trials), and the right to counsel appointed at public expense for indigent defendants faced with a possible loss of liberty. The Commission believed that anything less than this provides one kind of justice for those who can afford their own lawyers, and another kind for the poor. Yet justice at the level of the city and justice courts is the point at which most individuals have any direct experience with our legal system.

Another new provision in the revised Constitution strengthens the guarantee against double jeopardy and multiple trials of a defendant for the same act.

"Due Process"
Procedure Or Substance?
One new provision in the Bill of Rights is among the most controversial in the revised Constitution. It is referred to as the "due process" clause.

"Due process" is traditional language in the U.S. Constitution, as old as the Fifth Amendment. The U.S. Supreme court has interpreted it to mean primarily "fair procedure." But for a period of years early in this century, the court sometimes also used this concept to strike down the substance of legislation that is considered unreasonable. Particularly where social or economic laws (such as minimum-wage or utility rate regulations) were involved, this involved the courts deeply in contemporary controversies.

The Constitutional Revision Commission first voted to place in the Oregon Bill of Rights a guarantee of procedural fairness, such as that applied by the Supreme Court in federal law, by adding this clause:

"No person may be deprived of any right or privilege by any unlawful or unfair procedure . . ."

This would permit Oregon courts to enforce judicial standards of fairness above the minimum which the Fourteenth Amendment applies to all states. Oregon no more than Mississippi. Later, however, a majority of the Commission also added to the same section what some of the proponents have called a "substantive" due process clause. The actual force of this addition would depend on future judicial interpretation. Some of its sponsors believed that it would permit Oregon courts to strike down regulations that they deem unreasonable in substance, even though the U.S. Supreme Court would not so hold under the Fourteenth Amendment. The dissenters on the Commission considered this a vague, dangerous, and unwarranted extension of the power of judges over the policies of elected state and local authorities.

Another addition will require that compensation be paid when private property is "damaged" when it is "taken" by eminent domain, as at present.

In summary, the revised Constitution strengthens Oregon's Bill of Rights in the light of problems presently recognized under modern conditions and judicial experience with existing clauses. It would extend to Oregon's citizens as wide a measure of rights and liberties as any constitution in the nation.

(Next: Local government, taxes and public control.)



CAMP FIRE PAGES — Four Camp Fire Girls had an especially memorable time when the Junior Hi Camp Fire Girls traveled to Salem for a full-day of activities on March 18. Serving as honorary pages of the state legislature were, from left, Judy Taggart, Sydney Kennedy, Sandra Pallies, and Teena Fredrickson. Arrangements were made by Senator and Mrs. Harry Bolvin.

Hospital Fund Auction Sale Scheduled April 3

Items for the coming public auction sponsored by the Klamath County Medical Society Women's Auxiliary are coming in rapidly.

The sale will be held April 3 in the new armory on Shasta Way starting at 7:30 p.m. John Argetinger will cry the sale.

A baked food sale will start at 1 p.m. and will run through the hours of the auction. A preview of items may be made from 1 to 6 p.m. the day of the sale.

The public is invited to attend.

Crash Victim Dies Of Hurts

SALEM (UPI)—June Dodd, 8, Halsey, died at a Salem hospital today of injuries suffered in an automobile accident south of Albany Tuesday.

State police said the girl was injured when a car driven by her father, Alden Dodd, and a freight truck collided at the intersection of Highway 99E and the Lebanon Corvallis Highway.

All proceeds will go to the Intercommunity Hospital Fund. Among the many items to be offered to the highest bidder will be a 1967 DeSoto Hardtop four door sedan, automatic transmission, heater and radio; four new white wall Armstrong tires, any size; a 9 x 12 chenille rug; a used large tiller; Welsh pony, broken for experienced older children; hand-knit men's ski sweater; beaver coat and a bicycle.

CURLING HISTORY

NEW YORK (UPI)—The game of curling, which was invented in Scotland in the 16th century, was introduced to the United States in 1827.

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Team Slates Investigation Of Wilderness Plane Crash

WHITEHORSE, Yukon (UPI)—A team of investigators from the Canadian Department of Transport was scheduled to fly into the northern British Columbia wilderness Friday to make a report on the 48-day ordeal of two American plane crash survivors.

Weather permitting, the two accident investigators will be accompanied by a pilot, a guide, a veteran Yukon trapper and a UPI correspondent.

They planned to fly by light plane to Wath Lake and then transfer to a chartered helicopter for the flight to the crash scene near Aeroplane Lake just south of the Yukon border.

The two survivors of the grim ordeal were under treatment at hospitals in Whitehorse and Fairbanks, Alaska.

The pilot, Ralph Flores, 42, San Bruno, Calif., was visited by his wife Thursday night at a hospital in Whitehorse. She arrived Thursday from her California home, where she left their six children behind in the care of her

widowed mother. Flores' companion on the ill-fated flight, Brooklyn model Helen Klaben, 21, was flown to Fairbanks Thursday to see if specialists could save the frostbitten toes on her right foot.

She was accompanied by her brother, Arthur, and Fred Panikra, who identified himself as a Fairbanks geologist-contractor, before talking to newsmen.

(The brother had flown to the Yukon from his home in Weatherfield, Conn.)

"Helen's aware of what's going on and seems to be optimistic," Klaben said. "I will be with her as long as is necessary."

Mrs. Flores, who had not seen her husband since June, met with him in privacy for five minutes before talking to newsmen.



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Compassion, Kindness Needed For Old Folks

By ANN LANDERS

Dear Ann Landers: My husband's father is nearly 70. We moved into his rather large home three years ago when my mother-in-law died.

Some time ago he suffered a stroke. His recovery has been very good and he now has the use of all his faculties. The only thing which is troublesome is that his right side is partially paralyzed and it is difficult for him to eat properly. He spills food on the tablecloth, on himself, and sometimes on the floor.

Our children are 7, 9, and 10 and we are trying to teach them good table manners. When they see their grandfather slopping all over, it's a problem to make them toe the mark.

I have suggested that we feed Grandpa in his room. My husband won't hear of it. Mealtime should be a pleasant family affair and it can't be pleasant with the old man at the table. I hope you will agree with me because my husband and I have been arguing about it for weeks and I need help.—BATTLE FATIGUE

Dear Battle: Grandpa should not be isolated from the family. It would be cruel to feed him in his room.

More important than a clean tablecloth and meticulous manners is compassion and understanding for people who are old and sick. Explain to your children why grandpa spills things. Encourage them to help him and to be kind and considerate.

This experience could be an important lesson for your children and help them to be better human beings.

Dear Ann Landers: Why is it that some people think just be-

cause you live next door to a family you know their every move and are perfectly willing to act as messenger boy, check-room attendant, or anything they want.

It happened again today. A woman banged on my neighbor's door for 10 minutes. It sounded like a herd of elephants. Then she came over and handed me a package. She didn't ask me, she told me to give the package to my neighbor.

Delivery boys leave plants, groceries, fertilizer, whatever they want to underload so they won't have to make another trip.

Please print this letter and educate the public. Just because a family happens to live next door doesn't mean they are bosom buddies or even nodding acquaintances.—NOT CHUMMY

Dear Not Chummy: Some neighbors are happy to help out—even if they're not bosom buddies. I'd hate to live next door to you, sister, but if we should wind up neighbors I'd be happy to take care of your packages.

Dear Ann Landers: Several days ago the daughter of a close friend eloped. Everyone was very surprised.

When the girl and her husband returned from their elopement the parents of the girl gave a reception for the couple. We were invited to the reception.

Now the big question: Do we owe the couple a wedding gift? I've heard that unless a person is invited to the wedding, there is no need to send a gift. True or false?—PIE FACE

Dear Pie Face: You don't "owe" the couple anything. A gift should reflect your feelings for the people.

Confidential to Between the Devil and the Deep Blue Sea: Take the sea, Mister. The devil will prove too expensive—emotionally as well as financially.

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