

WEATHER
Yesterday 52
Last Night 42
Tonight and Tuesday

ROSEBURG NEWS-REVIEW

ALL THE NEWS TODAY
BY
ASSOCIATED PRESS
LEASED WIRE SERVICE

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SCHOOL LAW KNOCKED OUT

Compulsory School Law
Declared
Unconstitutional.

AL IS PROBABLE

Have Right to Enjoin
Enforcement of State Law
Reserving Rights With-
out Process of Law.

State Press Leased Wire.)
LAND, March 31.—Oregon's
public school law was de-
clared unconstitutional today in
a federal court.

Decision knocking out the
law was rendered following a
hearing on banc by Circuit
Judge B. Gilbert and District
Judge E. Wolverson and R. S.
E. Wolverson and R. S. E.
The law, which requires all
children of grammar school age to
attend school, was adopted by
the legislature in 1915. It was
to have become effective
September 1, 1920.

Decision today was in cases
brought by the Hill Military Academy
and a private school for boys
of the Society of Sisters of the
Holy Child of Jesus and Mary, a
religious organization, having charge
of the school. The defendants are
Walter M. Pierce, Attorney
General, Van Winkle, and Stanley
H. Van Winkle, district attorney of Multnomah
county.

packed court room heard
of the decision by Judge

In its decision made it
acted on the proposition
that the constitutional rights
of the plaintiffs have been con-
travened, just as much as the
complainants' organiza-

and guardians," said the
"have an interest in the
right of complaints to
their mutual benefit and
parties concerned."

and sixteen must send
to public schools dur-
ing school term or be
punished for each day
they are kept out.

introduced by Scottish Rite
Klan and other anti-
Klan organizations. Its avowed
purpose was to prevent the opera-
tion of the law. It did
not affect the schools themselves,
but it made it impossible for children
to attend during the periods
ordinarily in session.
The compulsory school law was
passed by a vote of 112,506 to
10,000. It was originally
proposed by the
legislature, became one
of the general elec-
tion, being backed by the
Patriotic Societies and
the Klan.

FIRE DESTROYS AT EDENBOWER

It is believed to have
secondary origin completely
destroyed the old prime dryer on
the Edenbower early Sun-
day. The dryer is said to be
the largest in the country and
one which is familiarly
known as the Standard Oil
dryer. It is believed to be
the largest in the country and
one which is familiarly
known as the Standard Oil
dryer. It is believed to be
the largest in the country and
one which is familiarly
known as the Standard Oil
dryer.

M'ADOO GROUP LEADS ELECTION

SIOUX FALLS, S. D., March 31.—
Latest unofficial returns from 60
of South Dakota's 66 counties show
the McAdoo group of delegates re-
ceived 4,842 votes to 1,504 for the
uninstructed group, which opposed
the candidacy of William G. McAdoo
on the democratic ticket in last
Tuesday's state-wide primary. The
figures were given out by democrats
at the state headquarters. Complete
returns will be delayed a week or
ten days because of road conditions
and impaired telephone and tele-
graph service throughout the state.

CATTLEMEN DISCUSS WAYS
OF STOPPING BREAD DISEASE
(Associated Press Leased Wire.)
SALT LAKE CITY, March 31.—
Ways and means of preventing the
spread of the foot and mouth dis-
ease which broke out in California
four weeks ago and which has re-
sulted in a rigid quarantine of the
state were discussed at a meeting of
livestock men of California, Arizona,
Oregon, Wyoming, Idaho, Colorado
and Utah here today.

DOUGLAS FUNDS IN GOOD SHAPE

Auditor of Treasurer's Books
Makes His Report to
Court Today.

HAS RECOMMENDATIONS

Says County Officials Are
Doing Their Best and That
All Offices Are Being
Well Conducted.

A report on the audit of the books
and records of the county treasurer
was filed today with the county court
by Charles H. Mason, auditor, who
handled the work under the super-
vision of G. Ed. Ross, formerly secre-
tary of the state highway commis-
sion. The work of making the annual
audit of the account of Douglas county
was started by Joe Wilson, Jr., of
Tillamook, who filed a report of a
"cash audit" of the various depart-
ments. On account of a difficulty in
typing in the audit of the treasurer's
books with that of the county clerk,
the audit of the treasurer's office was
turned over to Mr. Mason. In his re-
port today he states that all of the
county officials with whom he had
dealings were honest and were serv-
ing the county to the best of their
ability.

The length of time it took in mak-
ing the audit of the treasurer's ac-
counts was accredited to the fact
that an increase has been shown in
this department and also that a re-
cent change was made in the system
of keeping the accounts. The Bur-
roughs' book-keeping machine meth-
od is now being used and the auditor
states that as soon as the treasurer
becomes more acquainted with this
system, his work will be greatly sim-
plified, thus making future audits
easier.

The expert in going over the books
made a few suggestions which he be-
lieves will aid in making a more com-
plete record of the county's funds.
The recommendations follow:
1. When the treasurer issues a re-
ceipt, or any paper which has any
bearing on an account kept by both
his department and the county clerk's
that he immediately pass a duplicate
of such receipt or paper to the clerk's
department and that the entry be
made under the date stamped thereon
by the treasurer. This practice
would considerably facilitate the
work for future auditors.

2. That the treasurer resume his
practice of former years of submit-
ting to the clerk at the end of each
month a statement listing all receipts,
transfers, and disbursements made
during the month. If this is done,
and followed up in the clerk's office
by listing all outstanding warrants
and subtracting the totals of same
from the treasurer's statement, the
records of the two offices will be
kept in accord and perfect reconcil-
ment monthly.

3. The warrants turned back to the
clerk by the treasurer at the very
earliest time after close of month in
which paid should be entered up in
the exhibit book and carefully check-
ed against that record, stamping in
the book of the date of the last day
of the month in which they were re-
turned to the treasurer for payment.
4. It is of course exceedingly im-
portant that the offices of county
treasurer and county clerk work in
(Continued on page six.)

DECISION GIVEN IN BROCCOLI SUIT

Judge Hamilton Hands Down
Decision in Favor of
Defendants.

NO FRAUD IS SHOWN

Words "Umpqua" and "Broc-
coli" May Be Used by
Organizations Engaged
in Such Business.

A decision in favor of the defend-
ants in the case of The Umpqua Broc-
coli Exchange against the Um-Qua
Valley Broccoli Growers was handed
down today by Circuit Judge J. W.
Hamilton. The decision holds that
there was no attempt of fraud shown,
and that as the words over which the
issue arose are geographical and
generic, that their use by various
corporations is permissible. The opin-
ion of Judge Hamilton in the case is
as follows:

The prayer of the plaintiff's com-
plaint is for an order enjoining the
defendant from using the name Um-Qua
Valley Broccoli Growers, or any
name with a combination of the words
Um-Qua and Broccoli therein.

The basis of plaintiff's contention
is that it had filed its articles of in-
corporation adopting its corporate
name in September, 1921, and that de-
fendant is a corporation organized in
May, 1923; that plaintiff has expen-
ded large sums of money in adver-
tising Umpqua Broccoli as sold by the
plaintiff; that plaintiff has establish-
ed a profitable and growing business
in Umpqua Broccoli; that the combi-
nation of the words Umpqua and
broccoli in plaintiff's name is of great
value to plaintiff.

So far as the question of growing
and marketing broccoli in Douglas
county is material, the evidence
shows that the culture and prepara-
tion thereof for market engaged the
attention of our citizens as early as
1914. However, I take it that plaintiff
has been more active in carrying on
the work, and has engaged therein
more extensively than any others
since its incorporation.

Plaintiff seeks to enjoin defend-
ant from using any word in combina-
tion with the words "Umpqua" and
"broccoli". In other words, they shall
be excluded from any business name
that may be adopted by members of
defendant. These words "Umpqua"
and "broccoli" are geographical and
generic. The designation is indicative
of the place where the commodity is
produced and its name. There should
be some very substantial reason why
this privilege should not be granted to
those who engage in a business or
calling identified with a particular
locality.

A corporation cannot acquire the
right of the exclusive use of geo-
graphical words in its corporate
name, or words merely generic or de-
scriptive of a particular business or
class of goods.

The Elgin Dutter Company vs. The
Elgin Creamery Co. 155 Ill. p. 127.
2nd Fletcher's Cyclopaedia of Corpora-
tions p. 1665.
But it is claimed that there is such
similarity in the names as will lead
to confusion, and will result in en-
abling defendant to sell its products
as those of plaintiff. In fact, this is
the gist of plaintiff's cause. The
court interferes solely for the purpose
of protecting the owner of a business
from a fraudulent invasion of that
business by somebody else. There is
no claim in this case that actual
fraud has been committed by the de-
fendant. In similar cases in Oregon
the law as announced by the su-
preme court of Oregon is against the
contention of plaintiff.

Lichtenstein vs. Mellis Bros. 8 Or.
p. 464. The Dunway Publishing Co. vs.
Northwestern Printing Co. 11 Or. p.
322.

The courts must assume that the
public will use reasonable intelligence
and discrimination as to names of
corporations. And when we take in-
to consideration that these companies
are shippers into distant markets,
dealing it must be through their
agents, with those who finally sell to
the general public, it is difficult to
see how the plaintiff can be in any
substantial manner injured by defend-
ant using the name adopted by it.

Equity requires that it shall sat-
isfactorily appear that injury has re-
sulted or will result before the court
will be warranted in interfering by
injunction.

J. W. HAMILTON, Judge.
In his decision Judge Hamilton dis-
poses of the case as follows:
First—That it does not appear
from the evidence that the defend-
ant's name, to-wit: "Um-Qua Valley
Broccoli Growers" was adopted by
those who organized defendant with
the intent to defraud plaintiff through
or by means of the similarity of the

FLIGHT STARTS WEDNESDAY

(Associated Press Leased Wire.)
WASHINGTON, March 31.—
The start from Seattle of the
army's round the world flight
will be made at 6:30 a. m.,
Pacific time, Wednesday, Mar-
ch 31, by Frederick L. Martin, in
command of the army fliers,
telegraphed today to the air
service.

TEAPOT INQUIRY RESUMED TODAY

Daugherty Still on Grill
Despite Retirement to
Private Life.

ROOSEVELT UNDER FIRE

Resignation of Assistant Sec-
retary of the Navy De-
manded Because of
Oil Activities.

(Associated Press Leased Wire.)
WASHINGTON, March 31.—The
senate Daugherty investigating com-
mittee decided today to continue its
inquiry despite Mr. Daugherty's re-
tirement to private life.

At the same time committee mem-
bers announced they intended to
hold Gaston B. Means, former de-
partment of justice investigator, in
attendance under a senate subpoena,
in sympathy with the issuance today
of a bench warrant from the superi-
or court at New York ordering his
arrest on charges of conspiracy.

WASHINGTON, March 31.—A
resolution calling for the resigna-
tion of Theodore Roosevelt, because
of his connection with the oil leas-
ing program, was drawn up today
by Senator Dill of Washington, a
democratic member of the oil com-
mittee.

(Associated Press Leased Wire.)
WASHINGTON, March 31.—Harry
E. Sinclair, lessee of Teapot
Dome was indicted by a federal
grand jury here today on contempt
charges growing out of his refusal
to testify before the senate oil com-
mittee. The indictment was in ten
counts, each referring to a specific
question asked the oil operator
when he was last before the com-
mittee.

The grand jurors held that these
questions, all of which Sinclair re-
fused to answer, were "pertinent to
the matters and questions then un-
der inquiry before the said commit-
tee."

The action was the first grand
jury move to develop from the oil
inquiry and it is said eventually to
result in a supreme court ruling on
the broad question of the authority
of congress to summon and ques-
tion witnesses in investigations like
those now in progress. This authori-
ty Sinclair has questioned.

(Associated Press Leased Wire.)
WASHINGTON, March 31.—Faced
with a determined opposition
from the republican organization
and lacking united support among
the democrats, the resolution to in-
vestigate Secretary Mellon was laid
aside indefinitely today by the sen-
ate.

WASHINGTON, March 31.—Fail-
ure of subpoena servers to locate
William Boyce Thompson, former
chairman of the republican national
committee was reported to the
senate committee today.

Thompson was among the witness-
es listed to appear this week in re-
gard to stories of campaign contri-
butions by oil interests. His home
is in New York.

George White of Ohio, former
chairman of the democratic national
committee, who also is under sub-
poena, was granted a week's delay
on his plea of important business
engagements.

The subpoena for Fred Upham of
Chicago, treasurer of the republi-
can national committee may be can-
celled. Committee members are dis-
posed to accept his public statement.
(Continued on page three.)

SLUSH FUND IS HIRAM'S CHARGE

Says South Dakota Was
Flooded With Campaign
Money for Primary.

SEN. NORBECK SPEAKS

Manager for Johnson Declares
That Coolidge Campaign
Leaders Dispensed
Large Sums.

(Associated Press Leased Wire.)
CHICAGO, March 31.—Charges
that "there was much more evidence
of lavishness" in the Coolidge pri-
mary campaign in South Dakota
than was noted in the Wood and
Lowden campaigns in that state in
1920, when criticism of the expendi-
tures resulted in a senate inquiry in-
to campaign funds were made today
in a telegram from United States
Senator Norbeck, a leader in the
Johnson campaign.

The telegram also charged em-
ployment of federal workers in the
"elaborate headquarters of the
Coolidge managers."

Senator Norbeck pledged to the
Johnson candidacy, was elected as a
delegate at large to the national con-
vention in the national primary last
week. He was active in the cam-
paign for several weeks before the
balloting.

The telegram challenging the de-
nial of William M. Butler, national
director of the Coolidge forces, that
excessive amounts were expended in
South Dakota was dated at Redfield,
March 29. It read:

"The statement of the Coolidge
management as to their expenses in
South Dakota is untrue in many re-
spects.

"They spent about \$15,000 in ad-
vertising alone during only the last
week misrepresenting Hiram John-
son's record. During this period, the
Johnson committee spent only \$300
for advertising.

"Paid Coolidge organizers were
numerous in trains and hotels. Paid
workers were much in evidence on
the street corners of our villages
and towns.

"Checks were sent into the small-
est villages by the Coolidge organ-
izations with instructions to draw
for more if needed. A daily news-
paper was established in the state
capitol to champion the Coolidge
cause. There was a large number of
South Dakota men and women on
their payroll. They maintained elab-
orate headquarters under the direc-
tion of federal employees. Expens-
ive offices and organizations were
maintained in towns and cities.

"Criticism was frequently made of
the expenditures of the Wood-Low-
den campaign in 1920 and led to in-
vestigation by the United States sen-
ate; but there was much more evi-
dence of lavishness in the Coolidge
campaign. I believe the expenses
would average two dollars for every
vote they received. Indications are
that some of the larger counties were
financed from outside and not
from state headquarters. In addi-
tion outside corporations ran thou-
sands of lines of advertising in every
paper in the state, including even
the smallest weeklies, for three
weeks preceding the election, the
avowed purpose of which was to
break down the progressive forces,
but especially the candidacy of Gov-
ernor McMaster for the United
States senate.

"Evidently they resented his ef-
fort to bring down the high gasoline
prices.

"Among the Coolidge speakers
were members of congress, a mem-
ber of the cabinet and a former cab-
inet officer. Neither effort nor ex-
pense was spared by the Coolidge
managers but the farmers and work-
ing people saved the day. Not only
is the Johnson majority substantial
but the Johnson delegation of which
I am one, appears on partial returns
to be victorious by a much larger
majority."

Senator Johnson left last night for
a four day tour in Michigan. He
will address a noon meeting today
at Pontiac and tonight he will
speak at Flint.

DAUGHERTY GOES TO WASHINGTON TODAY

ATLANTIC CITY, N. J., March 31.—
Harry M. Daugherty expects to
leave today for Washington where
he says he has "quite a few things
to look after."
Last night he asserted that he was
still the "dependable friend and
supporter" of President Coolidge
and that he had not thought of with-
drawing as candidate for delegate at
large for the republican convention.

CORVALLIS MAN ON BOARDS OF AGENTS

SALEM, March 31.—Ed Wilson,
prominent democrat, has
been named to the board of regents of
the Oregon Agricultural College to
succeed Judge Crawford, of La
Grande, who died last week. Mr.
Wilson is an alumnus of the college
and appointed because he is a resi-
dent of Corvallis.

ELGAROSE MAN PASSES AWAY

August Bloomquist passed away at
his home in Elgarose last evening af-
ter a short illness. He was born in
Sweden in 1846, and was 78 years of
age at the time of his death. He has
been in the United States for the past
45 years and has been a resident of
Elgarose for two and a half years.
He leaves a son, E. O. Bloomquist of
this city, to mourn his death.
The funeral services will be held
Wednesday afternoon at 3 o'clock at
Elgarose and interment will take place
in the Elgarose cemetery.

BELIEVE KELLY WAS SEEN HERE

Man Suspected of Being Es-
caped Convict Rides Train
Into Roseburg.

ROADS PATROLLED

Officers Closed All Avenues
of Escape But Suspect
Succeeded in Eluding
Local Sleuths.

A man believed to be Ellsworth
Kelly, one of the escaped convicts
from the Oregon penitentiary, was
seen here yesterday, but eluded offi-
cers in spite of an all night search
which included all of the roads and
highways in this vicinity, and the in-
spection of every train leaving for the
south.

Yesterday afternoon Deputy Sheriff
Ed Singleton, who resides on Win-
chester street saw a man drop off a
freight train just pulling into the city.
The man started towards the river,
and the officer noticed that he was
about the size of Ellsworth Kelly and
started in pursuit. Before he could
reach the tracks, the man turned back
and went down Pine street to Oak.
He was dressed in a dark overcoat,
blue overalls and a cap. The deputy
sheriff was a considerable distance
away when the suspect reached Oak
street, and by the time the officer ar-
rived the man was not to be seen.
Sheriff Starmer was notified and a
search was started.

It later developed that the man
went to the Empire barn, where he
found an employee washing a car, and
asked if there were any cars going
"over the hump." This is a phrase
applicable only to the divide near
Grants Pass, and would be known
only to one who has resided in that
locality or is familiar with that par-
ticular territory, where Kelly resided
the greater part of his life. Officers
showed the garage man pictures of
the escaped convicts, and he immedi-
ately picked out the picture of
Kelly as the man to whom he had
been talking.

It is believed that the man went
immediately to the hills, or else
caught a car south.
His actions were peculiar in that
he dropped from sight so completely.
Usually a hobo, riding on a train, will
remain at least long enough to rest
for a short time and secure something
to eat, but this man apparently was
in a great hurry to get on south, and
was anxious to secure an automobile.
The phrase which is used is so strik-
ingly idiomatic, that it in itself would
result in suspicion. The Jones broth-
ers, when they robbed a stage in the
canyon were heard to say as they
completed the job that they would
"have to hurry to get over the hump
before daylight."

Sheriff Starmer immediately called
out a number of his deputies and a
careful watch was kept all night. The
Roberts mountain road, the highway,
and the railroad tracks were all pa-
trolled to close all avenues of escape,
but nothing was seen of the suspect.
All trains were carefully gone over to
see that no hobos were riding them
out, and everything possible was
done, including a search of the "junc-
les" and all hobo hangouts, to locate
the man, but in spite of these efforts
he was not seen again.
It is possible that he secured an
automobile ride during the short time
that the officers organized for the
search, or it may be that he took
cover in the hills and went south on
foot through the woods.

CONVICTS TRY TO ROB HOUSE

Posses Sent Out on "Hot
Trail" Picked Up Near
Stayton This Morning.

WEEKLEY IS CAPTURED

Makes Bold Attempt to Walk
Through Streets of Stay-
ton, But Is Spotted by
Guards.

(Associated Press Leased Wire.)
SALEM, March 31.—Acting upon
definite information of what Warden
Dairymple and others directing
the man hunt for the four of the six
convicts who broke from the state
prison consider a "hot trail," dis-
patched posses to Stayton hastily
this morning.

The information was received
from Stayton that someone had at-
tempted to enter a house on the out-
skirts of the town during the night.
Investigation by officers revealed
tracks made by shoes such as those
stolen from an Amesville store Fri-
day night, leading out of a patch of
brush to the house and back again.
As near as could be learned entry
was not gained to the house and
nothing was missing.

The officers are working on the
theory that the man who attempted
to enter the house was the partner
of Clive Weekly who had been hid-
ing in the same vicinity and who
was captured on the Stayton bridge
last evening, and figure that it is
Murray.

Thorough search is being made
today of the country in the vicinity
of Jefferson, where three men at-
tempted to steal an automobile and
later ate lunch in the loft of a barn
Saturday night and from which vic-
inity three men were reported seen
upon three different occasions yester-
day.

Investigation this morning failed
to authenticate a report here about
11 o'clock last night that three shots
had been heard by two prison guards
just north of Jefferson.

(Associated Press Leased Wire.)
SALEM, March 31.—This morn-
ing the warden and his assistants
were more confident than ever that
the men were all bound south but
had been prevented from crossing
the Santiam and Willamette rivers
by the heavy guard that has been
maintained.

They now figure that the four
convicts still at large, Ell-
sworth Kelly, Bert Jones, Joe Jackson
and Tom Murray, are "holding in" in
the heavy brush and waiting for the
officials to relax their vigilance be-
fore making their break to get out
of this part of the country.

"If they figure they are going to
wait us out, they have a long wait
ahead of them," said the warden to-
day.

(Associated Press Leased Wire.)
SALEM, March 31.—Clive M.
Weekly, one of the six convicts who
escaped from the state prison Fri-
day morning in one of the most daring
prison breaks in recent years here,
is again back inside the walls after
two days and a half of liberty.

Shortly after 7 o'clock last even-
ing the jaws of the trap that had
been baited and set for Weekly and
his pals snapped on him on the
bridge at Stayton, but only after he
had nearly slipped through its teeth.
Back in the penitentiary under
grilling by Warden Dairymple,
Weekly said that he was completely
lost when he stumbled upon the
town of Stayton from the north. Be-
fore he knew it, he said, he was
well inside the town and did not
dare turn back. He kept on going,
avoiding the main business streets
and finally arriving at the bridge.
He said he was hardly on the bridge
when two guards, James Dalt and
Harry Roe, approached him from
behind, but he kept on going at a
moderate pace, determined to bluff
his way through, if possible. The
guards stopped him, questioned him
briefly, and, according to Weekly's
story one of them said:

"Oh, he's all right. I know him."
The convict again walked lea-
suredly on, but his appearance aroused
the suspicions of guards in an automo-
bile that came up behind him and
passed him on the bridge. At the far
end of the bridge the car stopped,
Marshal Henry Smith of Stayton
jumped out and as Weekly came up
stopped him.

The stories of Weekly and John-
son, the convict captured Friday are
identical as to the distance and
(Continued on page three.)

DO YOU KNOW THAT
Roseburg building for 1923
was more than double that of
1920?