THE MORNING OREGONIAN, TUESDAY, DECEMBER 24, 1918. Company vs. Mitchell, 245 U. S. 229 and 254. "Obviously, the question of what is unfair competition in business must be determined with particular reference to the character and circumstances of the business. The question here is not so much the rights of either party as against the public, but their rights as between themselves. See Morrison vs. Moat, 9 Hare, 241 and 258. And ai-though we may and do assume that which caused the present world war, ne result of it must be apparent to very man of intelligence, and that is he plain citizen has come to realize PIRATING OF NEWS GEN. PERSHING SLEEPS the plain citizen has come to realize his power as never before, and conse-quently will assert his right as never before. In order to raise the money to pay the expenses we have incurred and are bound to incur the Govern-ment must reach out and put a heavy hand through its power of taxation upon every citizen in the land, and if it be presently discovered that the mand of the Government bears heavily and unjustly upon the masses and touches only lightly the rich—in pro-portion to their ability to pay—it will produce conditions of discontent and resentment not pleasant to contem-plate." IN CASTLE ON RHINE NFCI ARFN ILLEGA Store Open Store 'Open Only From Only From 9 A. M. to 9 A. M. to Moat, 9 Hare, 241 and 258. And al-though we may and do assume that neither party has any remaining prop-erty interest as against the public in uncopyrighted news matter after the moment of its first publication, it by no means follows that there is no re-maining property interest in it as be-tween themselves. For, to both of them allke, news matter, however little sus-ceptible to ownership or dominion in the absolute sense, is stock in trade, to be gathered at the cost of enter-prise, organization, skill, labor and money, and to be distributed and sold to those who will pay money for it, as for any other merchandise. 6 P. M. Associated Press Is Victor in 6 P. M. American Commander Guest U. S. Supreme Court. of Major-General Hines. plate. plate." Declaring that the country's expen-ditures would be \$10,000,000,000 to \$12,000,000,000 for the next five years, Senator La Follette said, with the present bill in operation, this would necessitate \$25,000,000,000 cr \$30,000, 000,000 additional in bonds. This, he said, would be "truly an appalling situ-ation." PLAINTIFF'S RIGHT UPHELD BRIDGEHEAD POINTS NOTED) ID A Y Injunctions Barring International Newspaper Men Are Entertained on for any other merchandise. "Regarding the news, therefore, as but the material out of which both par-ties are seeking to make profits at the same time and in the same field, we hardly can fail to recognize that for this purpose and as between them, it News Service From Pirate Board Private Train of General, Methods Allowed to Stand. Who Then Crosses River. COLOGNE PAPER GRIEVES must be regarded as quasi property, ir-respective of the rights of either as against the public. (Continued From First Page.) WITH THE ARMY OF OCCUPATION strong enough here to need a remedy from the law." Dec. 22 .- (By the Associated Press.)-EVERYTHING LOST, EVEN HON-"In order to sustain the jurisdiction General John J. Pershing, Commander-This Store Has Prepared Its of equity over the controversy, we need not affirm any general, and absolute property in the news as such. The rule that a court of equity concerns it-self only in the protection of property rights, treats any civel right of a pecu-plary nature as a property right and Justice Clark Stays Out. in-Chief of the American forces, slept OR, SAYS JOURNAL. n a castle on the east bank of the With Chief Justice White, Associate Rhine Saturday night as the guest of Justices Day, Vandeventer and McRey-Stocks and Displays, Its Sell-Surrender of Submarine to Britain Major-General Hines, corps commander, with headquarters at Neuwied. nolds joined in the majority opinion delivered by Associate Justice Pitney It was announced that Associate Jusrights, treats any civel right of a pecu-niary nature as a property right, and the right to acquire property by honest labor or the conduct of a lawful busi-ness is as much entitled to protection as the right to guard property already acquired. It is this right that furnishes the basis of the jurisdiction in the or-dinary case of unfair competition. "The question whether one has gath-tred general information or news at pains and expense for the purpose of by Paid German Crew Is General Pershing crossed the Rhine an automobile at 10:35 o'clock Sating Space, Its Service Conven-Held Last Straw. tice Clark, a new:paj -- owner since long before he went on the bench, had in an automotive at 10.35 octobe Sat-urday night over a pontoen bridge at Coblenz, after having entertained the newspaper correspondents at dinner in his private train. This morning he was joined at Neuwied by Major-General Dickman, and, with Major-Generals Dickman and Hines, visited the three division headquarters within the The court not only sustained the con-tentions of the complainant, but found nothing in the proceedings to prove the International News Service charge that the Associated Frens entered the case with "unclean hands" through having LONDON, Dec. 23 .- (British Wireless Service.)—Commenting on the handing over to the British of the German sub-narine U-9 by the German crew, who leized this opportunity to earn 500 iences-And Its Prices to Meet marine seized this opportunity to earn 500 marks per man paid by Germany as compensation for taking the boats to England, the Cologne Volks Zeitung All Demands. division beadquarters within the bridgehead and other points of interest on the eastern side of the Rhine. Returning to Coblenz, he left by spepains and expease for the purpose of subsequent publication through the press has such an interest in its pub-lication as may be protected from in-terference, has been raised many times, although never, perhaps, in the precise form in which it is now presented. been guilty of the same practices ad-mitted by the difendant. Reviewing the great task of gathering and dis-tributing news- the cost to the Asso-Returning to Coblenz, he left by spe-clal train Sunday night for Chaumont, going by way of Treves, Luxemburg and Verdun. On Verdun. The function of the second dispersion of the summit of a great bluff rising above the Moselle and Cochem and colorna, at Mayen, and other points of corps, at Mayen, and other points of the secund dispersion of the secund dispersion of the secund armises after the train arrived at Coblenz the wirres of the secund target of the secund target of the secund arrived at Coblenz the wirres of the secund target of target of the secund target of the secund target siated Press amounting to approximately \$3,500,000 annually, assessed against its members and becoming a part of Picacy Termed Illegal. their cost of operation—the opinion discusses the argument of the defendant for a right to sell to its clients or cus-tomers news taken from bulletin boards "In National Tel. News Company, vs. Western Union Telegraph Company, 119 Fed. Rep. 294, the Circuit Court of Ap-peals for the Seventh Circuit dealt with news matter gathered and transmitted **Come Here First!** or early-edition newspapers, and says: "The right of the purchaser of a sin-gle newspaper to spread knowledge of by a telegraph company and consisting merely of a notation of current events

its contents gratuitously, for any legit-imate purpose not unreasonably intermerely of a notation of current events having but a transient value due to quick transmission and distribution, and while deciacing that this was not copyrightable, although printed on a tape by tickers in the offices of the re-clipients and that it was a commercial, not a literary product, nevertheless held that the business of gathering and communicating the news-the service of purveying it—was a legitimate busi-ness, meeting a distinctive commercial want and adding to the facilities of the business world, and partaking of the nature of a property in a sense that en-titled it to the protection of a court of equity against piracy." **Firacy Held Unobjectionable.** mate purpose not unreasonary meter fering with complainant's right to make merchandise of it, may be admitted, but to transmit that news for commer-cial use in competition with complain-ant—which is what defendant has done and seeks to justify-is a very different matter

Theft Declared Unfair.

"Stripped of all disguises, the process amounts to an unauthorized interfer-ence to the normal operation of com-plainant's legitimate business, preciseence to the normal operation of com-plainant's legitimate business, precise-iy at the point where the profit is to be reaped, in order to divert a material portion of the profit from those who have earned it to those who have not; with special advantage to defendant in the competition because of the fact that it is not burdened with any part of the expense of gathering the news. The transaction speaks for itself and a court of equity ought not to hesitate long in characterizing it as unfair com-petition in business." "In regard to objections that the Dis-trict Court failed to be specific in de-fining when the commercial value of the form adopted by the District Court, it declined to modify it at this stage, leaving the lower court to deal with

said while not expressing approval of the form adopted by the District Court, it declined to modify it at this stage, leaving the lower court to deal with

tions.

mont and Paris over the Signal Corps. wires regarding Army affairs. From Treves to Coblenz and on the return trip the train consisted of French-built cars, drawn by a Ger-man locomotive. The train was in charge of a German crew.

the Rhine" Now.

the form adopted by the District Court, it declined to modify it at this stage, leaving the lower court to deal with "The Associated Press brought pro-codings in this case last January, charging that after being expelled from England. Canada and France, the In-ternational News Service had been pli-ternational News Service had been pli-news gathered by the Associated Press. The Associated Press, the Ja-fering and selling to its customers the frederal District Court of New York granted injunctions against the bribery of employes and the inducing of Asso-clated Press papers to furnish news, but refused to restrain the admitted practice amounted to unfair trade, this pression and historia historia thistoria pressio

bestow upon the vanguished, as one is accustomed to leave his sword to the brave commander of a conquered fort-ress. Revolutionaries in German naval uniform prefer, we are told, 500 marks. These dishonorable men venture again to tread German soil with their wages of sin

arrived at Coblens the wires of the telephone and telegraph instruments on board were connected with the Signal of sin. "Can it really be true? Many a tear would flow in the German fatherland. So, everything is lost, including honor. Corps wires. During the afternoon aides and other officers of the com-mander's personnel talked with Chau-

We could not then sink lower in the estimation of the world-it is impos-sible."

SOVIET SENDS DELEGATES M. Radek'Heads Moscow Represen-

tatives to Berlin.

COPENHAGEN, Dec. 23.-The Berlin correspondent of the Social Demo-kraten reports the arrival in Berlin of a delegation from the soviet government at Moscow, headed by M. Radek

Berlin advices, dated December 11 stated that the executive committee of the soldiers' and workmen's council had canceled the invitation it has ex-tended to Adolph Joffe, the Bolshevik Ambassador to Germany, and M. Ra-dek, a member of the Bolshevik em-bassy in Berlin to come to Barlin for

bassy in Berlin, to come to Berlin for the congress of the councils. The can-cellation was at the request of the Berlin cabinet.

INSANITY PERRY DEFENSE

-And in many parts of the store -Come to this store today, no matter how long your gift list, and Christmas merchandising precedents from the best stocks of Christmas have been forgotten in order to reach merchandise we have ever had here great banner gains, so that prices on choose quickly, easily. Over forty . practical merchandise of the "essendepartments stocked with assorttial" kind have been very materially ments that are still inclusive will lowered. In short, shop where you see that you get what you needwill in this store, you'll find something you want for less.

-Although our Toy

Shop is the newest in

town, we are told that

it is the only one that

still has ample stocks.

-Walk through all parts of the store; it never looked so attractive, and the hints to be noted are worth the trip.

Mill Swept Away and

Houses Toppled Over.

SEATTLE, Dec 23 .-- Reports received

and promptly.

-The Rest Rooms for busy shoppers are on the Second Floor. Additional resting rooms are to be found on the Mezzanine Floor.

-Walking to the Second Floor and taking an elevator from there takes you "up" much quicker. Try it!*

-Our Sweet Shop affords the most delectable sweets, made fresh daily.



LONDON, Dec. 10 .- (Correspondence

legal question was one of first im-pression and injunction should await the outcome of an appeal. Both partles appealed and the Cir-cuit Court of Appeals not only sus-tained the injunction order issued, but remanded the case with directions to "issue an injunction also against any bedily taking of words or substance "insue an injunction also against any bodily taking of words or substance of complainant's news until its com-mercial value as news has passed away," One More Avenue Left. The injunctions as granted technical-by are temporary, but they remain in

Iy are temporary, but they remain in effect unless and until dissolved. If the International News Service desires facts. It would require the making of to proceed further it may go into the District Court with a motion to dis-solve and ask that the case be heard on its merits. As virtually all essenon its merits. As virtually all essen-tial facts were admitted in the pre-liminary proceedings there should be little for the court to hear if further proceedings were undertaken. Printed copies of the majority opin-ion and that of Justices Holmes and

McKenna were made public soon after they were delivered. Justice Brandels delivered a verbal abstract of his opinion from the bench, but through a misunderstanding with the printer. he was unable to give out the text. The majority opinion reads in part The maje as follows:

as follows: "We need spend no time, however, upon the general question of promerty in news matter at common law, or the application of the copyright act, since it seems to us the case must turn upon the question of unfair competition in business. And, in our opinion, this does not depend upon any general right of business. And, in our opinion, this does not depend upon any general right of property analogous to the common law right of the proprietor of an unpub-lished work to prevent its publication without his consent: nor is it forelished work to prevent its publication without his consent: nor is it fore-closed by showing that the benefits of the copyright act have been waived.

Freshness Gives News Value.

"We are dealing here not with re-strictions upon publication, but with the very facilities and processes of pub-lication. The particular value of news is in the spreading of it while it is fresh; and it is evident that a valuable property interest in the news, as news, cannot be maintained by keeping it eccret. Besides, except for matters im-properly disclosed, or published in preach of trust or confidence, or in vioproperly lation of law, none of which is involved in this branch of the case, the news of current events may be regarded as common property. What we are con-cerned with is the business of making it known to the world, in which both parties to the present suit are engaged, "That business consists in maintain-

"That business consists in maintaine-ins a prompt, sure, steady and reliable tervice designed to place the daily events of the world at the breakfast table of the millions at a price that, while of trifling moment to each reader, is sufficient in the aggregate to afford compensation for the cost of sathering compensation for the cost of gathering and distributing it, with the added profit so necessary as an incentive to effective action in the commercial world. The service thus performed for newspaper readers is not only inno-cent, but extremely useful in itself, and indubitably constitutes a legitimate

indubitably constitutes a legitimate business. The parties are competitors in this field; and, on fundamental prin-ciples Spplicable here as claswhere, when the rights or privileges of the one are liable to conflict with those of the other, each party is under a duty so to conduct its own business as not unnecessarily or unfairity to injure that of the other. Hitchman Coal & Coko

AERIAL PLAN IS SUBJECT

Allies and United States to Confer

on Future Navigation. PARIS, Dec. 23 .- (Havas.) -- Repre-

sentatives of several alled powers and the United States will hold a confer-ence in Paris early in t e New Year

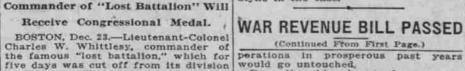
ence in Paris early in t e New Year to consider the future of international aerial navigation, the Echo de Paris announces. Great Britain, Italy, Bel-gium, France and the United States will be represented at the conference, which will study the questions of how to prevent airplanes of different na-tionalities from crossing customs bar-riers and how to prevent postal or com-mercial airplanes from being transtends would effect an important ex-tension of property rights and a corresponding curtaliment of the free use of knowledge and ideas; and the facts of this case admonish us of the danger involved in recognizing such a property right in news without imposing upon mercial airplanes from being trans-formed into hombing machines within a few minutes. The result of the denews gatherers corresponding obliga-"Courts are ill equipped to make the

liberations of the conference, the paper adds, will have to be accepted by Ger-many and her former ailles in the peace investigations which should precede a determination of the limitations which should be set upon any property right in news, or of the circumstances under treaty.

CASE GOES TO MR. GREGORY Action Regarding Packers Up to Department of Justice.

CHICAGO. Dec. 21.-The report of the Federal Trade Commission on the meat-packing industry has been turned over to the Department of Justice for its consideration and such action as it may deem proper, it was announced by remedy appears to be clear." Justice Brandeis declared "a general publication is effective to dedicate lit-United States District Attorney Clyne erary property to the public, regardless of the actual intent of its owner."

here today. Charles B. Morrison, a Chicago lawyer, has been appointed a special as-sistant to the Attorney-General to co-operate with Ollver E. Pagin, attorney for the Department of Justice and Mr. OFFICER TO BE DECORATED Clyne in the case.



Regarding his plan to increase in-come taxes on the wealthy, Senator La Follette said: "Whatever may have been the forces



Licutenant Enters Plea of Not Guilty to Murder Charge.

SAN DIEGO, Cal., Dec. 23 .--- Lieutenant

Haiver E. Perry was arraigned before a military courtmartial today on a charge of murdering his superior of-DAM BREAK CAUSES HAVOC

charge of murdering his superior of-ficer, Captain Abram Posner, near Bo-nita on the night of December 2, last. Captain E. J. Kelley, counsel for Perry, after entering a plea of not guilty on his behalf by his client, stated that the question of Perry's san-ity would be reised. Bedradies General Shingle

ity would be raised. Brigadier-General W. D. Short, president of the court, then announced that a medical board

to Aid Soldlers.

today

SEATTLE, Dec 33. Reports read here from North Bend, Wash., said a hingle mill was swept away, several houses were toppled over and a por-lon of the Chicago, Milwaukee & St. would be appointed to examine Perry. Paul Railroad washed out when a mill-dam near Edgewick, Wash., gave way

PUBLIC PROJECTS FAVORED arly today. The dam broke, it was said, as the California Council of Defense Asked

result of pressure of water caused by leakage from the city of Seattle's Cedar River dam, located above North Bend.

SAN FRANCISCO, Dec. 23-A plea that it use its efforts to secure a quick opening up of proposed public construc-tion projects in order that discharged EXPORTS BAN IS RELAXED Foodstuffs, Fodders and Feed May oldiers and war industry workers may

be given work as soon as possible, was received by the State Council of De-Be Sent to Other Lands.

WASHINGTON, Dec. 23 .- Sweeping relaxation of restrictions on the exfense from Secretary of War Baker.



The Multnomah Hotel

Will Be a Feast of Good Things to Eat, Good Music and Delightful Dancing

\$1.50 Per Plate. Reservations Taken. Service From 5:30 to 8 P.M.

Supper From 9:30 to 12. Dancing.



treeplenty of them

-All those twinkly, winky things that make your tree the joyous thing it is. Strings of shining balls, yards and yards of tinsel and cunning little ornaments.

-Colored glass beads and the tiniest of tiny Santa Clauses. Such a fascinating array of Christmas tree pretties!

-Yesterday people told us this is the only store that still has good supplies, but, of course, they will not last throughout the day.

And Plenty of Wheel Goods, too

-These, too, we are told, are here only! There are automobiles, coaster wagons, velocipedes, hand cars, kiddie cars and all the things on wheels that active kiddies are hoping Santa will bring them.



-Placed for your convenience on the Basement Floor.



Charles W. Whittlesy, commander of the famous "lost battalion," which for five days was cut off from its division in France, will be publicly decorated tomorrow with a Congressional medal of

honor for conspicuous gallantry and intrepidity in action with the Germans northeast of Binarville, in the Forest du Argonne, France, October 2 to 7,

1918.

Receive Congressional Medal.

Bolshevik Staff in Berlin. AMSTERDAM, Dec. 23.—While Adolph Joffe, the Russian Bolshevik ambassador to Germany, has not re-turned to Berlin, after leaving some time ago by request of the govern-ment, the staff of the embassy is again in the German capital, according to a Berlin telegram today.

Canadian Corn Exports Free.