

LEGAL FIGHT MADE FOR STERILIZATION

Decision Against Oregon Law to Be Appealed.

22 CASES ARE NOW PENDING

Immediate Steps Ordered by Health Board.

ACT'S EFFECTS PRAISED

All Operations to Be Held Up Pending Action Being Taken by Supreme Court.

With the machinery of the state sterilization law stopped by reason of a decision of Percy R. Kelly and George G. Bingham, judges of the state circuit bench of Marion county, declaring it unconstitutional, members of the Oregon board of health have ordered that an immediate appeal be taken to the supreme court. They said they considered the statute of such importance that they are seeking facilitation of the case in the end that an early interpretation may be handed down. There are 22 cases held up for action.

Objection upon the part of Jacob Ching, aged 66 years, sent to the penitentiary from Douglas county for a crime against a small girl, brought about the decision by judges Bingham and Kelly, who held that the Oregon statute, enacted by the legislature of 1915, is defective in that it seeks to deprive persons of life, liberty or property without due process of law, in violation of section 10 of the 14th amendment of the constitution of the United States.

"Life" is construed. The judges in this case declined to find the law unconstitutional, as was the 1917 statute, because it defined "certain persons," such as feebleminded or criminal degenerates. In their decision judges Kelly and Bingham said:

"Judge Field has construed the term 'life' as here used, saying that it means something more than mere animal existence. This inhibition against its deprivation, 'life' extends to all those limbs and faculties by which life is enjoyed. The deprivation, not only of life, but of whatever God has given to every one with life, for its growth and enjoyment, is prohibited by the provision in question.

"Following this construction of the term thus employed in the constitutional provision mentioned, clearly the operation proposed herein would constitute deprivation of life."

Strict Procedure Favored. "Judge Cooley, that: Due process of law in such particular case means such an exercise of the powers of government as the settled maxims of law permit and sanction and under such safeguards for the protection of individual rights as those maxims prescribe for the class of cases to which the one in question belongs."

"Unquestionably this case belongs to the class requiring strict rules of procedure, for it is in the class providing the direst consequences, namely deprivation of life. In such cases the settled maxim of law requires the application of the rule of evidence demanding in every stage of the proceeding proof beyond a reasonable doubt. The statute in question, however, beyond declaring that it is in no manner a punitive measure, is silent as to the rules of evidence applicable thereto. It is true that there is a provision to the effect that after appeal the trial shall be a trial de novo at law, as provided by the statutes of the state for the trial of actions at law; but it nowhere indicates whether it shall be tried as a criminal action or as a civil action. Besides, the rules of evidence, the method of joining the issues, the manner of forming the jury, the number of peremptory challenges, the grounds for challenges for cause, the number of concurring jurors necessary to warrant the return of a verdict are all uncertain and unspecified.

No Plaintiff Provision Made. "There is no provision for complaint, information or indictment, motion, demurrer, answer or plea, and none expressly imposing the affirmative of the issue upon either party."

"The provision that an informal notice of appeal, filed with the secretary of the said board, either by the person or some one in his behalf, shall be all that is necessary to make the appeal, impress us as an indication that the matter should be treated informally and without the safeguards demanded by the importance of the issue to be determined."

"Moreover, the statute does not state which court shall entertain an appeal. It merely states that 'any such person may take an appeal to the circuit court.' There are many circuit courts in the state. No method is provided by statute for determining which one is the appellate tribunal in these cases.

Appeal Right Discussed. "We realize that, if an appeal, after due notice, before an impartial tribunal, having competent jurisdiction is provided, even by way of appeal only, the constitutional guarantee is preserved, and that an appeal from

BURCH JURY STILL UNABLE TO AGREE

DELIBERATIONS IN MURDER CASE TO CONTINUE.

Judge Appears to Take Poll, Additional Instructions Are Given and Jurors Retire.

LOS ANGELES, Cal., Jan. 15.—The jury in the case of Arthur C. Burch, charged with the murder of J. Helton Kennedy, was locked up for the third night at 11:30 P. M. after it had been deliberating for 54 hours.

No attempt was made by the jury throughout the day to communicate with the court, but it appeared before Judge Reeve twice during the evening before it retired for the night.

Judge Reeve at 8:40 ordered the jury brought to the court. He asked how they stood. The foreman said "ten to two," without indicating whether the majority favored conviction or acquittal.

The judge then asked individual members of the jury whether they thought there was a chance of reaching an agreement. A number said there was "but it would take considerable time."

One woman replied that she thought "there was no chance whatever."

The judge then ordered the jury locked up for the night. He asked the foreman to order the jury retired again to the room adjoining the court where it had the privilege of remaining until 10 o'clock.

After issuing instructions as to locking up the jury, the judge left the courtroom. A short time later the jury called for further instructions.

Judge Reeve returned to the courtroom and later summoned the jury. The woman juror who previously had told the judge she thought "there was no chance whatever" of an agreement, asked him to define the term "preponderance of evidence," which he had used in his instructions in connection with Burch's insanity plea.

The judge explained that "preponderance of evidence" in connection with the insanity plea meant "evidence of the greatest credibility" and added the jury must consider all of the evidence in the case in determining the matter of insanity.

The jury retired to its room again and shortly afterward was locked up for the night.

OWN BLAST KILLS HUNTER

Richard Rasmussen of Raymond Accidentally Shoots Self.

SOUTH BEND, Wash., Jan. 15.—(Special.)—Richard Rasmussen of Raymond, remarked yesterday that today would be the last day he would go hunting. This morning he blew a hole in his stomach with a shotgun while hunting ducks on "Tall Boat slough," across the river from South Bend. Rasmussen, also of Raymond, was with Mr. Rasmussen. He did not see the accident. He heard a shot and a cry and found Mr. Rasmussen lying in a hole fatally wounded. Mr. Urveh got help in South Bend but Mr. Rasmussen was dead when reached.

Mr. Rasmussen was a blacksmith in Raymond. He is survived by his widow and three children.

EDUCATIONAL BUREAU HIT

Nicholas Murray Butler Scores Plan to Establish National Body.

NEW YORK, Jan. 15.—The plan to establish a national bureau of education is characterized by Nicholas Murray Butler, president of Columbia university, in his annual report today as a proposal to "bureaucratize and bring into uniformity the educational system of the United States while making the most solemn assurance that nothing of the kind is intended."

He urged the continuance of "the free and natural system of education that has grown up among us."

VOLCANO AGAIN ERUPTS

Popocatepetl Throws Out Huge Quantity of Ashes.

SAN ANTONIO, Tex., Jan. 15.—Popocatepetl volcano which has again awakened is throwing out an enormous quantity of ashes that are blown far from the mountain, said a dispatch received yesterday by La Prensa, a Spanish language newspaper here.

Snow, which always covers the summit of the volcano, has melted.

HAIRCUT AGAIN 35 CENTS

Shave Costing 15 Cents Restored by Salem Shops.

SALLEM, Or., Jan. 15.—(Special.)—The 35-cent haircut and 15-cent shave have returned to Salem after an absence dating back several years. One local shop yesterday hung out a sign proclaiming the reduction.

A barbers' war now is in progress at Woodburn, which is reported to have brought about a reduction of haircuts from 50 to 25 cents and shaves from 25 to 15 cents.

POINCARÉ OBTAINS FULL NEW CABINET

Make-Up Is Accepted by President Millerand

SUCCESS IS NOTABLE ONE

Crisis Facing Nation Is Limited to Three Days.

ONE AIM IS DEFEATED

New Premier Fails to Organize With Wide National Union of 1914 and 1915 as Basis.

PARIS, Jan. 15.—(By the Associated Press.)—Raymond Poincaré, who succeeds Aristide Briand as premier of France, completed his ministry today and presented their names to President Millerand.

The president accepted the designations.

The cabinet follows: Premier and minister of foreign affairs—Raymond Poincaré. Vice-premier, minister of justice and for Alsace-Lorraine—Louis Barthou.

Minister of war and pensions—André Maginot. Minister of public works—M. Le Troquer.

Minister of agriculture—Henry Chéron. Minister of colonies—Albert Sarraut. (M. Maginot will take up the duties of this office, until M. Sarraut, who is in Washington, is heard from).

Minister of commerce—Lucien Dior. Minister of liberated regions—M. Reibel. Minister of labor—M. Peyronnet. Minister of health—M. Strauss.

The following under-secretaries of state also are announced: Attached to the premier—M. Colrat. Merchant marine—M. Rio. Posts and telegrams—M. Laffont. Technical education—M. Vigal. Aeronautics—M. Eznac.

Success Is Notable. The new premier achieved a notable success in limiting the crisis to three days, but failed to accomplish the desire with which he is credited of forming a cabinet of wide national union on the lines of the cabinets formed in 1914 and 1915 while he was president.

Not that he could be expected to include socialists, for their press was seized on his return to power to revive charges that he personally was responsible for the war.

His partial failure, as explained by the Petit Parisien, may be attributed in part to the fact that the situation, (Continued on Page 2, Column 2.)

RUNAWAY AIRPLANE KILLS 1, HURTS MANY

MACHINE FALLS INTO CROWD OF RIVER SKATERS.

Woman Dies in Propeller Blades and Brother, Attempting Rescue, Loses Arm.

REDBANK, N. J., Jan. 15.—A run-

away airplane, starting from the ice, crashed into a crowd of several hundred skaters on the Shrewsbury river today, killed Mrs. Anna C. E. Hounihan, severed the right arm of her brother, Lawrence Conley, and slightly injured many others.

Thousands of persons, gathered along the river bank to witness ice boat and skating races, saw the accident.

The airplane, piloted by James Casey, formerly army aviator, maneuvered over the heads of the skaters for several hours, then descended. The crowd gathered around the machine and river men, fearing that the ice would give way, suggested that Casey leave.

He assented, turned the propeller and jumped for the cockpit. The machine swerved and started toward the crowd. Mrs. Hounihan, with her husband, brother and two children, stood in its path. Conley attempted to drag her to safety, but both were caught in the propeller blades.

Mrs. Hounihan was killed. Her husband, brother and two children were injured.

The Shinyo Maru was one day out of Honolulu when Captain Maki noticed the ice. He stood on the bridge at the time. It was about 11 o'clock in the morning of a gray, sultry day and a haze lay over the sea.

A quarter of a mile to port his rooming galley took in a gray mass lying low in the sea and moving swiftly. At first glance he imagined it to be a whale, then he noticed it was not and he turned his glasses upon it and studied the mass for at least 15 minutes. A visible portion of the mass projecting above the water he estimated to be 100 feet long. He calculated its depth below the surface as 50 or 60 feet.

Charles L. Dotson of the New York Herald, who attended the press congress at Honolulu and who, after a trip to the orient, was returning to the United States, also observed the iceberg.

"It was unquestionably an iceberg," he said.

Trying to explain the presence of a berg in tropical waters, those who observed it turned to a world map and hastened the guess that the berg originated in the Bering sea, was caught in the north Pacific current after rounding the Aleutian islands and southern Alaska and, passing rapidly south, continued on across the tropic of cancer and turned west in the north equatorial current to a point where it crossed the path of the Shinyo Maru, whose last port of call had been Yokohama.

NEWSBOY PAYS ALIMONY

\$600 Month Fixed by Court as Sum to Go to Wife.

CHICAGO, Jan. 15.—Tony May, who told Judge Friend he was a newsboy, yesterday was ordered to pay \$600 a month to his wife as alimony.

Questioning by the judge brought out that while Tony formerly sold papers on the street, he now owned a string of news stands, quite a bit of real estate and interests in several business enterprises.

ICEBERG DISCOVERED DRIFTING IN TROPICS

STEAMER CAPTAIN LOATH TO BELIEVE EYES AT FIRST.

Craft Only One Day Out of Honolulu When Floe Is Sighted.

SAN FRANCISCO, Cal., Jan. 15.—

(Special.)—A strange happening in the Pacific, an iceberg moving westward in tropical waters of the north equatorial current near the Hawaiian islands, passed before the unbelieving eyes of Captain Yadi Maki, commander of the Japanese steamship Shinyo Maru on the morning of January 7, the commander reluctantly admitted when the steamer docked in San Francisco today.

Commander Maki was loath to talk about it, because the occurrence impressed him so strangely that, it appeared, he believed others might treat with derision what careful observation had convinced him was a fact. The iceberg, which must have traveled many thousands of miles from the ice floes of the far north, was the first one, navigators said, to be reported in southern waters.

For a long time after he had studied the berg, Captain Maki pored over the maps and charts and many texts of numerous scientists who have studied the Pacific and recorded their findings. Finally he gave up. "I am convinced it was an iceberg," he said, "but I cannot account for its presence off Hawaii."

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W. C. T. U. Wants Stars in Windows

of Houses Banning Liquor.

CHICAGO, Jan. 15.—The Women's Christian Temperance Union tomorrow, the second anniversary of prohibition, will launch a "star in the window" campaign.

Star flags, similar to the service flags of the war, will be put up in every home where no liquor is consumed. If the campaign is successful,

FRANCE IN DANGER OF ESTRANGEMENT

American Support Now Hangs in Balance.

NEXT FEW DAYS TO DECIDE

Withdrawal of U. S. Troops From Rhine Possible.

BRITISH BREACH FACED

Nation as Result May Find Her Position on Germany One of Extreme Difficulty.

BY ROBERT T. SMALL. (Copyright, 1922, by The Oregonian.)

WASHINGTON, D. C., Jan. 15.—(Special.)—Events of the next few days in France will determine the policy of the Washington government as to the further maintenance of American troops on the Rhine.

If the change of governments at Paris means that France is "cutting loose" from the restraining influence of Great Britain in European affairs; if it means that France proposes to play a "one hand" against Germany—an attempt to force that country to continue full reparations payments, regardless of economic conditions, then the United States unquestionably will not lend further moral support to France by keeping a force on the Rhine.

There is a strong likelihood that Great Britain may withdraw her troops of occupation as well as the Rhineland one of extreme difficulty.

Many Troops Sent Home. The American government has been sending hundreds of its troops home from the Rhineland, but it has been the determination of this government to keep at least a skeleton force in Germany as a symbol of solidarity among the allies and associates in the war and as an indication of the feeling in this country that Germany should pay for the damages of the war as far as she is able to do so.

If the new French policy will be one of ruthlessness toward Germany and of obstruction to the reconstruction of Europe—in other words, if France is to bring about her own isolation and act independently of her allies, then the United States will be obliged to show its disapproval of this course by terminating American participation in the Rhineland occupation and the last hope of bringing America into the reparations commission will have vanished.

Long Occupation Considered. One of the important factors in a probable early determination by Washington to withdraw entirely from the Rhine is the claim by representatives of the new order in France that the treaty of Versailles gives to France the privilege of maintaining her troops on the Rhine far beyond the 15-year limit actually specified in the text of the pact.

It is contended that the treaty provides that the Rhineland shall be occupied for 15 years and that the troops shall then be withdrawn "provided Germany has fulfilled all her obligations under the treaty."

That section of French public opinion which believes in using the iron hand on Germany while she is down calls attention to the fact that the original reparations payments assessed against Germany cover a period of more than 30 years and that this means the troops must remain on the Rhine for at least that length of time, otherwise, it is argued, Germany might default.

Treaty to Aid France Signed. It will be recalled that the French delegations at Versailles stood out almost to the very end of the negotiations for pushing the German frontier permanently back to the Rhine so that France might have the natural barrier of the river for her further protection from German aggression. This demand of France was given up only when President Wilson and Lloyd George agreed to and signed the three-power treaty under which the United States and Great Britain pledged themselves to go immediately to the defense of France in the event of an unprovoked attack by Germany.

This treaty of defensive co-operation failed of ratification both in London and in Washington. Therefore, the section of French opinion which seems once there to be in the saddle, contends that France must revert to her original claim and must occupy the left bank of the Rhine for an unlimited years to come under the technical terms of the treaty which gives France herself the right to say when Germany has fulfilled all the obligations of the treaty signed at Versailles.

Unfortunate Situation Possible. To the Washington government, it is incomprehensible that France can reach a deliberate decision to cut itself off from Great Britain and through strong-headedness attempt to deal with Germany alone. Such a course unquestionably would throw British influence on the side of Germany and France would be left in an unfortunate situation.

In an attempt to bring even an ap-

200-BILLION DOLLARS HANDLED SINCE 1917

U. S. FINANCIAL OPERATIONS ARE REVIEWED.

Disbursements, Exclusive of Principal Debt, Reach Total of \$45,785,000,000.

WASHINGTON, D. C., Jan. 15.—

Government financial operations since the country's entrance into the war involved more than \$200,000,000,000, according to figures compiled today by the treasury on the basis of daily statements from April 6, 1917, to December 31, 1921.

The stupendous sum consisted of \$2,000,000,000 of ordinary and public debt, both ordinary and public debt, reached total of \$45,785,000,000.

Disbursements, exclusive of principal debt, reached total of \$45,785,000,000. Disbursements, exclusive of public debt, aggregated \$45,785,000,000, while public debt disbursements totaled \$2,000,000,000.

Disbursements, exclusive of public debt, aggregated \$45,785,000,000, while public debt disbursements totaled \$2,000,000,000.

For the war period the excess of disbursements, exclusive of principal of the public debt, over receipts of the same class was \$24,000,000,000. Over the same period the gross debt increased by \$22,000,000,000 from \$1,000,000,000 on April 6, 1917, to \$23,000,000,000 last December 31. Exclusive of foreign loans of \$9,497,000,000, ordinary disbursements of the government from April 16, 1917, to the end of 1921 aggregated \$46,187,000,000, these expenditures amounted to \$330,000,000 from April 6, 1917, to June 30, 1917; \$7,358,000,000 for the fiscal year of 1918; \$15,035,000,000 for the fiscal year of 1919; \$5,932,000,000 for the fiscal year of 1920; \$5,942,000,000 for the fiscal year 1921 and \$1,837,000,000 from July 1 to December 31, 1921.

DEFENSE PACT APPROVED

Anglo-Belgian Military Convention Signature Confirmed.

BRUSSELS, Jan. 15.—(By the Associated Press.)—Premier Theunis today confirmed the signature of a provisional protocol for an Anglo-Belgian military convention guaranteeing the Belgium defensive posture in the event of aggression against Belgium by any foreign power.

He added that Italy would send out invitations to the Genoa conference on Monday and expressed the belief that the United States would be represented.

Referring to the facilities for the payment of war debts granted by Great Britain on 15,000,000 pounds loaned to Belgium, he expressed the hope that the United States would follow Britain's example, as the Belgian debt amounted to \$16,000,000,000.

GERMAN CHEMIST JAILED

Attempt to Sell Dye Secrets to Americans Is Charged.

FRANKFURT, Germany, Jan. 15.—(By the Associated Press.)—Dr. Paul Kappelmeier, a chemist formerly employed by the Hoechst works, has been given a nine months' jail sentence and fined 5000 marks for attempted betrayal and sale of laboratory secrets to an American dye concern. Colleagues, alleged to have been implicated, reached Holland, where, it was stated, they subsequently were employed by an American firm, although their trunk containing pharmaceutical recipes and dye formulae was intercepted at the Dutch frontier.

Dr. Albert Sander, a chemist, also employed by the Hoechst firm, was acquitted of having assisted Kappelmeier.

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LEAGUE IS ALIVE, DECLARES WILSON

Enemies Told to "Look Out for Selves."

10,000 CALLERS RECEIVED

Pilgrimage Made to Pay ex-President Respects.

TALK IS IMPROMPTU

Ex-Executive Voices Anew His Confidence in "Vitality" of Body He Created.

WASHINGTON, D. C., Jan. 15.—Ex-President Wilson, declaring anew his confidence in the "vitality of the league of nations," today warned an impromptu gathering at his home that those who opposed the league would have to "look out for themselves."

A motion made by a man in the audience at the meeting of the Woodrow Wilson foundation, today warned an impromptu gathering at his home that those who opposed the league would have to "look out for themselves."

A motion made by a man in the audience at the meeting of the Woodrow Wilson foundation, today warned an impromptu gathering at his home that those who opposed the league would have to "look out for themselves."

Mr. Wilson's remarks were in reply to Samuel Gompers, who, in acting as spokesman, had declared that the crowd's presence offered proof that the league of nations was not dead.

"I need hardly tell you how such a demonstration of friendship and confidence makes me feel," Mr. Wilson replied. "There can be no doubt of the vitality of the league of nations. It will take care of itself and those who do not regard it will have to look out for themselves. I have no anxiety for it. My only anxiety is to see our great people turn their faces in the right direction and move with all their force. I thank you for all this. I don't deserve it, but I enjoy it, nevertheless."

Mr. Wilson's Voice Better. The ex-president was assisted to the door by Mrs. Wilson, who shared with him the plaudits of the crowd.

Mr. Wilson's voice, while lacking some of his more vigorous days, was strong enough to carry to most of those who jammed the street. At one point when the cheers became especially vociferous, Mr. Wilson made a motion as though he intended to walk down the steps and shake hands with those nearest, but he was restrained by Mrs. Wilson.

The march to the house was led by Senators Walsh, Montana; Fletcher of Florida, and Harris of Georgia.

SHIPWRECKED CREW SAFE

Captain and Men Lashed to Cabin Hatch to Prevent Drowning.

NEW YORK, Jan. 15.—Without food and water for two days and during that time lashed to the cabin hatch of their waterlogged craft to prevent them being washed overboard, Captain V. M. Cole and seven members of the crew of the American schooner James M. Whall arrived today on the steamship West Coast, which rescued them 250 miles southeast of Cape May, N. J.

Virtually abandoning hope of being picked up alive, the shipwrecked crew used its remaining dry match Friday night to set fire to a dishpan of gasoline in a last desperate attempt to make known its plight. The flare was seen from the West Coast, which immediately rescued the men, who were suffering from cold and hunger.

The schooner left Charleston, S. C. for Boston January 5 with a cargo of lumber. She registered 491 tons.

MOVIES TO INSURE HAYS

\$2,000,000 Policy to Be Payable to Reorganized Association.

NEW YORK, Jan. 15.—The life of Postmaster-General Hays will be insured for \$2,000,000 when he resigns to head the National moving picture combination, it was announced today after a meeting of a subcommittee of motion picture men.

The policy will be made payable, in event of his death, to the reorganized national association of the motion picture industry and the amount being large, it was stated, would be distributed among several companies.

HISTORIC COUCH STOLEN