

PROHIBITION WORK IS HELD WEAKENED

Rehearing on Search Warrant Decision to Be Asked.

PROSECUTORS TO UNITE

County Officials in Washington Now Preparing Petition for State Supreme Court.

PUGET SOUND BUREAU, Seattle, Wash., Jan. 22.—Officers concerned with enforcement of the prohibition laws will seek rehearing by the state supreme court of the case wherein it was recently decided that whiskey seized without a search warrant is not admissible evidence of the guilt of the person from whom it is taken. Prosecuting attorneys of several counties, acting in behalf of all the prohibition forces, are now preparing a petition for rehearing. They have until February 4 to make their appearance before the supreme court.

At the time the decision was handed down, The Oregonian bureau reported the opinion of Prosecuting Attorney Douglas of this county, which was to the effect that a serious handicap had been put on efforts to enforce the law. Mr. Douglas then said that, under the new ruling, it would only be necessary for motor car bootleggers to cover up their contraband loads, so that they could not be readily seen, in order to escape seizure; that the court's decision prohibited officers from making any effort to verify suspicion, and that before any such warrant could be procured the automobile, with its load of booze, would be off and on its way.

Prosecutors' Views Shared. Prosecutor Douglas' views are shared by all who have given study to the decision. Mr. Douglas now proposes to hold a conference on the matter in Seattle and has sent invitations to the attorney-general of the state and the prosecutors of several counties.

The nature of the case and the gist of the decision have already been reported in The Oregonian; but in view of the wide importance now attached to the decision and the effort to have it reversed, the text of the supreme court's findings and conclusions becomes of greater interest.

Verdict Is Reversed. In January, 1921, Frank Gibbons was arrested by the sheriff of Adams county while seated in his automobile on a street in Ritzville. The sheriff took Gibbons and his machine to the courthouse without warrant, then searched the machine, found liquor, and held Gibbons for trial in the superior court, where he was convicted of unlawful possession of liquor. The case was appealed; and the supreme court reversed the verdict of the lower court in an opinion written by Chief Justice Parker and concurred in by Justices Holcomb, Hovey, Main and MacCallister. The decision the chief justice said:

"It is contended that the trial court erred in admitting in evidence certain bottles of whiskey taken from possession of appellant by the sheriff of Adams county without the authority of any search warrant. It is a time when the sheriff had no authority, by warrant or otherwise, to arrest the appellant.

Whisky Found in Car. "On the day in question appellant drove an automobile from Spokane to Ritzville. The automobile being stopped on the street and the sheriff seeing appellant occupying the driver's seat in it there, suspected that the appellant had intoxicating liquor in his unlawful possession in the automobile. The sheriff thereupon telephoned to his office in the courthouse for some one to get a search warrant, giving the number of the car.

"The sheriff then, without waiting for such warrant, jumped upon the running board of the automobile and covering the driver with a pistol directed him to drive to the courthouse, where a suitcase containing whiskey was taken from the rear seat. The bottles of whiskey in question were first actually brought into view and to the actual knowledge of the sheriff upon the arrival of the sheriff and the appellant at the sheriff's office. In the meantime a search warrant had been obtained.

Arrest Held Unlawful. "It is argued that when the whiskey was actually brought into view upon the opening of the suitcase at the sheriff's office, he then having in his possession a search warrant authorizing him to search for and seize the whiskey, his act at that time must be considered as a then lawful seizure of the whiskey in pursuance of his authority under the search warrant. The fallacy of such a view lies in the fact that the sheriff had, before any search warrant was issued, completely seized and taken into his possession the appellant, the automobile and all that was in it, including the whiskey, though he did not actually see the whiskey until after arriving at the courthouse. This was plainly an illegal seizure of the whiskey, insofar as a search warrant is concerned; and the possession of the sheriff could not be rendered legal by the coming into his hands of the search warrant which was issued after such unlawful seizure.

"Given the arrest of the appellant was unlawful, the sheriff having no warrant therefor. It is not pretended that the appellant was suspected of committing a crime amounting to a felony, nor that he was disturbing the peace, nor even that the sheriff had any actual knowledge that the appellant was then committing the misdemeanor of unlawfully having intoxicating liquor in his possession. We think the most elementary principles of the law of arrest render it plain that the arrest of the appellant here in question was unlawful, and that therefore the seizure of the automobile and its contents at the time of the arrest had no lawful support as incident thereto.

New Trial Granted. "While the case does not involve a search or seizure of whiskey in the home of the appellant, it is manifest that the constitutional guaranty that 'no person shall be disturbed in his private affairs or his home invaded without authority of law' protected the person of the appellant and the possession of his automobile and all that there was in it while on a public street of Ritzville against arrest and search without authority of a warrant of arrest or a search warrant as fully as he would have been so protected had he and his possessions been actually inside his own dwelling; that is, his private affairs were under protection of this guaranty of the constitution, whether he was within his dwelling, upon the public highways or wherever he had the right to be. "Because of the error of the trial court in admitting in evidence whiskey

so unlawfully taken, the judgment is reversed and a new trial granted."

Latitude Is Narrowed. Following this decision of the supreme court, the latitude previously enjoyed by prohibition enforcement officers was further narrowed by an opinion from the attorney-general's office, in response to an inquiry from the prosecuting attorney of Mason county. This opinion is to the effect that sheriffs and other officers have no right to obstruct highways in their efforts to trap liquor runners. "Under state and federal statutes," says the attorney-general, "the law-abiding individual, and even the law-breaker in certain cases, is entitled, while upon the public highways, to be free from interference and molestation of peace officers except upon production of a warrant."

It is in view of all these judicial and advisory opinions that the prosecuting attorneys of Washington think it high time to do something if there is anything that can be done.

ELKS ENTERTAIN POOR

MINSTREL SHOW PRODUCED AT COUNTY FARM.

Entire Troupe of 56 Members Goes on Trip in Special Car Donated by Car Company.

The inmates of the county poor farm, approximately 400 in number, were entertained yesterday afternoon at a special performance of the Elks minstrel show, which was produced in Portland last month. The entire troupe of 56 members, including the orchestra, journeyed to the institution in a special car, provided by the Portland Railway, Light & Power company, and gave the show in the assembly hall at the farm. Billy Foy and Charles Starr conducted the entertainment, which began at 2:30 o'clock and lasted until 4 o'clock. The inmates of the poor farm were said to enjoy the minstrel show immensely, and a special feature put on by the drum corps was appreciated as much as the antics of the end men.

The entertainment was given at the request of Charles S. Rudeen, chairman of the county commissioners, who has established a custom of providing some sort of programme for the inmates every month.

MINE OFFICER IN KELSO

Development at Spirit Lake Promised Next Summer.

KELSO, Wash., Jan. 22.—(Special.)—John C. Bender, an official of the United States Molybdenum Metals, Limited, a company organized for the development of mining properties at Spirit Lake in Skamania county, 46 miles east of Castle Rock, was a Kelso visitor today. The company has headquarters at Los Angeles, Cal. It was organized by Karl S. Rheinhardt, a metallurgist and mining engineer, who spent several months prospecting in the Spirit Lake district, and located claims said to contain molybdenum, tungsten, vanadium and other rare and highly valuable ores. The company plans to do much development work this summer.

Woodcraft Lodge Installs.

ABERDEEN, Wash., Jan. 22.—(Special.)—Neighbors of Woodcraft installed the following officers here Friday night: Mrs. Rose McHugh, orator; Mrs. Ella Grant, past orator; Mrs. Margaret McElwain, vice-orator; Mrs. Harriet Rusteneyer, chancellor; Mrs. Irene Short, recorder; Mrs. Della Jennings, receiver; Mrs. Winnie Adams, marshal; Mrs. Anna Darrington, assistant marshal; Mrs. Emily Sedlack, inner sentinel; Mrs. Eva Johnson, outer sentinel; Mrs. Della Road, manager; Mrs. Carrie Rittner, musician; E. H. Short, captain; Messames Ida Fenwick, Antoinette Antel, Ida Crandell, Eva Otterstein and Ethel Williams, evocues.

Centralia Pledges \$250,000.

CENTRALIA, Wash., Jan. 22.—(Special.)—Support of the campaign to raise \$250,000 for the erection and maintenance of a memorial building in Centralia in honor of the city's Armistice-day victims was pledged in resolutions adopted Friday night at the monthly dinner of the chamber of commerce. The resolutions also pledged Centralia to furnish a site for the memorial. Action was taken by the chamber after C. D. Cunningham, department commander of the American Legion, had declared "it was time for Centralia to show that she really wanted a memorial."



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Children always 25c.
All prices are inclusive of war tax.
Shows commence at 11 A. M., 1, 3, 5, 7, 9 P. M.



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SERVICES FOR GRADUATES

BACCALAUREATE SERMONS FOR 3 HIGH SCHOOLS.

Classes of Lincoln, Washington and James John Addressed in Portland Churches.

Members of the graduating classes of Lincoln, Washington and James John high schools attended special baccalaureate services in Portland churches last night.

Students of the senior class of Lincoln high school were addressed by Dr. Edward H. Pence, pastor of Westminster Presbyterian church, who took as the topic of his baccalaureate sermon "What Is Your Religion?"

"Do not fret yourself about what

your life is biologically, but concern yourself deeply as to what it is to be biologically," said Dr. Pence. "You face a career, indeed, it is already begun. Do not quarrel with life because it is to be a struggle; that is its glory. Without trial and test there can be no such virtue as patient endurance."

Dr. Harold L. Bowman preached on "Duplicating Daniel" at services for the graduating class of Washington high in First Presbyterian church. E. A. Courses played appropriate selections on the organ preceding the services.

"The Cross-Currents of Life" was the subject of the address to graduating members of James John high school by Rev. Herbert F. Jones at St. John's Christian church.

Appointment Is Gratifying.

HOQUIAM, Wash., Jan. 22.—(Special.)—Word to the effect that H. C. Cantelow, of Seattle, has been appointed chief executive officer on the Pacific coast for the Luckenbach

Steamship company, with headquarters in San Francisco, has been received locally with much gratification by his friends and acquaintances. Mr. Cantelow is well known, particularly in the northwest where he has been active in shipping circles for 20 years.

Centralia G. A. R. Installs.

CENTRALIA, Wash., Jan. 22.—(Special.)—New officers for the coming year were installed at the last meeting of the C. D. Spencer post, Grand Army of the Republic. They were: J. S. Russell, commander; F. M. Yeager, senior vice-commander; T. N. Scranton, junior vice-commander; W. W. Albert, adjutant; C. M. Parkins, chaplain; Stephen Lee, officer of the day; James Maloney, officer of the guard; and James Coleman, color bearer. D. E. Newton, past commander, was installing officer.

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It's Open-House Week at the Oregon Building

This Is Oregon Industries Week

See "Our Oregon Home!"

Green Room, Portland Chamber of Commerce Seventh Floor, Oregon Building, Fifth and Oak

Admission Free

SPONSORED by the 10,000 members of the Portland Federation of Women's Organizations, "Our Oregon Home" is a striking presentation of the wide variety of Oregon-made products. A six-room home completely and beautifully furnished! It shows the things that appeal to the home lover, from front porch to back door, from cellar to garret.

Exhibits-Souvenirs-Movies-Receptions

Tea Every Day From 2 to 4 P. M.
Oregon-Made Products Given Away Every Evening at 9 o'clock

Monday

4 P. M.—Reception in the green room and Oregon state agricultural headquarters to Governor Olcott and state, county and city officials and public. Music. All welcome.

Monday Evening

Hosts, committee of one hundred, Portland Chamber of Commerce, Vaudeville programme, music, dancing.

Tuesday Evening

Annual Oregon products dinner of the Portland Federation of Women's Clubs.

Wednesday Evening

Portland Ad Club night. Special stunts.

Thursday Evening

Hostesses—Business and Professional Women's Club and Women's Ad Club. Stunts. Entertainment.

Friday Evening

Associated Industries night. Free refreshments. Entertainment. Dancing.

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This peppermint flavored sugar coated gum is a delight to young and old.

It "melts in your mouth" and the gum in the center remains to aid digestion, brighten the teeth and soothe the mouth and throat.

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