THE JOURNAL OFFERS A PHONOGRAPH FREE TO NEW SUBSCRIBERS. ASK ABOUT IT

GOOD EVENING. . . .
THE WEATHER
Tonight and Friday, occasional rain; warmer tonight; southerly winds.

The Oregon Daily Journal

THE CIRCULATION OF THE JOURNAL YESTERDAY WAS 16,430

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THREATENED ATTACK ON REED WILL MUST FAIL

Eminent Lawyers Confident That the Endowment for Portland's Great Institute Is In No Danger.

Dissatisfied Relatives Eager to Get Larger Share of Mrs. Reed's Estate, But no Good Ground for Contest Exists.

The threatened attempt of collateral relatives of the late Mrs. Amanda W. Reed to obtain a portion of the estate intended by her for an institution of learning at Portland, planned by her pursuant to a request contained in her husband's will, has aroused much unfavorable comment. When the first news of Mrs. Reed's magnificent bequest for the establishment of the Reed Institute was made public five months ago, it received widespread and grateful recognition from the people of Portland as the most generous and most valuable gift ever made to the city. Naturally, therefore, the rumor that an effort is to be made by dissatisfied relatives of the testatrix to obtain a part of the fund intended by her for this institution has occasioned general criticism.

It appears unlikely that the attempt will be successful. But in any event the plans for the establishment of the Reed institute cannot be wholly defeated and the worst that could happen would be a diminution in the endowment of the institute. The essential question in the expected contest is whether the estate shall be distributed under the laws of Oregon or of California. While it was not so stated, the impression created by the statement of C. A. Dolph, the estate's attorney, is that the statutes of Oregon, rather than of California, will control in the distribution of the estate.

Mr. Dolph Explains.

When asked what foundation existed for a contest of Mrs. Reed's will, Mr. Dolph said:

"The civil code of the state of California provides that charitable bequests shall not exceed in the aggregate one third of the estate of the testator, leaving legal heirs; and in cases where more than one third of an estate is by will given to charitable uses, a pro rata reduction from such bequests is required to be made, so as to reduce the aggregate of such bequests to one third of the whole estate of the testator. This statute has no extra-territorial effect, and can have no application to any part of the estate left by Mrs. Reed, except such as can be brought within the jurisdiction of the courts of California.

"Some weeks ago it was intimated to me by Mr. James A. Gibson, an attorney from Los Angeles, who, I understand represents Mrs. Reed's distant relatives, that an attempt might be made to prove that Mrs. Reed's permanent residence was in California, and not in Oregon, in the hope that in that case the distribution of the estate would be controlled by the California statute, and the charitable bequests modified accordingly. Of course, if this scheme could be carried out the collateral relatives would profit in the same proportion that the charities would suffer. I am of the opinion, however, that the scheme will not work out.

Pasadena a Temporary Home.

"Mrs. Reed's permanent home was here—her residence in California temporary. At least such was her intention and understanding; but were this otherwise the laws of this state provide that any person, not an inhabitant of, but owning property, real or personal, in this state, may devise or bequeath such property by last will executed according to the laws of this state. The personal property inventoried here was never out of this state in point of fact and the court here, having taken jurisdiction of it, it is now in the custody of the court, and will so remain, at least until all creditors and legatees within this state are paid."

Judge Bellinger's Views.

Judge C. B. Bellinger, who is one of the five trustees of the Reed institute, appointed by the will, has examined carefully the statutes of Oregon and California bearing upon the threatened contest, and he is confident that no successful attempt can be made to defeat the bequest. Judge Bellinger discussed the laws of the two states as follows:

"The administration of Mrs. Reed's estate in Oregon does not depend upon the question of her domicile at the time of her death. It is true that personal property as a general rule follows the domicile. But this depends upon the laws of the state in which the property is situated. The laws of Oregon provide as to the validity of wills of non-residents so far as property in the state is concerned, and regulates the disposition of such property. Section 5561 of Bellinger and Cotton's laws of Oregon provides that 'any person not an inhabitant of, but owning property, real or personal, in this state, may devise or bequeath such property by will executed (if real estate be devised) according to the laws of this state, or if personal property be bequeathed, according to the laws of this state or of the country, state or territory in which such will may be executed.'

Oregon Laws Will Govern.

"The local law having therefore made Mrs. Reed's bequest lawful, the local court of probate in administering the estate here is not required or permitted to refer to the laws of any other state for an interpretation of the will as to this or any of is provisions. The laws of California cannot affect and do not provide for the exercise of a jurisdiction to interpret or determine the validity of wills as to property out of that state. Section 1376 of such laws provides that the validity and interpretation of wills, wherever made, are governed 'when relating to property within this state, by the laws of this state, except as provided in section 1285.' Section 1285, here referred to, provides, with reference to the validity in the state, so far as the same relates to personal property, of wills executed without the state, and it subjects the property in the state of a person domiciled in another state to the limitations prescribed for bequests for charitable purposes.

"It will be noticed that the California law confines the jurisdiction of the probate courts of that state in determining the validity of wills and in interpreting them, to such wills as relate to property within the state of California, and that as to such property the limitation as to charitable uses is enforced, although the domicile of the owner at the time of death was in another state. The laws of California therefore assume jurisdiction in those cases only as to property within the state, and as to such property the jurisdiction is regardless of domicile; and the laws of Oregon confer substantially the same jurisdiction upon the courts of this state. So that whether considered with reference to the laws of this state or of both states, the will of Mrs. Reed, so far as property in this state is concerned, must be interpreted by the laws of this state and administered accordingly."

Two Thirds in Oregon.

The appraised value of that part of Mrs. Reed's estate which is within the state of Oregon is $1,383,918.89. Of this total nearly two thirds is real estate and is therefore not subject, even on the theory of the contestants, to the California laws. All that could be reached, in the improbable event of a successful contest, would be about $500,000 worth of personal property that is in this state, and the real and personal property in California, amounting to about $225,000.

The heirs are Martin Winch, Mrs. W. E. Robertson, Mrs. John Pickering of Portland; Mrs. Abigail Wood Baxter, John H. Wood of Quincy, Mass.; John H. Paxton of Buffalo, N. Y.; Mrs. Paxton Passmore of Philadelphia; Henry C. Wood of San Francisco; Mrs. J. O. Brainerd, Miss Wood, Miss Helen Wood and Miss Corinne Wood of Pasadena, Cal.

While James A. Gibson, the Los Angeles attoney, came to this city in the interest of the California heirs only, it is understood that one or more of the heirs residing in this city are disposed to join in the effort to contest the distribution of the estate. Martin Winch, who is one of the Portland heirs as well as the executor of the will, states that he will do all in his power to secure a dis-

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MRS. AMANDA W. REED, CLAIM TO WHOSE MAGNIFICENT BEQUEST TO THE CITY OF PORTLAND IS TO BE DISPUTED BY OTHER HEIRS.

ST. JOHNS SCHOOL TO COST $250,000

Eastern Educator to Establish Technological Institute There That Will Equal Any on This Continent—Plans Being Prepared.

St. Johns has been selected as the site for a large technological school. R. E. Nippert, an eastern educator, who represents a large amount of capital, has been in this city for some time and has arrived at the conclusion that St. Johns is the proper place for the school which his people propose building. In the neighborhood of $250,000 will be expended on the school and its equipment.

It will be the largest school of the kind on the Pacific coast, and one of the largest polytechnic institutions in the United States. Option on land has already been secured and fine large buildings will be erected. Capt. W. W. Goodrich, a well known architect, has been ordered to prepare plans and specifications. He will begin his work immediately.

In detail it will be patterned after the famous German schools and the large American polytechnic schools, but there will also be features which these schools do not contain. It will contain workshops for all branches of manual training, engineering and science and the laboratories will be thoroughly equipped for doing the most advanced work in all lines of applied sciences and trades. Every facility will be provided for the youth to become actually practical in all branches. Pasticular attention will be paid to electrical, civil and mining engineering.

Mr. Nippert has given Captain Goodrich certain lines which he has to work along and an expenditure of $250,000 is contemplated. It is understood that the backers of the enterprise, who are German and eastern parties, have an abundance of capital and will work to make the school and its equipment rank with the Boston School of Technology, the Troy Polytechnic school and Stephen Polytechnic school of Hoboken, N. J.

There is no school of this kind in the Pacific northwest and the polytechnic schools in California are very small compared to what the St. Johns institution will be.

Mr. Nippert chose St. Johns as the location for the institution after looking over other places in this part of the country. He sees a great future for the peninsular town and thinks it is going to become one of the greatest manufacturing and shipping centers in the northwest. He came to this country from Heidelberg and recently has been connected with schools in New York and Boston. He is at present in San Francisco.

NEARLY DECAPITATES VICTIM WITH RAZOR

(Journal Special Service.)

Sacramento, Nov. 3.—One of the most fiendishly brutal murders on record occurred here late last night at Dixon, a little town near here. A desperate character called George, whose name is unknown, walked into a saloon, where Charles Haurigan, with whom he had quarreled, was dozing in a chair. Catching him by the hair he pulled his head over the back of a chair and with a razor slashed his throat, cutting through almost to the backbone, so fierce was his attack.

The murder was done so quickly that bystanders had no opportunity to interfere, and before anybody could grapple the murderer he walked out of the bar room and disappeared in the darkness. The murderer did not speak a word from the time he entered the place until he left, going about it as methodically as if it was an ordinary occurrence.

BEQUEATHS FORTUNE TO HIS PROTECTOR

(Journal Special Service.)

Phoenix, Ariz., Nov. 3.—In 1898 in Porto Rico, E. B. Vaughn, a private of troop I, Fifth cavalry saved the life of M. D. Thornton a private of troop M of that command. Today Vaughn, who is a pickle salesman and a resident of Phoenix, received notice through Thornton's attorneys that the latter had died in Portland, Me., and had left Vaughn a one third interest in his estate, which is appraised at $1,000,000.

Vaughn and Thornton were stationed at Port Casey. In a fight at Ransing Vaughn brained a Porto Rican who was about to stab Thornton in the back. Until that time the men had never met, but thereafter became intimate friends.

PLAYS DEAD BROTHER TO SPARE MOTHER

(Journal Special Service.)

Philadelphia, Nov. 3.—That their mother, who is blind and 88 years of age may never know of the loss of one of her three sons, the two remaining sons have decided that one shall personate his lost brother until the mother's death. The mother is Mrs. Catherine Kelley. One son, Lawrence, died suddenly at the home of his sister and was buried today.

The remaining two brothers, Mathew and James, fearing that the news of Lawrence's death might kill their mother, decided that Mathew should personate Lawrence. So when the mother called for "Larry," Mat responded:

"Here I am mother."

"I wondered why you were so late getting home," she replied, and dozed off to sleep, happy once more.

The deception may have to last for many months.

Between the mother and her three sons there has always existed a beautiful affection that has been the comment of intimates for years. Lawrence, the boy who died, was the youngest, and although nearly 49 years of age, was always treated by her as "her little boy."

Mrs. Kelley's hearing is slightly defective, otherwise the deception prompted by love could hardly escape discovery.

Both her other sons are business men whose heads are white. Yet Mathew stands before her with tear-filled eyes endeavoring with cheerful speech in counterfeit of his dead brother's tones to shield her last years from the grief of unexpected death.

The sister has been brought into the effort. She is to detail daily to her mother the fictitious doings of the son who has preceded her to the grave.

PANAMA A YEARLING

New Republic on Isthmus Celebrates Its First Anniversary.

COLON GAY WITH FLAGS

President Roosevelt on Behalf of the United States Cables His Congratulations—Marines Guard the Canal Route.

Colon, Nov. 3.—The first anniversary of the independence of the Republic of Panama was celebrated today with fitting ceremonies. The city was decorated in honor of the occasion. Several meetings were held, at which leading orators of the republic addressed the people. The celebration is generally observed by all the citizens of the republic with great zest. If there is any undercurrent of ill feeling or unrest on the part of any particular party or faction, it has been carefully concealed under the smooth exterior that predominates among the Latin races.

Tonight there will be a fireworks display. Among the decorations of the city are a number of American flags. Pictures of Roosevelt are hung in many windows. No trouble is reported on the canal zone. Marines are patrolling the zone and safeguarding the property from any attack.

While to outward appearance everything is in a state of quietude, reports are current that roving bands of Colombians have been seen reconnoitering near the belt that is now so closely guarded. The hills and swamps in the immediate vicinity give ample oportunities for the marauding bands to keep securely hid and also leave them in a position for keeping close watch on the trend of affairs in the new republic. No trouble is expected, but it has been deemed expedient to take every precaution, hence the guard of United States marines.

ROOSEVELT TELEGRAPHS.

For the United States He Offers Congratulations.

(Journal Special Service.)

Washington, Nov. 3.—President Roosevelt this morning sent the following telegram to the president of the Panama republic:

"Accept the felicitations of this government on the first anniversary of Panama's independence."

GETS $50,000 FOR HER WEDDING PRESENT

(Journal Special Service.)

New York, Nov. 3.—"Here my dear," said George Crocker Tuesday to his stepdaughter, Alice Rutherford, "you are to be married tomorrow, I know, but I have been busy and worried and have not been able to buy you a wedding present. Take this and get something for yourself, with my love."

With that he handed her a folded paper. Miss Alice, when she opened the paper read: "Pay to the order of Mrs. J. Langdon Erving, $50,000." Miss Rutherford's marriage to J. Langdon Erving took place at noon yesterday at Mr. Crocker's home, and on account of Mrs. Crocker's death, was a quiet affair.

GOVERNMENT BAN ON CONSUMPTIVES

(Journal Special Service.)

Washington, Nov. 3.—In the future persons suffering from consumption will not be employed in any of the United States postoffices or other government positions, from which they are likely to spread the disease.

This decision was reached by the United States civil service commission and Commissioner Cooley has sent out an order to this effect. The order reads that all persons must submit to a physical examination, and, if they have consumption, must not be employed.

POPE IS STILL TOO WEAK TO RECEIVE

(Journal Special Service.)

Rome, Nov. 3.—Dr. Lapponi says the condition of the Pope has not improved since yesterday and that he will give no audiences today.

The pope this morning decided to make December 8, the fiftieth anniversary of the promulgation of the doctrine of the immaculate conception of the virgin a great religious festival. An enormous picture of the virgin will be placed over the altar in St. Peters and dedicated on that day.

DIES AT DELTA.

(Special Dispatch to The Journal.)

Delta, Idaho, Nov. 3.—Thomas Shuster, aged 45 and a widely known pioneer of the Coeur d'Alene, died yesterday. He came here in the gold excitement of 1883 and took out as much as $100 a day at times. He later owned the Delta hotel and was postmaster. He leaves a widow.

TARIFF IS AT STAKE

Result of Canada's Election Today Important to United States.

QUEBEC WILL DECIDE

Unless That Pivotal Province Is Overwhelmingly for the Liberal Laurier, the Conservatives Are Certain to Win.

(Journal Special Service.)

Ottawa, Ont., Nov. 3.—The political complexion of the Dominion for the next five years will be decided tonight. Forecasts of the result of today's election are numerous, and the two political parties seem to be about equally confident. The returns from Quebec are awaited with the most intense interest, as it is recognized that victory or defeat for Premier Laurier undoubtedly hinges upon the verdict of that French-Canadian province. It is conceded by the conservatives that a continuance of the present solid Quebec for Laurier means a Liberal federal victory once more, and the Liberals go so far as to assert that an increased majority for Laurier in that province is certain.

The struggle is between the Liberal Reform party and the Conservatives, popularly known as Grits and Tories, respectively.

From Nova Scotia to British Columbia and north of the boundary line of the United States is a tract of country bigger in extent than the entire United States. It is one of the wealthiest colonies of the British empire and an election there which might change the tariff conditions of the entire British empire is of more than passing interest to all Americans.

During the last eight years the Reform party of Grits, under the direction of Sir Wilfrid Laurier, G. C. M. G. and popularly known in this country as well as in Canada as the "silver tongued" orator, has been in control of the dominion government. For years before this party gained control of the government it advocated reciprocity with the United States, but since gaining the reins of power they have failed to make good their anti-election promises of absolute free trade or unrestricted reciprocity.

Two score of years ago this party fought tooth and nail the project of building the Canadian Pacific railway, which was made possible by the Conservative party under the late Sir John A. Macdonald. Despite this fact it is now fighting for the construction of the Grand Trunk Pacific railway, a line from coast to coast and which is to be built on the same system of heavy subsidy as the Canadian Pacific railway was. The Conservatives are holding forth for government ownership of this line, having learned a lesson from the construction of the Canadian Pacific railway. The main fight of the present election is being laid along these lines. Both parties, however, realize the benefits of another transcontinental line, and no matter which way the election goes, the Grand Trunk Pacific will be pushed to completion.

In Office Eight Years.

The Reform party has held the reins of office for eight years or during two parliaments. Elections in Canada are held every four years unless one is forced by lack of confidence in the government. This condition of affairs has not developed in many years, but defeat has been heaped on a powerful party as the result of happenings while in office. During the last four years the Reform party has had ample opportunity of "making good" with the home government in the matter of imperialism. That is the continual howl of the Conservative party, and today it is banking somewhat on the public's patriotism for power. The Reform party has always been somewhat farther away from the British throne than the Conservatives and this was evidenced at the recent colonial conference, when Sir Wilfrid Laurier declined to accept the opportunity offered him by Chamberlain to bind solidly the colonial policy.

The battle cry of the Conservatives at this election is imperialism, protection and government ownership of railways. The national policy, made famous in the days of Sir John A. Macdonald, means protection, and in case of a Conservative victory, there would in all probability

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STOESSEL'S END NEAR

Japanese Capture Position and Citadel's Fate Is Sealed.

EXPLOSIONS ARE HEAVY

May Mean Destruction of Magazines and Fortresses Preliminary to a Russian Concentration.

(Journal Special Service.)

Chefoo, Nov. 3.—Through the capture by the Japanese troops of an important position, the east side of Port Arthur is practically at their mercy and the fate of the citadel is practically sealed.

Such is the news from Japanese sources received here today.

For the past three days the bombardment of the Japanese has been terrific, but has always been answered with spirit by the Russians under Stoessel, who are apparently imbued with such a fighting frenzy that the commander's prediction, that Port Arthur shall be their graves, seems likely of fulfillment.

Today's cannonade has been the heaviest yet heard and it is believed the Japanese are making a desperate attack on the place, or are conducting their artillery work with great vigor preliminary to an assault.

Five Russian warships in the harbor are reported to have been badly damaged by the dropping fire, and spies believe that three of them are no longer able to keep up steam for the last dash which may be made when the fall comes. Two of the warships, whose guns have heretofore assisted the fortress on Golden hill, have been silent for several days.

Heavy explosions occurred early this morning inside Port Arthur leading to the surmise that either through accident or deliberate intention mines or magazines have been ignited.

Should Stoessel carry out a program which is said to have been mapped out by him, the explosions may presage the evacuation of several outlying and less important positions and a concentration in the stronger fortress where the last stand will be made.

Mount Heavy Guns.

For the capture of the east port ridge and the siege of Port Arthur proper, the Japanese have finished the placing of 11-inch howitzers, whose heavy batterings could hardly be withstood by any of the fortifications for an appreciable length of time. The guns are in position to do most effective work with a perfect range.

Heavy infantry attacks were planned for noon today to be directed against the Russian defenses at Orhlung, Kaakwan and Banjusan.

Advices from the scene are being awaited by Japanese here with great anxiety, because the taking of these points, together with the capture of outer defenses already made, would mean nearly the last chapter in the grim resistance of the Russian stronghold.

It is asserted by Chinese, who have returned from Pigeon bay, that the Japanese sappers have tunneled from that point to within eight miles of Golden hill fortress and that the work is steadily going on with night and day shifts. Coolies are being largely employed in the labor. This feature is not understood here, as such stupendous and slow work would seem rather a waste of energy.

Stoessel's forces are now decimated to 9,000 men and the Japanese have taken advantage of this to withdraw many of their troops and forward them to the assistance of Oyama in his operations against the Russians on Shakhe river.

Since the first battle at that point it is known that at least 36,000 men and 93 guns have been rushed to the front. It is probable that this number has been largely exceeded, as the Japanese under no circumstances permit any news of such movements to leak if such publicity can be avoided.

JAPANESE ARE REPULSED.

Make Attack on Russian Right and on Both Sides of Railway.

(Journal Special Service.)

St. Petersburg, Nov. 3.—A telegram from Mukden reports that the Japanese

(Continued on Page Two.)

RUNAWAY AIRSHIP IS NOT YET FOUND

(Journal Special Service.)

St. Louis, Nov. 3.—A dispatch from Keokuk, Ia., this morning stated that the Baldwin airship "California Arrow," in which escaped last night, had landed in the river there at an early hour this morning, but this was afterward disproven and the fate of the machine is still unknown.

The airship escaped about 8:15 o'clock last night as it was being conveyed to the concourse after the unsuccessful attempt that was made to navigate it yesterday, when it landed in St. Louis county.

En route to the aeronautic concourse at the world's fair grounds with the machine, it was necessary to pass the ship over a trolley line. In order to do this the men holding the lead rope were compelled to pass the rope over, and in so doing let loose of it. Before they had regained possession, the men in the rear, owing to confusion in the gathering darkness, also dropped the rope they held. The ship being thus released leaped into the air and rapidly drifted to the northwest. Nothing could be done to intercept it, and the navibator and inventor figured that the gas would become exhausted and the machine settle to the ground in the space of an hour's time.

Subsequent developments, however, indicate that their calculations were either incorrect or else the machine has droped in some isolated and unknown spot.

CODY HIGHWAYMEN ELUDE THE POSSE

(Journal Special Service.)

Cheyenne, Wyo., Nov. 3.—At dawn this morning a posse whipped the timber on Cottonwood creek, in which the Cody bank robbers were supposed to be secreted, and found that their quarry had fled, having slipped through the cordon of guards during the night. The robbers secured fresh horses and have a good start. It is reported that Harvey Longan, the notorious Montana bandit, is at the head of the gang, which is now making for the "Hole in the Wall" rendezvous, where they will be safe from pursuit. Rewards for the gang, including Longan, now aggregate $35,000. Colonel Cody, with his English guests, are delayed on the railroad and will not reach Cody until this evening. Horses and outfits are in readiness and they will start on the man hunt immediately on arrival.

While hope of the capture of the bandits being effected has not been given entirely up, the chances have been materially lessened. The [illegible] of the posse that [illegible] surrounded last night [illegible] of fresh horses [illegible] a decided advantage.

It is thought [illegible] Cody and [illegible] to be of [illegible]