

The Oregon Statesman

SALEM, OREGON, TUESDAY MORNING, DECEMBER 16, 1919.

THE WEATHER

Fair in east; rain or snow in west portion; not so cold; increasing southeasterly winds.

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PRICE: FIVE CENTS.

PROHIBITION LAW UPHELD BY BRANDEIS

Supreme Court by Unanimous Vote Sustains Constitutionality of War-Time Act in Suit Brought by Distillers

WILSON PROCLAMATION TO TERMINATE DROUGHT

House Agricultural Committee to Vote on Repeal Measure Today

WASHINGTON, Dec. 15.—By unanimous decision, constitutionality of the war time prohibition act was sustained today by the supreme court. The opinion, given by Associate Justice Brandeis, held in effect, however, that the war-invoked "dry" period still may be terminated by presidential proclamation of demobilization.

In rendering its opinion the court, however, did not act upon the validity of the Volstead prohibition enforcement act or on appeals involving the alcoholic content of beer, leaving those cases to future opinions which may be handed down next Monday before the court recesses for the Christmas holidays. Today's decision practically swept away all hopes of a "wet" Christmas.

Two Cases Decided

The cases decided were those of the Kentucky Distilleries and Warehouse company of Louisville, Ky., and Dryfoos, Blum and Company of New York, instituted for the purpose of compelling the government to release whiskey from bond. In both cases the court denied contentions of the distillers that the act, in violation of the constitution, takes private property without just compensation; that the period of the war emergency for which the act was passed had terminated; that the law was an interference with the state police powers and an undue exercise of the war powers of congress.

Termination Defined

Congress did not intend for the war-time act to terminate on the conclusion of the war, but at the end of the period of demobilization, in the view of the court, which held that the "conclusion of the war" clearly did not mean cessation of hostilities.

Had the president, on October 28 last, when he vetoed the Volstead act, believed that demobilization had terminated, the court said, "he would doubtless have issued then a proclamation to that effect, for he had manifested a strong conviction that restrictions upon the sale of liquor should end."

Only by Such Proclamation Could the Purpose of Congress be Attained, and the Serious Consequences Attending Uncertainty be Obviated.

Validity Still Holds

"In view of facts of public knowledge," the opinion continued, "some of which have been referred to, that the treaty of peace had not yet been concluded; that the railways are still under national control by virtue of the war powers; that the war activities have not been brought to a close, and that the power of the nation has been restored to a peace footing, we are unable to conclude that the act has ceased to be valid."

The war-time act, the court said, is not confiscatory, "asserting that more than nine months were given distillers to dispose of their stocks, which time the court believed to be adequate. The act also was not repealed, the court held, by the prohibition constitutional amendment, which it asserted, has been binding not only in peace but also in war-times."

Vote on Repeal Today

Announcement was made tonight that the house agriculture committee will meet tomorrow to vote on the motion to table the bill of Representative Gallivan, which would repeal the war-time act.

Internal revenue officials explained tonight the court's opinion would not affect the bureau's plans for enforcing national prohibition as all preparations had been made on the assumption that the act was constitutional.

DISTILLERS HOLD 29 MILLION GALLONS OF BOOZE

LOUISVILLE, Ky., Dec. 15.—Kentucky distillers and more than three hundred Louisville former saloonkeepers were jolted today by the decision of the supreme court holding war-time prohibition constitutional. The distillers, it was estimated had 29,000,000 gallons of whiskey in Kentucky bonded warehouses, 9,500,000 gallons of it in Louisville alone, ordinarily worth at wholesale \$400,000,000. The former saloonkeepers, after setting the stage for a "wet period," continued the sale of soft drinks while the distillers, with exportation apparently the only avenue open to them, flocked to the custom house for export stamps. Pessimism

GIRL DENIES HOLDUP DARE STORY HELD FALSE COPS CLAIM CONFESSION

MARTINEZ, Cal., Dec. 15.—Not guilty to a charge of holding up Virgil Reed, Richmond photographer, at the point of a revolver, on a dare of Bert Garrett, was the plea entered here today by Irene Johnson, 13 years old. Garrett, the girl's alleged accomplice in the robbery, is in San Quentin penitentiary. Police say the girl is the wife of B. D. Nelson, who lives in Washington state, and that she confessed she had committed the burglary on a dare of Garrett's and to show him "she had the nerve and coolness."

COUNCIL HAS LIGHT SESSION

Street Cleaning, Fire Department Report, and Routine Matters Up

The city council met last night and settled a considerable amount of important business, including an amendment to the refunding bond bill, snow-ers and street assessments. The snow-bound condition of the city streets received much discussion.

A motion was made to hire men and trucks to carry and remove the snow from the downtown districts. Much objection was shown to this on account of the cost. It was claimed that Portland was averaging one mile of clean streets to every \$2000, and Salem could not afford this. It also suggested to grade the streets to a width of eight feet on each side of the car tracks. This met disapproval and finally a motion was passed to have the street department clean the streets as soon as possible.

The ways and means committee reported that in the outskirts of Salem, in different vicinities there are no lighting facilities and a resolution was passed to provide lights for these districts.

The annual report of the Salem Fire Department was read and showed that this year there have been 95 fire alarms answered and 50 hours of steady fire fighting in which 40 gallons of chemicals were used besides water.

Resolutions were made and passed to dig and install the proposed sewer laterals which have started in different parts of the city. Alderman Moore, who has been advancing money to the city council, for sewer construction says he has paid most of his men off and just a few remain on his payroll.

Five resolutions were passed levying assessments aggregating close to \$300 for the laying of concrete sidewalks mostly in Jones' addition.

The ordinance appropriating the \$70,000 refunding bonds which were to be sold to local bidders was amended at the suggestion of the Portland firm that bought them, so that a non-local firm could purchase them and not affect the locality.

The city owns contractors almost \$250 for the laying of cement sidewalks in Jones addition and the council authorized Recorder Race to pay these claims against the city.

Chairman Volk, chairman of the committee appointed to change the boundaries of the wards reported the change and also that the county court had approved the action of the committee.

SUGAR CONTROL HELD IMPERATIVE

Head of Equalization Board Says Restrictions Are Craving Need

WASHINGTON, Dec. 15.—Complete government control of prices and distribution of sugar is necessary for the protection of family consumers from profiteers, members of congress declared today before the house agriculture committee. At the same time G. A. Zabriske, president of the sugar equalization board, advised the committee that continuance of the board would be useless unless it were given control over prices and distribution. These powers, Zabriske pointed out in a telegram to the committee, are not included in the pending McNary bill.

Changes Are Favored

Opposition to the McNary bill, passed last week by the senate, led to an informal agreement among committee members and house leaders to eliminate from the measure the provision repealing the licensing powers of the government as conferred by the food control act. Chairman Haugen said formal action would be taken tomorrow under a plan calling for early action by the house. Leaders, however, were doubtful whether the bill, if amended, could be finally disposed of by congress before the holiday recess. Simultaneously with the meeting of the agriculture committee the house interstate commerce committee tomorrow will meet to consider a bill proposing an embargo on all sugar exports.

RESTRICTIONS ON SOFT COAL ARE REMOVED

Situation Rapidly Assumed Normal With 80 Per Cent of Miners Back on Job—Director Hines in Charge

SENATE HEARINGS TO GO ON IS DECISION

Foreign Vessels to be Supplied as Soon as American Ships Are Filled

WASHINGTON, Dec. 15.—Restrictions on the consumption of bituminous coal continued to go by the board today, as the railroad administration, now in charge of the distribution of supplies, received reports indicating that 80 per cent of the striking miners had returned to work. Orders were issued by Director General Hines allowing bunker coal to be supplied to foreign owned vessels in American harbors whenever the local supply is sufficient to fill the requirements of coast wise and American owned ships.

Policy Considered. Senatorial investigation of the strike settlement proposed offered by the government and accepted by the miners was temporarily halted today, while Chairman Frelinghuysen, and members of the investigating sub-committee considered the policy to be adopted. It was said after a long executive session that the committee had not decided as to whether it would formally demand documents in the possession of Dr. H. A. Garfield, former fuel administrator, or as to whether Attorney General Palmer and other officials would be called.

Hearings to Continue

The committee, however, decided to resume hearings and summoned R. B. Norris, one of the engineers of the fuel administration, to furnish the statistics on which Dr. Garfield based his suggestion that a 14 per cent increase in wages be given the miners and paid out of the operators' profits without raising prices of coal.

Coal operators of the central competitive field in a statement tonight declared miners in the various fields were returning to work slowly. Not more than 40 per cent of the men have returned to work in the central Pennsylvania field, one of the largest the statement said, and a very small percentage have returned in the southeastern field. Indiana reported practically all of the men back to work, while in Illinois, it was estimated that less than 10 per cent of the strikers have returned to the Franklin county field.

Two Cars Are Saved by Salem Fire Department

All of the wood portion of an Oregon Electric car was destroyed by fire on a siding at the foot of Kearney street early Sunday morning as a result of flames that started from a broken trolley. The loss is about \$2000.

The Salem fire department responded to the alarm and late 1000 feet of hose, 800 feet of which it was necessary to lay by hand because of the interference of snow. The work of the department is believed to have saved two other cars that were on the track near the blazing car.

The car was part of a train that was ready to leave Salem when the fire started.

Parliament Member Hopes to Abolish Death Penalty

Robert Beckett, a member of the Canadian house of commons, writes Governor Olcott that he is making a fight for the abolition of capital punishment in Canada, and wants to know if the people of Oregon are satisfied with the enactment of the death penalty from the statutes of Oregon.

Governor Olcott replies that there is a very decided move in the state for the restoration of the death penalty. The death penalty was abolished in Oregon at the election of November 3, 1914, by a vote of 100,552 to 100,395.

"Leaks" of Supreme Court Decisions Are to Be Probed

WASHINGTON, Dec. 15.—Announcement was made late tonight by the department of justice that an investigation was being made of reports of alleged "leaks" on supreme decisions by which speculators had attempted to profit in stock market transactions.

18 ABOVE AT MIDNIGHT

Downtown thermometers registered 18 degrees above zero at midnight last night. The highest temperature yesterday was 30 degrees in sheltered places.

SACRAMENT WINE GONE SYPHON THEFT REPORTED NINE BARRELS DRAINED

NEW YORK, Dec. 15.—Theft of nine barrels of sacramental wine was reported to the police tonight by a wholesale liquor dealer here. He said that the theft was accomplished by siphoning the wine from his basement where it is stored to an adjoining cellar by means of a 75-foot pipe.

POLITICS MAY MAKE TANGLE IN CLACKAMAS

Dimick's Vacant Seat is Desired by Chris Schuebel of House

OTHERS ARE IN DOUBT

Richardson, Stewart, Mrs. Thompson, Shanks Present Problems

Unless Governor Olcott calls a special election in Clackamas county between now and January 12, the date of convening the extraordinary session of the legislature, Clackamas will be without a member of the senate to represent that county exclusively at the extra session. This is because of the death of Walter A. Dimick, Senator W. W. Banks of Portland representing Multnomah, Clackamas and Columbia. There is a possibility, it is said, that the people of Clackamas county will ask the governor to call a special election for Senator Dimick's successor.

Should such an election be called by the governor there would be an interesting complication in Clackamas politics. Senator Dimick was a hold-over senator, and had he lived would have represented his county in the regular session of 1921. Soon after Dimick's death Chris Schuebel, representing Clackamas county in the lower house, let it be known that he was desirous of succeeding Dimick in the senate. If a special election were called to fill the vacancy in Clackamas county next month the man elected would hold through the regular session of 1921, his term, in fact, would not expire until January 1, 1923.

Schuebel Might Be Out

Should Schuebel not come up as a candidate at the special election he would be shut out completely as far as the following regular session is concerned. Should Schuebel become a candidate he either would resign as a member of the lower house at the time of becoming a senator, or he would allow his successor in the house to be elected at the same time, or if elected senator, he could resign after the special election and make possible the calling of a second special election to select a house member for the special session next month, or he could wait an automatic termination of his service in the house at the time of qualifying as senator, which would leave his seat vacant in the lower house.

Section 17, article V of the state constitution and section 3431, Lord's Oregon Laws, show that special elections to fill vacancies in either house of the legislature are called by the governor who shall fix the time of the election. It is not required by statute that they be fixed at any certain length of time prior to the convening of a legislative session.

Richardson is Enigma. Other interesting situations arise relative to the status of three members of the lower house. The constitution says that the legislature shall be composed of a certain number of its members. The question is what is going to be done at the special session with Joseph G. Richardson, James S. Stewart and Mrs. Alexander Thompson.

Richardson, now assistant state treasurer, was one of the Multnomah county delegation at the 1919 session, and his term, of course, does not expire until January 1, 1921. O. P. Hoff, newly elected state treasurer, wanted Richardson as his assistant, Richardson, however, was not eligible until after the session, for he would have been holding more than one lucrative position at the same time, which is contrary to the constitution. Hoff made a temporary appointment to the place until after the session adjourned and then appointed Richardson. Whether Richardson expects to sit in the special session is not known. He refused to comment yesterday. If he attempts to sit as a member the question arises whether the other members will allow him to do so unless he temporarily resigns as assistant state treasurer, for he would be holding two lucrative offices.

Shanks Moves Residence

At the session last winter Mr. Stewart represented Wheeler county and Mrs. Thompson represented Hood River and Wasco counties. Stewart has since changed his residence to Benton county and Mrs. Thompson to Multnomah county. Presumably they will be allowed to sit as representatives of the counties they represented at the regular session of 1919, but this will be strictly up to the members of the house.

In the senate the same situation arises relative to the status of Senator M. D. Shanks, who represented Gilliam, Sherman and Wheeler counties and who has changed his

ROADS FACE BANKRUPTCY IS WARNING

Cummins Tells Senate Railway Systems Must Not Be Returned to Owners Without Protective Legislation

ANTI-STRIKE SECTION OF BILL IS ATTACKED

Duty is Plain, Author of Measure, Tells Senate at Work on Act

WASHINGTON, Dec. 15.—Congress was warned today that if the railroads were turned back to their owners without enactment meaningful legislation for protection of the properties, two-thirds of the roads would be in hands of receivers within thirty days. Chairman Cummins of the senate interstate commerce committee that drafted the pending railroad bill, declared the senate could not afford to set it aside or delay its consideration in view of the apparent determination of President Wilson to end government control the first day of the new year.

Cummins Says Duty is Plain

Breaking into the debate while senators were pleading to postpone action on all railroad legislation until after recess Senator Cummins told the senate, its duty was plain. Senator Cummins insisted congress should turn back the roads if satisfied the people believed in that policy.

"They can go back on January 1 in perfect safety," he said, "if the country is assured of the bill's enactment in one month's time."

In hope of expecting the measure the senate remained in session tonight but as new fields of argument were opened there developed little indication of final action this week. Leaders insisted, however, that the bill would be passed by a "narrow margin before Saturday" when the holiday recess is expected to begin.

Lenroot and Stanley Attack

During the all-day debate the principal attacks on the Cummins bill were made by Senators Lenroot, republican, Wisconsin, and Stanley, democrat, Kentucky, the former insisting that the roads should be retained by the government until spring.

Senator Stanley, speaking in support of his amendment to eliminate the anti-strike provision, assailed the section as "the most drastic and expansive" ever devised to afflict laboring people.

Senate Works on Amendments

The senate later went to work on amendments. One by Senator Walsh, democrat, Montana, permitting the roads to retain all earnings, for new construction work for ten years, was adopted, as was an amendment by Senator Jones, republican, Washington, limiting jurisdiction of the transportation board over water transportation to inland waterways. An amendment by Senator Curtis, Kansas, extending the bill's provisions to short line railroads, was passed over temporarily.

CLUB ELECTION IS ON TONIGHT

Postponed Meeting of Commercial Body is Set—Presidency Big Race

The annual election of the Commercial club which was to have been held tonight in the club auditorium, nominations for the presidency include R. C. Paulus, incumbent, Mr. Odore Roth and W. G. Allen. Mr. Roth, however, has announced that he will not be a candidate because of press of business affairs.

Schools Open Dec. 29, Gas Supply Is Returned

With a market moderation in the temperature yesterday and last night another snow or thaw is promised. The snow is still an impediment to traffic and water pipes are still frozen up in many public buildings. School authorities have decided not to open the Salem schools until December 29, announcement having been made to that effect yesterday.

W. M. Hamilton, manager of the Salem gas plant, announced last night that the plant has been thawed out and that the gas supply has been returned to all the five districts in the city. Moderation in its use is advised, however.

FLIERS SPOT SARDINES FISH PATROL IS LATEST GOOD CATCH REPORTED

SAN DIEGO, Cal., Dec. 15.—The aerial fisheries patrol, established here today, was successful in its first effort. Two seaplanes from the naval air station at North Island within a few minutes after taking off sighted two schools of sardines about 15 miles north of this city and a short distance from shore. The news was flashed by radio to a submarine chaser, whose commander soon relayed the message to waiting fishing boats. A few minutes later those boats were speeding to the section named in the dispatch. They reported a good catch.

OREGON TO PLAY HARVARD JAN. 1

Lemon Team Likely to Leave Dec. 18 for South—Training Out of Question

EUGENE, Or., Dec. 15.—Tentative plans were made here today looking to the departure of the heavy football squad for Pasadena on Thursday, December 18, to meet the Harvard team in the New Year's Day game. The date now aimed at for departure is one day earlier than that first set the reason for the change being that unward weather conditions here have made adequate training operations impossible.

FOREIGN TRADE IS 11 BILLIONS

New York Bank Compiles Approximations on Business of World

NEW YORK, Dec. 15.—The foreign trade of the United States for 1919, the first year following the war, will probably exceed eleven billion dollars as compared with \$4,250,000,000 for the fiscal year of 1914, all of which preceded the war, according to approximate figures compiled by the National City bank and made public today. Despite the great gain which is partly due to increased prices, Great Britain still retains the leadership in world trade, according to the bank's statistics, with a total for 1919 that will probably exceed that of the United States, possibly reaching the \$12,000,000,000 mark.

HUGO RELEASE NOT CONFIRMED

American and Mexican Officials Get No Details of Freeing on Rancher

EAGLE PASS, Tex., Dec. 15.—American and Mexican government officials here tonight had not received details of the release of Fred G. Hugo, American ranch manager who was liberated by Villistas without payment of \$5,000 ransom demanded by Francisco Villa. Hugo was released when the Villistas left Musquiz, Coahuila, last week, after looting the town, and is now at Musquiz. Several prominent Mexicans held by Villa also were released without payment of ransom.

Strand Theater, Portland, Is Sold for \$125,000 Cash

PORTLAND, Or., Dec. 14.—Sale of the Strand theatre, a motion picture house here, to a Seattle syndicate, headed by J. Aranson and Mischa Guterson, was announced tonight. The deal was said to have been made for \$125,000 cash. S. Morton Cohn was the seller.

Campaign of Sutherland for President is Ready to Start

WHEELING, W. Va., Dec. 15.—Plans for a nation wide campaign in behalf of Senator Howard Sutherland, West Virginia, who is being backed as a republican candidate for president, were perfected here tonight.

Temperature Drops to 40 Below in Alaska Interior

NENANA, Alaska, Dec. 15.—Marking the sudden end of a heretofore unusually mild winter season, thermometers here today registered 40 degrees below zero. The cold wave is general throughout the interior, according to reports.

HISTORY OF A. E. F. TOLD BY PERSHING

Americans Won War is Implication in Report Submitted by Genral to Secretary of War Baker

ALL OFFENSIVES ARE RECOUNTED IN DETAIL

Highest Praise Accorded All Ranks and Allies are Given Commendation

WASHINGTON, Dec. 15.—General Pershing, in his special report to Secretary Baker, on the operations of the American army in France, says in effect, although not in terms that the American army won the war.

"It was this spirit of determination animating every American soldier," says General Pershing referring to the Meuse-Argonne battle, "that made it impossible for the enemy to maintain the struggle until 1919."

"Twenty-two American and four French divisions," says General Pershing, "had engaged and decisively beaten 45 German divisions, representing 25 per cent of the enemy's entire divisional strength on the western front. Of the enemy divisions, 20 had been drawn from the French front and 1 from the British front. Of the 22 American divisions 12 had at various times during this period (September 26 to November 11, 1918) been engaged on other fronts than our own. The first army had suffered a loss of about 117,000 in killed and wounded; it had captured 24,000 prisoners, 847 cannon, 3000 machine guns and large quantities of material."

With the American army holding the heights dominating Sedan, the report says the German line of communications definitely shattered "recognizing that nothing but cessation of hostilities could save his armies from complete disaster he appealed for an immediate armistice (Nov. 11)."

Report is Story of A. E. F. General Pershing's report follows in detail the growth of the American overseas forces from the date of his departure with a small staff, May 28, 1917, until it numbered more than 2,000,000 men. Every step of organization, every conference of the allied generals and the important decisions reached are recounted.

The document comprising a pamphlet of about 100 pages, or 35,000 words, is divided into three sections: "Period of organization," "Operations" and "Supply, Coordination and Administration."

Summarizing the military situation which existed in the spring of 1917, when the United States aligned itself with the allies, General Pershing said:

"In the five months ending June 30, 1917, the German submarines had accomplished the destruction of more than 3,250,000 tons of allied shipping. During three years Germany had seen practically all of her offensives except Verdun crowned with success. Her battle lines were held on foreign soil and she had withstood every attack since the Marne. The German general staff could foresee now the complete elimination of Russia, the possibility of defeating Italy before the end of the year and, finally, the campaign of 1918 against the French and British on the western front which might terminate the war.

"Financial problems of the allies were difficult, supplies were becoming exhausted and their armies had suffered tremendous losses. Discouragement existed not only among the civil population but throughout the armies as well."

Million Quick in Aim

Within one month of his arrival General Pershing recommended definitely that 1,000,000 men should be in France before May, 1918, it being evident that "a force of one million is the smallest unit in which modern war will be a complete, well-balanced and independent fighting organization." Plans for the future, the recommendation added, "should be based on three times this force."

The general was equally specific in choosing the ground for American operations. He says: "Our mission was offensive and it was essential to make plans for striking the enemy where a definite military decision could be gained. While the allied armies had endeavored to maintain the offensive, the British in order to guard the Canal ports, were committed to operations in Flanders and the French to the portion of the front protecting Paris. Both lacked troops to operate elsewhere on a large scale. To the east the great fortified district east of Verdun and around

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