SEVENTY-FIRST YEAR

SALEM, OREGON, THURSDAY MORNING, DECEMBER 1, 1921

## PRICE: FIVE CENTS

Appeal to Su

reme Court Challengir

Capital Punishment La

LEGAL MANOEVER

Fixed in Proclamation

as February 2

Jack Rathie and Elvie

not be hanged at the star

granted to the two men, w

were implicated in the killing

of Sheriff Til Taylor

Pendleton, a reprieve u

the supreme court time

pass on a suit challenging tl

constitutionality of the Or

gon capital punishment law

Judge George G. Bingha

yesterday morning denied th

application of attorneys f

Mrs. D. C. Kerby, mother

the prisoner, for a writ

habeas corpus. The attorne

then applied to the suprencourt for a writ of probab

cause and late in the afte

fused this, holding that

habeas corpus is a civil, not

criminal action, and that

writ of probable cause wou

not apply. The writ wou

have served as a stay of ex

cution for Kerby, and it w

presumed that the governo

would then grant Rathie a r

It was a day of rapid legs

manaeuvering by Attorne

John C. Lane and Charles Ga

land, and their next move w

to appeal to the supren

court from the Bingham d

cision. Each legal move w

attended by deliberation as

careful scrutiny of the author

ities in the state law librar

appeal had been filed Gover

or Olcott was informed as

both Rathie and Owens. T

governor called into confe

ence Assistant Attorney Ge

eral Wilis S. Moore, Chi

Justice George H. Burne

Secretary of State Kozer, a

Don H. Upjohn, private seci

tary to the governor. Lat

Attorneys Lane and Garlar

were called in. The repriev

Separate proclamations

reprieve were issued for t

two men. They are identicated

ference.

As soon as the transcript

44 noon the supreme court r

45 Friday, February 3, to gi

Governor Olcott last nig

penitentiary Friday.

Arbuckle's Fate Expected to Be In Hands of Jury Some Time Tomorrow-Comedian Jovial.

PERJURY CHARGE IS CAUSE OF SENSATION he would meet no reception com-

Feature Today Will Be Report from Commission Of Medical Experts

SAN FRANCISCO, Nov. 30 .-Both sides rested today in the ed to rebut such new testimony. against anarchy and disorder." Prosecution counsel announced that it would conclude finally by whom you sent to me from this Hughes and A. J. Balfour. noon tomorrow. It was gener- city, for I saw them in action in ally understood that the final ar- France," he said. "And I have Arbuckle is charged with hav- spared by the horrors of war, reing caused the death of Miss Vir- turned to fall under the bullets of

ginia Rappe. May Reach Jury Friday Opposing counsel agreed upon the base of the organization to four hours to each side for final

argument. This would put the can legion. And when I see this case in the jury's hands some- great organization applying in time Friday afternoon. The announced ending of the traditions and principles which it

testimony taking today saw a applied so magnificently during slackening of public interest to- the war I give to it my complete ward the case, although the court support and sympathy; and I inroom and adjoining corridors scribe myself upon its muster tenseness rolls, with all my soul for the batamong counsel and spectators that | tle against anarchy and disorder." had marked the period on Monday when Arbuckle was on the stand was absent, but threats of perjury prosecution against a certain defense witness fade tohave been the case otherwise.

Testimony Corroborated The defense's efforts today at \$12,000. were shaped to some extent toward answering this perjury charge. In defense of Mrs. Minnie Neighbors of Los Angeles who testified that she had seen Miss gon Trunk passenger train which Rappe at a health resort in Ven- had ben buried in snow and ice tura county in August of this near Grieda, Ore., since November year, and who was made the sub- 19 was released today and was due ject of the charge as a result of here late tonight. Telegraphis her testimony, the defense pro-

(Continued on page 5)

# SANTIAM AGAIN RISING FOCH IS NOW. IN PORTLAND, JAPS PRESENT ASKS RESPITE

French Military Leader Pauses

at Centralia to Salute

Memory of Victims

PORTLAND, Ore., Nov. 30. -

rived tonight from Puget sound.

He was hurried to his hotel and by

his request it was announced that

mittees until tomorrow morning

when a full day's program awaits

CENTRALIA, Wash., Nov. 30 .-

For the first time since his visit

to the United States the fighting

spirit of Marshal Foch was arous-

ed this evening when he left his

special train here, passed the spet

memory of those, who having been

assassins. "These men personify

the spirit of patriotism and the

spirit of self-sacrifice which lie at

which they belonged-the Ameri-

time of peace the same spiendid

HOTEL GUESTS ESCAPE

SEATTLE, Wash., Nov. 30.

Guests in a small downtown hotel

building. No one was reported in-

destroyed. Damage was estimated

TRAIN IS RELEASED

communication with the outside

world was restored today for the

first time since the storm.

BEND, Ore., Nov. 30 .- An Ore-

Proposal for 70 Percent Fleet Formally Placed Before Conference Marshal Foch's special train ar-

Situation in Parley at Washington Assumes Extreme Seriousness

where four members of the Am-WASHINGTON, Nov. 30 .- (By erican legion were killed on Armthe Associated Press) - Japan's manslaughter trial of Roscoe C. stice day, 1919 and then went proposal for a 70 per cent fleet ecution reserved the right to thousands of people, declared curity instead of a 60 per cent communicated it to Secretary ble until the flood recedes. "I knew the brave soldiers

Situation Delicate

only one fair to all, regarded the and Suver. Japanese proposal as unacceptable. In the opinion of some American delegates the situation is delicate, but not without hope accept the original plan.

affairs in the opinion of the Am- the fields now inundated, and re- a quick run-off of the heavy ericans is that Japan is persisting stone the highway for easy travel. tio. makes a stroke at the funda- pected to be of long duration. mental idea on which Secretary Hughes' proposal is based.

of necessity for national security. Salem and Marion county resiling held. It was said the tracks day's session more a matter of here tonight escaped in their It was pointed out that if consid-dents whose homes are in the might be restored tonight. general curiosity than would night clothes when fire gutted the eration of national security were to be substituted for a continuation fleets at reduced tonnage but in the same ratio as now exists, the whole basis of the conference jured. The building was partially | tion fleets at reduced tonnage but

On the basis of national security, it was said, neither the United States nor Great Britain would agree to the 60 per cent ratio. which the Hughes' plan would allow to Japan.

Americans in Conference Secretary Hughes and his three colleagues spent nearly three hours tonight debating the situa- ette valley who have played in

Kato's action swept away the deliberations of the experts considering American limitation plans. They have had to and indications are that the price do only with technical questions will hold steady or advance, ac- against about 35,000,000 pounds of tonnage estimates involved in cording to W. T. Jenks, manager for the year 1920. the American preposal to limit of the Willamette Valley Prune ative strength in capital ships. Japan has now taken the matter

out of that field. British in Accord British experts are in full ac- Jenks says. ord that the 5-5-3 proposal is the only possible road to an agreement that is fair to all, particuships and money the United amount of prunes at last August anese to base their claim for 70 isting strength which would include ships under construction. are not within the scope of the

Coast Lines May Count peaches and apricots are short On a national security basis, and the quantity of canned fruits the extent of American and Bri- available is far below usual supned fruits advancing in price fruit available. All of which And with no stocks left over, Mr.

us for Japan. Experts of the "big three" naval powers agreed today that its attitude towards either the American support was weakened, they could not reach an accord prune orchards be given the best habeas corpus and the pair were

(Continued on page 5.)

# RIVER QUITS BANKS,

ALBANY, Ore., Nov. 30 .- The Santiam river rose four NATION BACKS POSITION feet during the past 12 hours and was again out of its banks, according to word received in Albany today. The recurring high water has cut Scio, Crabtree and Sanderson's bridge from Albany and the river was reported to be rising at the Balfour and Hughes Will rate of six inches an hour. The melting of snows that have fallen since the last flood is ascribed as a cause of the new

It is also reported here that traffic between Lebanon and

Travel South Stopped

(Fatty) Arbuckle, but the prost to the city park, and, addressing as necessary to her national se- reports the Santiam three feet firm the reports, as reading ob- sues of world diplomacy, the troduce other testimony and the himself under the banner of the ed to the United States and Great way was washed out by the roar- the 16-foot level. This is within ence. defense answered that it expect- American legion "to do battle Britain. Baron Admiral Kato, ing Santiam flood. Travel south a few inches of the average mainsenior Japanese delegate, has over the highway is again impossitained by the river since the river

The river started to rise Tues- about 10 days ago. It is said in Japanese quarters day night, and at noon Wednesday to have the full support of the it overflowed. Last night it was guments would begin with the come to this spot to salute the Japanese cabinet and the diplo- a flood too deep and too dangermatic advisory council in Tokio. ous to ford. The state highway de- water which brought heavy driftpartment asks that travelers going wood down Eagle creek early to American and British naval ex- south cross the Willamette at Saperts, standing together on Secre- lem, and proceed by way of 260-foot Eagle creek bridge of

> been predicted, though there has the Spokane, Portland & Seattle mountains to make it certain. The that the Japanese ultimately will highway department announce. The seriousness of the turn of relay the plank detour through Columbia river 4 orge and started in her request for a 10-10-7 ra- The present interruption is not ex- last week.

> Willamette Seems Safe Reports that the Willamette Conference Purpose Endangered river was rising rapidly caused Kamela, Or., on the Union Pacific Japan's proposal, it was dis- a deluge of telephone calls at The main line, was smashed out toclosed, was based on her estimate Statesman office last night by day. All through trains were be-

> > Open Market in Prospect

crop will have been sold, leaving

sition in the market from the fol-

lowing causes: The supplies of

Close Attention Needed

an entirely open market for the

LaComb has become paralyzed by the rising water.

areas affected by recent high The state highway department | Local river records do not con-

deep over the detour established tained last night are to the ef- Shantung controversy took its receded from the 26-foot mark

Railroad Damaged

PORTLAND, Nov. 30.-High tary Hughes' 5-5-3 plan as the Brunks' Corners, Independence the Oregon-Washington Railroad The rise in the river had not ing the detouring of trains over

> Higher temperatures have his snow which covered the distrist

LA GRANDE, Or., Nov. 30 .-Three hundred feet of track near

Sharp Issues Injected Into Disarmament Conference at Washington

GOOD OFFICES ACCEPTED

Meet With Chinese and Japanese Today

WASHINGTON, Nov. 30 .- (By the Associated Press)-Bringing with it some of the sharpest is-

The result was an offer by the United States and Great Britain acepted by Japan and China to asin a new attempt to solve the problem and end the long and bitter

America Takes Initiative

The plan for an exercise of American and British "good offies" is understood to have orig-China had resolved to raise the question in the conference.

Secretary Hughes and A. J. Dal four, as heads of the American and British groups, will meet tomorrow with the Japanese and Chinese to lay the basis for the negotiations.

The Chinese delegates at seunced tonight they ould go into the discussions prepared to ac ept nothing less than unconditional withdrawal of the Japanspokesman ould contend for the serervations insisted upon in the diplomatic exchange between T

kio and Peking. Order Insisted Upon

Advent of the Shantung question at the council table, followa debate on the maintenance ing for Japan Vice Foreign Minter Hanihara declared withof the Japanese troops from several parts of China outite assurances that the Chipese authorities would take more el fective steps to maintain order.

At Hankow, said the Japane-Boxer protocol and that those 2000 feet, and crashed down a asked to grant reprieves f along the Chinese Eastern railway half mile east of Post Field, Fort were acting under the inter-allied | Sill, Okla. of Japan to withdraw her troops dependant on the establishment of an acceptable Chinese police

Treaties May Be Basis The conference postponed decision until Friday. Among the American delegates the belief of condition, as not for of principle might be adopted fi-

> of foreign troops is the problem gle. of foreign telegraph and radio fa cilities installed in China without her specific consent, with the argument apparently tending toward a reference of that feature of the negotiations to a more general conference on Pacific com-

munications to be held next vear.

Japan is Reluctant tricate considerations. representatives have good offices" negotiations meant lay in 40 feet of water. that the subject was "outside the conference." Japan has indicated reluctance to debate Shantung at the regular conference ses-

## WEATHER MAN FINDS MONTH VERY CLOUDY

nusual Weather Conditions During November, but No Extreme Temperature

When the weather observer in future years is looking through the government's records for DAY IS MARKED BY cloudy month, he will pause at November, 1921. For, according to the official observer at Salem, every day was a cloudy day. This means that taking the days as a whole, the sun was out of sight more than it was shining.

New Date for Executions But while the month was cloudy and rainy, there were no extreme temperatures. The highest was on November 6, with a maximum of 67 degrees. The lowest temperature was during the early morning hours of November 9, when the mercury dropped to Kerby, alias Jim Owens, w

The temperatures of the month

Date	a	a	-	255	-	-	-00							Mi	n.
1			•			• -			623		•				56
2															49
3								,						(3)	49
4		4													64
5															67
6															65
7															61
8									-			-	_		57
9															57
10					į,										45
11					·										5.0
12															57
13					•										5.7
14															5.5
15					į										52
16															45
17					1										4.9
1.8					ì										46
19	-	٠.													53
2.0															5.5
21															60
22															5.4
23					ì										53
24															5.4
25															5.3
26															5.8
27															53
28															5.0
29		-	-				-		-	-			-		57
30															58
3.0					٠						*				110

## FOUR KILLED IN AIR COLLISION

Captain Loomis, Lieutenan Lanfall, Privates Tubbard and Smith Die

LAWTON, Okla., Nov. 30,-

The dead are Captain Loomis Lieut. A. T. Lanfall and Privates Tubbard and B. A. Smith. As the airplanes struck the earth their gasoline tanks exwere unable to reach the bodies

were the outcome of the co nally, setting forth the opinion of machines had been in the air for orable outlook. Many growers the powers that all foreign troops some time when they attempted outside the big organizations haves in China without treaty senction to execute a difficult maneuver sold their prunes and got their should be withdrawn when con- As they swooped toward each other their wings met and both Along ith the general subject airplanes fell in a helpless tan-

### Longshoreman Drives Car Into Willamette; is Dead

PORTLAND, Nov. 30 .- Ed Eo-In its approach to the Shantung automobile into the Willamette, river at Terminal No. 4. Police China's brakes failed to work or whether indicated in the darkness he mistook his they wanted the question raised position. Endine's body was reopenly for all of the nine nations covered late today by a diver, death should be expended by Later, however, Supreme Court to debate and one Chinese dele-Justice Kelby granted a writ of gate, Dr. Wang, declared that the steering wheel of the car which by the clark with the seel of

WEATHER Thursday rain; strong southwest to west winds, later backing

to south.

That for Kerby reads as for "Whereas, Elvie D. Kirby w

of Oregon for the county of atilla, convicted of the crim day of October, 1921, and a d eath should be executed. by the clerk, with the seal of s cvourt afixed; and "WHEREAS, the said Elvie

Kerby, together with said warrant, was duly delivered to

(Continued on page 3)

# WARFARE RENEWAL APPEARS CERTAIN IN IRISH TROUBLE

LONDON, Nov. 30.—(By the Associated Press.) -All States has othered to undertake. 1. And this rather indicates the entire government business is giving way to the gravity of the Irish that previous efforts of the Jap-

Both government and Irish circles express the feeling per cent on a calculation of exthat only a miracle can avert collapse of the conference and renewal of warfare.

Lord Birkenhead, due to speak at ing as a result of it. a political meeting in Liverpool,

was obliged to stay in London. He sent a message of apology ex- one official said. plaining that his absence was ow-

the government will propose a to persist.

It had been intended to hold a delegates say they are not concabinet council tonight to con- cerned with it, and refuse to share sider German reparations, but the government's responsibility this was postponed to permit the for it. There was another session special cabinet committee dealing this evening of the British delewith Irish affairs to assemble gates but nothing was forthcom-"Whatever the result, Mr. Lloyd

new scheme to Ulster, Sinn Fein

George will go to Washington,"

It was stated at Sinn Fein ing to the "grave public affairs." headquarters that such a move by A spokesman of the Sinn Fein the premier would not be viewed declared that there was no in- with patience or without suspic-Sinn Fein to alter ion, for the reason that if Irish Regarding the suggestion that which it feels now in a position.

tish coast lines as compared to Japanese, American and British interests and obligations in the Far East, as compared to Japan- prunes are about the cheapest American and British citizens tends to show that there will be over the world as compared to Japanese, would have to be an early cleanup of the 1921 crop. weighed, it was said. The comparison, it was added, would not Jenks is inclined to feel that the admit of even a 60 per cent stat- grower of prunes will face favorable conditions next year.

Here is a ray of sunshine for during the blooming period there the prune growers in the Willam- should be a fine crop next year. It is understood that but few pretty hard luck the past two prunes are left in the hands of The prune market is strong is now estimated at about 25,000;-

EXCELLENT PRUNE MARKE

The California Fruit News, the During the past six or eight west, in a recent issue stated that weeks the market has been dull the prune market was definitely in dried fruits, but of all, prunes on an upward movement and a hold the strongest position, Mr. firm and advancing market in

> With such conditions, Mr. Jenks cays, growers are justified in

Outlook Is Best

money. But taking everything ditions arrant, into consideration, prospects look good for the prune grower next

Tumble-Down Theater Owners Out on Bail

NEW YORK, Nov. 30. - Syl-Rosenthal and Samuel fors of the American theater in Brooklyn which collapsed vestermen, today were ordered held without bail when they were ar-

With the right kind of weather | are in hospitals.

unity of Ireland or allegiance to in consequence of the premier's on the basis of calculation to be the crown.

The country of Ireland or allegiance to in consequence of the premier's on the basis of calculation to be used in measuring Japan's existing in the discovery of the country of of the countr forced to modify its demand on ing relative naval strength. They been a favorable season so far, suiting in the discovery of the which it feels now in a position ing relative naval strength. They and buds are showing strong, seventh body. Eighteen injured

(Continued on page 5)