

The Oregon Statesman

SEVENTY-FIFTH YEAR

SALEM, OREGON, WEDNESDAY MORNING, JANUARY 6, 1926

PRICE FIVE CENTS

'PEDDLER FEE LAW' IS DECLARED VALID

Commercial Autos Operating Five Miles Beyond City Must Pay Excess

RIGHTS ARE UNABRIDGED

Supreme Court Holds Theory of Greatest Tax for Those Using Highways Most Constitutional

Constitutionality of the so-called peddler's license law which provides that commercial vehicles operating more than five miles beyond the boundaries of any incorporated town or city in the state shall pay an annual license fee of 50 per cent in excess of the regular license fee imposed upon those vehicles, was upheld by the state supreme court in an opinion handed down yesterday.

The opinion was written by Justice Belt in connection with original mandamus proceedings filed by Clyde Evans, Earl Bunting and Edward M. Flinsler to compel Sam A. Kozler, as secretary of state, to issue licenses to them despite that they had failed to include in their tenders the additional fee required by statute. Chief Justice McBride and Justices Brown and Bean concurred in the opinion. Justice Belt ordered dismissal of the suit.

It was contended by the plaintiffs that the law was unconstitutional for the reason that it abridges the privileges and immunities of citizens of the United States, that it grants to a class of citizens privileges and immunities which, upon the same terms, do not equally belong to all citizens, and that it is not uniform in its application to all owners of commercially used cars. The charge also was made that the law was discriminatory as to that class of owners of commercially used cars to which the plaintiffs belong, and that no reasonable ground exists for such classification or discrimination.

The petitioners made no attempt to challenge the right of the state to require the payment of license fees for the privilege of operating motor vehicles upon the highways, as this question was definitely and affirmatively settled in an opinion previously handed down by the court.

"The legislature with good reason might well classify commercial vehicles," read the opinion. "Is it not reasonable that certain kinds of commercial vehicles will cause more damage to the highways than others?"

"In determining whether the classification in question is reasonable, it is important to give due consideration to the general purpose and spirit of the Oregon motor vehicle laws. It is apparent, even from the casual reading of the same, that the legislature intended to impose upon those who most use the public highways of this state the greatest part of the burden of repairing and maintaining them. This policy, as a matter of abstract justice, is unquestionably sound. It requires the person who causes the most wear and tear on our highways, which are maintained at great expense, to assume a just part of this public burden."

"Does the statute arbitrarily and without reason discriminate against the petitioners here in? There is no merit in the contention."

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SUICIDE IS ATTEMPTED

EVELYN NESBIT THAW ATTEMPTS TO TAKE OWN LIFE

CHICAGO, Jan. 5.—(By Associated Press.)—Evelyn Nesbit Thaw, who early today tried to kill herself by swallowing poison, tonight was reported resting quietly at a hospital here, although still in a serious condition.

Doctors, who at first believed her suicide attempt would prove fatal, said she had a chance to recover because she had been drinking alcohol, which is an antidote for the poison she took.

The divorced wife of Harry K. Thaw, and who several years ago had tried suicide, offered little explanation of her act, except that she did not want to live and was tired. She had been filling an engagement as a cabaret entertainer here and was scheduled to leave today for Florida to fill a similar engagement.

Mrs. Thaw's 15 year old son, Russell, who is here from the east for a holiday vacation, was with his mother when she tried to end her life. Mrs. Thaw's negro maid summoned him and he prepared an antidote and hurried her to the hospital. His prompt action, doctors said, helped her chances for recovery.

HORSE ACTION DENIED

MAN IN "MULEDRAWN" VEHICLE INSISTS ON RIGHT

WASHINGTON, Jan. 5.—(By Associated Press.)—While Washington's new automatic electric traffic control system was being inaugurated today on Sixteenth street in a thick fog, a practical joker drove a vehicle of doubtful vintage along a sector recently denied to horse-drawn conveyances. The driver, when stopped by a policeman, insisted that he had read the warning signs correctly. His passenger then leaned out, declaring: "This is not a horse-drawn vehicle. It is muledrawn. Drive on, James!"

That seemed to be a sound enough argument, so, after reading anew the regulations against horses, the muledrawn vehicle was allowed to proceed. Assistant Corporation Counsel Hart advised the police however that the courts had held that "muledrawn and horse-drawn" are the same thing.

ELEVEN INSTITUTIONS REPORT 1926 SURPLUS

STATEMENTS ARE MADE TO STATE BOARD OF CONTROL

Prison, Home for Feeble Minded, Industrial School Are Also Listed

Five of the eleven state institutions in Oregon had a surplus of funds on January 1, 1926, based on their biennial appropriations and expenditures for the year 1925, according to a financial statement prepared yesterday for consideration of the state board of control.

Institutions having a surplus of funds at the close of the first year of the biennium are the Oregon state penitentiary, state home for the feeble minded, state training school, state school for the deaf and Eastern Oregon state hospital.

The state hospital with an appropriation of \$887,425 for the biennium had expended on January 1, 1926, a total of \$454,789.72. There remains in the funds of this institution for this year an aggregate of \$432,644.28. The figures show that there is a surplus of funds in both the salaries and wages and operating expense classifications of this institution, but the total was reduced materially by the expenditure during the year 1925 of \$78,349.16 of an appropriation of \$39,425 for capital outlays and improvements.

Out of a total appropriation of \$350,000 for the state penitentiary there remained on January 1, 1926, the amount of \$183,907.42, as against \$166,092.58 expended during the past 12 months. Operating expenses at this institution during the year 1925 totaled \$63,118.83, leaving \$120,788.59 for the present year. The salaries and wage account at the prison shows that \$63,120.58 was expended in 1925 leaving only \$57,668.01 to meet the demands under this classification in 1926.

At the state home for the feeble minded the total appropriation of \$1,100,000 for the biennium had expended on January 1, 1926, the amount of \$183,907.42, as against \$166,092.58 expended during the past 12 months. Operating expenses at this institution during the year 1925 totaled \$63,118.83, leaving \$120,788.59 for the present year. The salaries and wage account at the prison shows that \$63,120.58 was expended in 1925 leaving only \$57,668.01 to meet the demands under this classification in 1926.

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INGRAHAM NOT TO HANG

40 TO 50 YEAR SENTENCE IS IMPOSED ON SLAYER

TACOMA, Jan. 5.—(By Associated Press.)—Jesse Ingraham, itinerant Texan escaped hanging when he was sentenced to a term of 40 to 50 years in the state penitentiary by Judge W. O. Chapman in superior court this afternoon. A jury last week found Ingraham guilty of murder in the first degree for the slaying of Joseph C. Hedges, Seattle attorney and imposed hanging as the penalty. Judge Chapman this afternoon granted Ingraham a new trial. Ingraham immediately waived hearing and pleaded guilty to murder in the second degree and was sentenced at once.

Ingraham shot and wounded Hedges on the Pacific highway near Camp Lewis in September. Hedges died several days later. Ingraham, who was driving overland, claimed that Hedges ran his automobile into his covered wagon. He said that his anger was aroused by the fact that his wagon had been struck by automobiles several times that day.

CRIMINAL CODE CHANGED

OLYMPIA, Jan. 5.—(AP.)—The senate today passed house bill 149 changing the criminal procedure in state courts, after adopting a number of amendments. The purpose of the bill, its proponents asserted, is to facilitate disposal of criminal cases.

STATE INCOME TAX TO BE ON BALLOTS

Drive Is Launched by Grange Farmers' Union and Organized Labor

PETITIONS WILL APPEAR

Attempt to Secure Adoption of State Income Tax Will Be Made; Dennis Resolution Is Opposed

PORTLAND, Ore., Jan. 5.—Another attempt will be made to have voters of Oregon adopt a state income tax, notwithstanding that such a tax was expunged from the statute books at the general election in November 1924. The new drive has the backing of the state grange, the farmers' union, organized labor and the state teachers' association. The program calls for initiating the measure anew and submitting it on the ballot next November.

On the ballot will also appear which is in the form of a constitutional amendment proposing that neither a state income tax nor an inheritance tax shall be levied in Oregon until 1940. The new measures, the resolution and the proposed income tax will be diametrically opposed to each other. To get started on the state income tax a meeting was held here today by committees appointed by the grange, the farmers' union and the teachers' association.

The state federation of labor's representative failed to appear at the conference. No action, aside from general discussion was taken today but it was said that as soon as the income tax bill is drafted the various organizations sponsoring it will get busy with initiative petitions. About 20,000 names will be needed to get the measure on the ballot and these signatures must be compiled and filed with the secretary of state in July.

POLICE SEEKING SLAYER

AGED STOREKEEPER SHOT TO DEATH; TILL RIFLED

EDMONTON, Jan. 5.—(By Associated Press.)—The slayer of Jacob Milner, 68, a storekeeper here, was being sought by police today. The merchant's body, with a bullet hole in the right chest, was found last night on the floor of his store. A cigar box containing some silver was taken but \$27 in bills remained in the dead man's pocket.

BEND HAS RAIN

BEND, Ore., Jan. 5.—(By Associated Press.)—Accompanied by a chinook wind, a springlike shower fell in Bend at noon today.

CHERRIAN CROWN GOES TO KING BING WHITE

J. C. PERRY, RETIRING, PRESENTED WITH WATCH

Organization Is Declared to Be Salem's Strong Advertising Asset

There were 112 Cherrians present at the grand annual Cherrian banquet held last night at the Marlon hotel. The affair was staged for the first time in several years. King Bing J. C. Perry presided, and gave a farewell address, crowning Harley White King Bing for the coming year. In his farewell address, he congratulated King Bing Harley on having been a member of the Cherrians for the last 13 years and for having been 100 per cent in attendance during the past year.

King Bing White, in making his inaugural address, stated that the Cherrian organization is one of the greatest advertising assets of Salem. While booster organizations in many cities have fallen by the wayside, the Cherrians are declared better than ever. He expressed hope that a new record in service for Salem would be established during the coming year.

A fine watch was presented to retiring King Bing Perry as a token of appreciation for the work he has done during the past year. The presentation speech was made by M. L. Meyers.

The Elks quartet of Portland made a hit with the Cherrians. Towards the close of the banquet they gave a 20-minute concert. Before this they had sung at intervals during the courses.

The Orpheus Girls' jazz orchestra of Portland also scored with those present. They were called upon to respond to encore after encore. The Spanish dancing was also enjoyed.

At the close of the banquet 11 new candidates were initiated into the organization.

CUT SCHOOL FIRE LOSS

WILL ASK LAW TO REDUCE CHILDREN'S HAZARD

Amendment of the existing fire laws with relation to the construction of school houses for the protection of children will be advocated by Will Moore, state fire marshal, at the next session of the legislature. This was announced in a bulletin issued by Mr. Moore yesterday.

Mr. Moore said that statistics gathered through federal sources indicated that six school structures are burned every day of the year.

DEBATE SCHEDULED

VANCOUVER, B. C., Jan. 5.—(By Associated Press.)—The University of British Columbia and the College of Puget Sound will hold dual debates Wednesday night upon the subject "Should International Debts Be Reduced?"

MILLIONAIRE FATHER IS UNRELENTING IN VIEWS

MACKAY NOT TO 'FORGET OR FORGIVE,' HE STATES

Secret Marriage of Daughter and Song Writer Unalterably Opposed

NEW YORK, Jan. 5.—(By Associated Press.)—Clarence H. Mackay let it be known today that he intends neither to "forget nor forgive" the secret marriage of his debutante daughter, Ellen, to Irving Berlin, popular song writer, and former singing waiter in bowery saloons. Through another son-in-law, Kenneth O'Brien, Mr. Mackay revealed himself as unalterable in his opposition to the romance and not interested in the present whereabouts of the runaway couple.

His assumption of the role of the unrelenting rich father left only one element missing to make it a perfect story book plot—the find that might have been staged with some of Irving Berlin's sentimental songs as accompaniment.

The daughter of the millionaire of the president of the two great telegraph companies, married against the wishes of her father—but she isn't going to any humble cottage with him to share his honest property.

Instead, the young couple are in seclusion in the presidential suite in the Ritz Carlton at Atlantic City, and they are booked to sail Saturday on the Leviathan, occupying again a presidential suite, which costs \$5000 a crossing.

If Mr. Mackay's lack of forgiveness has exiled his daughter "forever" from Fifth avenue to Broadway, she apparently will not suffer so far as wealth is considered. Berlin, who once juggled beer trays in Nigger Mike's place on Spill street, is reputed to have an income of \$300,000 a year from his songs and to be worth \$1,500,000. He lives in a luxurious roof garden cottage atop an apartment in West Forty-Sixth street.

FOSTER LODGED IN JAIL

IS CHARGED WITH THREAT TO KILL; LACKS BOND

W. E. Foster of Silverton is once more charged with running counter to the law. This time he is in the county jail after being arrested on a charge of threatening to kill. He was arraigned in the justice court, bail fixed at \$1000 and remanded to the sheriff when he was unable to furnish a bond. Tom Gibson of Silverton is the complainant.

Foster's career here has been hectic. He was first arrested on a warrant charging him with manufacturing liquor. Foster served out his sentence in a hospital—he is suffering from a weak heart. While Foster was in jail, his wife was arrested on the same charge, and is now serving a sentence in the city jail.

TAX PROGRAM WINS MELLON'S APPROVAL

Secretary of Treasury Expresses Satisfaction With House Procedure

SENATE IS NOW AT WORK

Republican Members in General Are Expected to Lend Support to Measure as Passed by House

WASHINGTON, Jan. 5.—(By Associated Press.)—Secretary Mellon expressed his approval of the house tax reduction bill, in general, to the senate finance committee today and it started actual work on the measure, passing over important controversial propositions, however, for future decisions.

Republican members indicated a willingness to follow the administration in support of the house bill, but action on the vital income tax rate provisions was proposed at the request of some democratic members.

Senator Simmons of North Carolina, ranking democrat on the committee later called the democratic members into conference and it was announced they would present a program calling for several changes in the bill.

No details of their plan were disclosed, but the program is expected to call for greater tax reduction than proposed in the bill as passed by the house.

The committee did approve the "earned income" section of the bill, which increases from \$10,000 to \$20,000 the maximum amount on which the 25 per cent reduction under this classification might be applied. Some consideration also was given a proposal to increase from \$5,000 to \$10,000 the amount of the income automatically regarded as "earned" and entitled to the reduction.

Despite the impending party fight on the bill, leaders of both sides declared their intention to work for early action so that the proposed reductions in income rates may be taken advantage of in the payment of first installments of these taxes March 15. A suggestion that night meetings of the committee, be held, however, brought objections.

The controversial inheritance tax rates were the subject of discussion by Secretary Mellon before the committee and Senator Fletcher, democrat, Florida, in a speech before the senate.

Recalling that he had urged retirement of the federal government from this field of taxation, Secretary Mellon told the committee he had no serious objection to the modified inheritance tax rates provided by the bill. The measure cuts the maximum inheritance rate from 40 to 20 per cent and increases from 25 to 30 per cent the credit to be allowed for payment of state inheritance taxes.

Senator Fletcher denounced practically this state tax credit allowance, questioning its constitutionality, and declaring it amounted to "coercion of the states into raising and enacting inheritance tax rates. He favored complete repeal of the federal levy."

COL. MITCHELL LAUDED

REPRESENTATIVES PLAY DECISION OF COURT MARTIAL

WASHINGTON, Jan. 5.—(By Associated Press.)—The Mitchell court martial decision again drew attention in the house today, Representative Tillman, democrat, Arkansas, asserting that the verdict means the "end of a first class fighting man."

Meanwhile, the house military committee complying with a resolution by Representative Garrett of Tennessee, the democratic leader, decided to ask the war department for a copy of the letter written by Former Secretary Weeks, opposing reappointment of Colonel Mitchell as assistant army air chief.

Mr. Tillman, who several weeks ago assailed the court martial verdict, declared that "the curtain now drops on the colonel."

"Mitchell, the brilliant flier, told the truth in a very blunt and soldierly way," he said. "He exposed with candor, but like a plain fighter will, the faulty methods of the haughty higher ups and then the uniformed high brows composing the military tribunal broke his sword and stripped him of his honor."

The representative also read a letter from his son, Fred A. Tillman, praising Mitchell, under whom he served as a lieutenant in France.

SALEM HI FIVE WINS

DEFEATS FRANKLIN BY 24 TO 13 SCORE

Salem high school basketball players won from Franklin high school five, on a Portland floor, last night to the tune of 24 to 13, turning the tables after the recent defeat here by the score of 29 to 26.

Reports indicate that Salem had the game to herself from the opening moments, first half score standing 16 to 9 in her favor. The game was played at a faster pace than the recent contest here, and is declared to have shown improvement in style. Rivalry between the two schools has been high following clashes in the state tournament last year.

CRIMINAL INSANE WARD AT PRISON REQUESTED

DANGER OF DRUG, FIRE ARM DELIVERY TO BE CUT

Governor Favors Action for Criminal Inclined Feeble Minded

Construction of a ward for the criminal insane at the Oregon state penitentiary in lieu of maintaining these charges at the Oregon state hospital was recommended by Dr. R. E. Lee Steiner, superintendent of the latter institution, in a report submitted to the state board of control yesterday.

Governor Pierce indicated that he favored the proposal and that he might include such a recommendation to the next legislature. Dr. Steiner reported that there were 29 criminal insane patients at the state hospital at the present time. He said the facilities for housing these patients were inadequate and it was necessary to take every precaution to prevent them from receiving drugs and fire-arms through outside sources.

It was the opinion of Dr. Steiner that in event the state provides quarters for the criminal insane at the penitentiary approximately 60 per cent of the patients would be capable of performing some kind of manual labor. Under the proposal submitted by Dr. Steiner the criminal insane would receive medical attention from the hospital physicians. The Kay cottage was accepted. The new girls' dormitory had as architect, Fred A. Legge and general contractor, Albert A. Silwert.

Dr. J. N. Smith, superintendent of the state home for the feeble minded, said he confronted a situation similar to that of Dr. Steiner in that he had no ward in which to restrain mentally defective who are criminally inclined. He urged that such a ward be constructed at the feeble minded home through an appropriation of the next legislature.

Warden Lillie of the Oregon

(Continued on page 4.)

M'CAMANT IS OPPOSED

JOHNSON CONTINUES OPPOSITION TO OREGON MAN

WASHINGTON, Jan. 5.—(By Associated Press.)—Senator Johnson, republican, California, lost another skirmish tonight in his fight to prevent senate confirmation of the appointment of Wallace McCamant of Oregon to the ninth federal circuit court bench. Seeking to force consideration of the nomination in "open executive session," instead of closed doors, Senator Johnson lost out on two close votes. The nomination then went over until next week, when the California senator will continue his opposition.

The fight which Mr. Johnson is conducting is an outgrowth of the 1920 Chicago convention at which Judge McCamant nominated President Coolidge for the vice presidency.

The judge was a delegate from his home state and Senator Johnson claims that, although instructed to vote for him for the presidential nomination, the judge violated that pledge.

"Judge McCamant violated the laws of his state and broke faith with his people," Senator Johnson said after the senate action tonight. "A man who will not obey the laws of his own state is unfit to administer the laws of the United States."

TO RECONSIDER VOTE

OLYMPIA, Jan. 5.—(By Associated Press.)—With the passage by the house tonight of a house joint resolution amending joint rules to permit reconsideration of the vote by which house defeated Governor Hartley's veto of the educational appropriations bill, final victory of the legislature over the governor seemed assured. The resolution will be sent to the senate tomorrow.

CHEMAWA TO GET \$312,500 IN BILL

Will Be Largest Sum Ever Received at One Time by Local Institution

INCREASES ENROLLMENT

Provides for \$70,000 Dining Hall and Kitchen, \$30,000 for Repairs, \$10,000 for Industrial Equipment

WASHINGTON, Jan. 5.—(Special to The Statesman.)—The interior department appropriation bill just reported to the house contains the following amounts for Chemawa: For nine hundred Indian pupils, \$203,500, including \$1,000 for school paper and for pay of superintendent; for drainage and general repairs and improvements including repairs to water system, \$30,000, and for new dining hall and kitchen \$70,000, and for industrial equipment \$10,000; in all \$312,500.

The above result shows a continuance of good work by Congressman Hawley, in the interest of the Salem United States Indian training school at Chemawa.

For some time there have been rumors current that the school at Chemawa would probably go the way of other such institutions, once flourishing in this country, such as that at Carlisle, Pennsylvania, but it would seem from the interest taken by the department at this time that the plant at Chemawa is to be enlarged and become an institution of education for industrial training of Indians in the northwest for many years to come.

Since his first election to congress Mr. Hawley has secured good appropriations for the maintenance and support of the institution at Chemawa and has had a large number of buildings added to the plant which are a credit to the institution.

The maintenance appropriation for the Salem school for last year provided for \$50, but the economies due to the production of the school farm and good management have allowed nearly 1000 pupils to be kept. The provision for 50 more will allow over 1000 to be maintained at the institution.

Congressman Louis Cranston of Michigan visited at Chemawa last summer and was highly pleased at the work being done there. He is chairman of the committee looking out for the appropriations for such institutions, and he has no doubt been helpful in getting such splendid support for the Salem school.

DOUBLE PENALTY FACED

WESLEY SMITH GIVEN INDETERMINATE SENTENCE

Wesley Smith, 36, was given an indeterminate sentence of not to exceed five years in the state prison when he appeared before Circuit Judge Percy R. Kelly Tuesday morning after entering a plea of guilty to a charge of rape. The charge involved fourteen year old Beulah Springer whose mother is now under indictment, accused of contributing to her delinquency. Smith is married and the father of a child.

Besides the sentence on the statutory charge, Smith must also serve a three year term for forgery. On March 17, 1924, he was convicted for forgery but was later paroled. His parole was revoked upon his conviction in the present case. The two sentences will run consecutively.

ST. PAUL STILL RAIDED

THREE MEN AND TWO STILL SEIZED BY OFFICERS

Andy Frey, 23, John Sayde, 21, and Ira Schauerman, 19, were arrested late last night when Frey's farm near St. Paul was raided by prohibition agents. They are held in the city jail here. One 50 gallon and a 35 gallon still were seized, together with over a thousand gallons of mash. The stills were yet warm when the plant was uncovered.

Only one pint of liquor was found but evidence is said to point to the conclusion that wholesale operations were carried on. Bills for materials used in the manufacture of the liquor were found on the place. These include such items as "Sugar, \$125, corn, \$42, pint bottles, \$21.50, forks 37, and yeast, \$21." The arrests were made by state men working in cooperation with Sheriff Bowser. The Frey farm has been under surveillance for some time, according to officers.