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The Oregon Statesman

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Salem, Oregon, Tuesday Morning, April 26, 1932

WEATHER Unsettled and cool today and Wednesday; showers; Max. Temp. Monday 54, Min. 44, river 5.6 feet, cloudy, southwest wind.

EIGHTY-FIRST YEAR

No. 339

KELLER'S CASE TO REACH JURY THIS FORENOON

"Clean out Racketeers" is Final Plea of State's Special Attorney

McCallister Criticized by Both Sides in Ruling On 'Cash' Payment

This morning by 11 o'clock, the 15-day trial of Frank Keller, Jr., ex-Empire Holding Co. sales counselor, on charges of devising a scheme to defraud will be in the hands of a Polk county jury for a verdict. Promptly at 9:15 a.m. Judge Artie G. Walker will commence his instructions which are expected to be extensive since counsel for the state and the defendant have offered lengthy outlines of the instructions each desires.

Presentation of argument of both sides came to a close late Monday afternoon in the circuit court room at Dallas after a considerable audience and the 14 jurors had listened attentively throughout the long day as the opposing attorneys pleaded the merits of their positions. First came Oscar Hartner, representing Keller, then Frank Loneragan, also representing Keller and in conclusion, Barnett H. Goldstein, special prosecutor for the state who summed up the argument for the prosecution.

Mistrial Danger Narrowly Averted Danger of a mistrial of the case was thwarted shortly before 10 o'clock Monday morning when attorneys for both sides stipulated that the conversation of John H. Keller, Jr., with Elmer Black, county clerk, during the weekend, would not constitute a basis to throw the case out of court and cause a new trial.

Black said Monday, when questioned, that he had talked to Keller when the latter asked him why Frank Keller—who is not a relative—was not put on the stand to testify in his own defense. Black replied that a defendant did not need to place himself in jeopardy. The conversation was overheard, was reported to Judge Walker and an hour before court started Monday, attorneys for the prosecution and the defense argued in the judge's chambers whether or not the case should be allowed to proceed.

Jury Expected to Be Out Many Hours The jury in the case is expected to be out a number of hours due to the large amount of testimony which was offered. Observers at the trial yesterday said after the arguments were in that a hung jury might be the outcome of the case. Since the charge of devising a scheme to defraud is a crime punishable by a prison sentence, a unanimous verdict of the 12 jurors will be necessary for conviction. Two extra jurors have heard the case throughout and it was proposed to the court yesterday that if a juror was disqualified, one of the extra jurors could be asked to ballot on the guilt or innocence of the accused.

"Clean out these financial racketeers," pleaded Goldstein as he closed his argument. "Your verdict must be for the conviction of Keller, that he is not a criminal and those who follow the line of easy money punished. It is hard to prosecute and convict financial racketeers; it is easy to send a man to jail for stealing bread," he argued. "Don't return, members of the jury, a verdict which gives confidence to other high-powered salesmen to come to Oregon to violate the law."

Large Salaries to Officers Attacked Goldstein, in opening his plea for conviction, scored the large salary contracts awarded by the original Empire officers weeks before the stock selling permit was secured. "In two years these men would have wiped out their individual subscriptions of \$20,000 through these salary schedules," he said. "Not one cent did the defendant pay on his subscription until three months after the selling campaign was on and then he paid less than one-half the amount due him on salary."

Goldstein painted a picture of the taking of the oath by the five ex-officers of the Empire Holding corporation when they individually swore to have subscribed \$20,000 in cash for stock. "That application and that oath alone condemns them," he said. "What is the explanation of this misstatement about cash paid for stock? That McCallister, corporation commissioner and never saw any balance sheet, had quoted the amount of cash paid for stock. That application and that oath alone condemns them," he said. "What is the explanation of this misstatement about cash paid for stock? That McCallister, corporation commissioner and never saw any balance sheet, had quoted the amount of cash paid for stock. That application and that oath alone condemns them," he said.

Goldstein then went into the testimony of J. E. Allison as secretary of the Marion county grand jury which indicted Keller. Allison, the lawyer said, had quoted McCallister as testifying that the matter of substituting notes for cash by the ex-Empire officers was never raised with him before the Empire's stock-selling permit was issued. "Fred Meindl never heard of such a statement and never saw any balance sheet," he said.

(Turn to page 2, col. 1)

Massie's Fate to be in Their Hands



Jury in the "honor slaying" case of Thomas H. Massie, Mrs. Granville Portecuse and two navy enlisted men, on trial for the slaying of Joseph Kahakawai in Honolulu. The evidence is all in and attorneys will begin their arguments today. Photo shows the jurors being conducted by bailiffs to a hotel where they have been locked up after each court session. The jurors are of a number of varied racial stocks, oriental and occidental.

INMATE KEEP CASE TO COME UP SOON

VanWinkle Will Represent State in Suit Filed To Test new law

I. H. Van Winkle, attorney-general, will appear on behalf of the state in a suit filed in Multnomah county recently, to test the constitutionality of the 1931 legislative act requiring relatives and counties to contribute \$20 a month to the support of persons in the state institutions for the insane and for the feeble minded. Van Winkle was ordered to take part in the litigation yesterday at a meeting of the state board of control.

The case will be tried in Multnomah county May 5, Charles E. Cohn, district attorney there, told members of the board. The law under attack requires relatives of patients in the insane and feeble minded institutions to pay a maximum of \$20 a month for their support. In cases where the relatives are unable to pay, the burden falls upon the county.

Attorney General Van Winkle said he had not yet determined upon what points the constitutionality of the law would be attacked. The board yesterday accepted the new hospital building at the state tuberculosis hospital institution. This structure was completed recently at a cost of \$60,000. Representatives of the State Federation of Labor complained that it would not be fair to employ convict labor in the construction of the proposed new state power plant at the state penitentiary.

Members of the board made it plain that it was not their intention to have convict labor conflict with free labor, and that a satisfactory arrangement would be worked out.

TENANT RESIGNS WILLAMETTE POST

Announcement was made Monday of the resignation of H. W. Tennant as Registrar of Willamette university. Tennant expects to leave soon for California where he will assume charge of a boys' school near San Francisco bay.

Trindle Wins His Point On Venue of Water Suit

The slow legal battle over the December 15, 1931, charter amendment calling for a \$5,500,000 bond issue for a water system in Salem, took another turn yesterday when the city won a point in securing the remanding of its suit against the Oregon-Washington Water company to circuit court here for trial.

Evidence in Massie Case Is Wound Up

HONOLULU, April 25—(AP)—Picturing Lieutenant Thomas H. Massie as a sane, normal southerner aroused to anger and vengeance when he shot Joseph Kahakawai, Dr. Joseph Catton, alienist, today provided a vehement finale to the prosecution's case against the naval officer and three others accused of the lurching.

Both sides rested and the case reached the point of closing arguments after Dr. Catton and Dr. Robert Faus, city and county physician, had been called in the prosecution's last attempt to smash the insanity defense set up in behalf of Massie by two alienists.

Dr. Catton, San Francisco psychiatrist, was the third mental expert to contend Massie was sane the moment he stood pistol in hand, before Kahakawai and heard the native allegedly confess attacking his wife, Mrs. Thalia Massie. Massie and the defense alienists had asserted his mind had gone blank at that moment and that he did not know what he did immediately thereafter.

GROUND IS BROKEN FOR SOLDIER HOME

ROSEBURG, Apr. 25—(AP)—Ground was broken here today for the northwest soldiers' home upon which the federal government will spend \$2,200,000. R. I. Stuart & Sons of Medford, who last week were awarded the grading and excavating contract, said additional equipment is expected this week to speed up the work. Approximately 22,000 yards of dirt will be moved.

Throngs of unemployed men have been flocking over the site of the work, resulting in orders today to exclude the public from the reservation. Contractors have agreed with the Roseburg chamber of commerce to use local labor where available, and the supply of common labor is said to be more than enough for the requirements.

Finch Selected As Manager of O.-W. Company

PORTLAND, Ore., April 25—(AP)—Appointment of Frederick N. Finch as general manager of the Oregon-Washington Railroad & Navigation company, with headquarters here, was announced today by the Portland office of the line, a part of the Union Pacific system. Finch succeeds James P. O'Brien, who will be retired May 1 under the Union Pacific's pension plan.

Montana Banker Victim of Crash

MALTA, Mont., Apr. 25—(AP)—J. W. Schnitzler, 49, Ford, Mont., banker, state senator, and republican national committee man and his pilot A. L. Hedberg, 24, crashed to their deaths about 10 miles northwest of here during a rainstorm early early Sunday. The wreckage of the plane lay undiscovered until late today.

SECRET CLUBS CLEANUP BEING STARTED HERE

Only 100 Boys Affected is Declaration; Some are Induced to Quit

Hearing in Assault Case to Be Thursday; Students Visit Court Early

Preliminary hearing for seven Salem high school boys charged with assault and battery upon the person of Victor DeJardin, another student, will be heard before Justice of the Peace Miller Hayden Thursday afternoon at 2 o'clock. Judge Hayden set the time yesterday after Judge J. C. Slegmund, to whose juvenile court five of the boys had been certified, sent an order to justice court certifying the boys back that tribunal.

Twice yesterday the justice courtrooms were packed with high school students and other interested onlookers who believed the preliminary hearing scheduled to come up Monday. However, Judge Hayden did not set the hearing until yesterday.

The boys, Charles and Jim Reed, James Nicholson, Jr., Frank Cross, Lawrence Blaisdell, Glen Moody and Kenneth Filsinger. "Ruthless Way" is Advocated by Wolf

Principal Fred D. Wolf of the high school yesterday reiterated his declaration that now the secret societies will have to be disbanded. "The only way out is the ruthless way—clean them out," he declared. "We've tried educating them against the clubs; it hasn't worked."

JUNIOR FLUNK DAY QUIET FOR CHANGE

W. U. Third Year Students Break Precedent; out Ahead of Seniors

One of the most quiet "flunk" days in years was witnessed Monday as the junior class of Willamette university set off to Nelscott for an all-day outing, being excused from school. The party itself was however not a quiet affair and the 90 there enjoyed themselves.

The juniors broke precedent by flunking before the seniors this year. By placing the flunk day on Monday, a number of the juniors were able to get out of town on Sunday night or at least out of their regular sleeping quarters and to the beach in the afternoon who try to keep the frolicers from sleeping the night before the picnic.

There was one gang of junior men that was organized and looking for trouble and even disappointed at not finding more. They did kidnap one of the underclassmen and took him for a ride into the country from which he had to walk back. The juniors also lured one carload of men to the country and then took the distributor and parts of the engine from the car and told the group where to find them in town.

Plans had been made for 75 on the picnic, but 90 showed up which caused no inconvenience other than a bit of crowding in the cars going over.

Organized games were played on the beach in the afternoon with "Les" Sparks, Gus Moore, Walt Erickson and Mildred Miller in charge. Those who did not participate in the games were either catching up sleep lost the night before or doing a bit of "tussin."

Firemen Strike Due to Closing Of Club Rooms

PHILADELPHIA, Apr. 25—(AP)—If fire breaks out in Lanserich, a suburb, its just too bad for the Lanserich volunteer firemen are on strike and the fire house is closed.

The strike followed upon enforcement of an old rule prohibiting the use of the fire house club rooms after midnight. Thirteen fire fighters resigned and the others refused to act.

A neighboring company was called to put out a grass fire.

Keene Named by State Jewelers

PORTLAND, Ore., April 25—(AP)—Frank A. Heltkemper of Portland was elected president of the Oregon State Jewelers' association here today.

Fire Hazard Inspections Latest Plan

When the city council meets on Monday, May 2, the fire committee, headed by W. H. Dancy, will recommend two major moves for making the fire department more efficient, in addition to its decision as to disposition of equipment and men now at the South and North stations, which the council ordered closed on May 1.

If the committee's suggestions are accepted, one fireman at central station will be delegated to serve entirely as an inspector, but subject to fire call at any time. His duties will be to search out fire hazards and to plant all buildings in the fire zone as to exits, basements, floors, water power connections. These plans will be filed at the station and all firemen required to study them.

Appointment of one fireman as inspector has long been advocated by Chief Harry R. Hutton. Lack of such inspection was pointed out as one cause for Salem's high fire loss, by J. W. Stevens, California state fire marshal and chief of the inspection department of the national board of underwriters, in addresses here recently. In the past, the chief and captains have made semi-annual inspections of the schools.

The other efficiency recommendation will be that the council (Turn to page 2, col. 6)

REGISTRATION FOR COUNTY IS 27,261

Biggest on Record; Gain is 2724; two Thirds of Voters G. O. P.

The new high mark in voter registration in Marion county, Oregon, was reached today. More than 27,000 voters are now registered under the new roll, which ended last Tuesday, was yesterday established as 27,261, and the secretary of state will be so informed today.

The check completed yesterday, represents a gain of 50 in the city of Salem, and 1574 in county precinct registrations. This gain of 2724 is over the 1700 names cancelled from previous registration list.

More than two-thirds of the total voters, or 20,338, are registered under the republican banner. The democratic party primary adherents climbed to 6407. Other registration party totals are: progressive, 19; prohibition, 52; socialist, 65; and miscellaneous, 351.

The total city registration is 12,437, and the total outside, 14,824. The largest gain, 136 voters, was made in the Salem Heights precinct where 596 voters are now registered.

Precinct two, Salem, has the largest registration in the county, with 795 voters' names on the books.

Indians Must be Licensed if Fish Sold, Is Ruling

PORTLAND, Ore., April 25—(AP)—M. T. Hoy, master fish warden, and John C. Veatch, chairman of the Oregon fish commission, said today Indians would not be permitted to compete unlicensed with commercial fishermen.

This statement was made in reply to information that a council of 400 Indians had telegraphed Senator Steiwer and protested against the action state fish wardens in insisting that the Indians must have state fishing licenses for dip nets. The Indians claimed fishing rights at Celilo, on the Columbia river, under treaties.

Inter-City War Over Water Use Gets Into Court

ASTORIA, Ore., April 25—(AP)—The city of Gearhart filed suit in circuit court here today against the city of Seaside asking a restraining order to prevent the city of Seaside from shutting off, or interfering with delivery of, water to the Gearhart system. The restraining order was signed by Circuit Judge H. K. Zimmerman.

The dispute arose when Seaside attempted to raise the rates for water supplied to Gearhart over those provided in a contract which does not expire until 1945.

HIT-RUN COUNT WILL BE FACED BY DRAIN MAN

Bendele Arrested by State Men; Woman Seriously Injured, Burned

Chase Leads to Jefferson; Suspect Once Figured In Fatal Crash

The wave of hit-and-run driving washed into Marion county yesterday afternoon when an automobile driven by G. H. Hibarger, Marshall field contractor, was struck on the Pacific highway at the mouth of here by a cattle truck, identified by witnesses as that driven by Paul Bendele, 50, of Drain.

Bendele was captured by state police on the highway just north of Jefferson. He was lodged in the Pacific hospital on charges of failing to stop and render aid and of speeding. Justice of the Peace Miller E. Hayden set bail at \$2000, which Bendele did not raise.

Mrs. Hibarger, 69, was taken to Salem General hospital by E. E. Hamlin of Portland, a passing motorist. She suffered a fractured vertebra and several bruises and burns about the face from acid which spilled from the car's storage battery.

The attending physician said that her condition was not especially serious but that it would be two days before the full extent of her injuries could be determined. Mr. Hibarger was not seriously injured.

TUSKO MUST SHOW OR WORK, DECISION

PORTLAND, April 25—Arrangements were understood tonight to have been completed to start Tusko, the huge elephant, on a tour of the country that eventually will take him to the 1933 world's fair in Chicago. Tusko is to begin his journey early tomorrow.

The first stop will be Woodland, Wash., where Tusko will be placed on exhibition. What other stops will be made will depend on the elephant's behavior and on the number of cash customers. Tentatively, stops have been planned for every city, town and hamlet.

If, however, Tusko fails to draw the crowds or if he becomes surly and unruly he will be taken to Chicago as rapidly as possible.

High School Tax Dispute May Reach Court Today

The long delayed and much debated high school tuition case may get before Judge L. H. McMahan today despite newspaper and office arguments which have waged for several days over the merits of that jurist as a trial judge for the case. The suit, Wainwright vs. Oscar D. Bower, sheriff, has been pending since March 13 when a temporary injunction issued by the court restrained the sheriff from collecting all 1931 high school tuition taxes from non-high school districts in the county.

Judge McMahan yesterday continued his assertions that he was impartial on the merits of the case and had never expressed an opinion upon it. He also renewed his declaration of wish to hurry in a decision in order to permit an immediate appeal to the state supreme court.

"The matter is entirely one of constitutionality and one which the supreme court will decide upon the law and not upon the decision of any circuit court judge," McMahan declared.

District Attorney Carson continued his position, namely, that McMahan was prejudiced on the case and that a perfunctory decision was not sufficient treatment to be given a case of such merit in a circuit court. Carson expressed a willingness, however, to continue the case before Judge McMahan. Attorney James G. Heitner for the plaintiff urged haste in considering the matter and it is probable that the case will be at issue today in circuit court here.

BLAZE IS WORK OF FIREBUG

Flames Soon Extinguished At Starr Company Plant Set in Pile of Boxes of Cannery Receipts

Watchman Saves Building By Early Discovery; Further Incendiary Fires Feared as in Other Cities

Fire, believed of incendiary origin, was discovered at the large Starr Fruit Products company's plant, South Church and Mill streets, by P. Stiner, night watchman, at 11:30 o'clock last night. Due to early discovery, the flames were extinguished by city firemen before much slight damage was done. The fire was started at the rear of the plant in a pile of boxes full of old receipts, which last summer had been stacked there. The flames ate their way 20 feet up the wooden wall of the building but did not reach the inside.

Watchman Stiner said he had passed the fire location a half hour before. When he first smelled smoke, he believed it coming from a stove and went to investigate. Finding no smoke issuing from that source, he traced it to the rear wall, where he heard a crackling sound.

After dashing a bucket of water on the flames, he telephoned the fire department. The ladder, chemical and pumper truck were sent out.

Fire Chief Harry R. Hutton expressed a firm conviction that the fire had been set. "If there had been no watchman there, the fire would have gained such headway before being discovered that we'd probably not have saved the building," he said.

City and state police began an investigation.

Already on their guard because of the incendiary fires at Eugene and Medford last week, local firemen were placed more strongly on alert last night's fire.

The five fires believed set at Eugene were put out before doing great damage but two fires started simultaneously in Medford spread and did damage amounting to around \$200,000.

LINDBERGH VIEWING OFFERS OF CAPONE

HOPEWELL, N. J., Apr. 25—(AP)—Al Capone was described tonight by a high official as being held incommunicado in his Chicago jail cell on orders from the White House pending the Lindberghs' decision in proposals of the gangster to recover their kidnapped son.

The Lindberghs were described as willing that whatever "credit" might properly attach to Capone in event he could recover the child be given him, but did not wish to place themselves in the position of sponsoring his release.

CHICAGO, Apr. 25—(AP)—Federal officials announced tonight they have curtailed issuance of passes for visitors to see Al Capone in the Cook county jail.

H. W. C. Laubenthal, U. S. marshal in charge of Capone's custody, said his instruction in the matter came from Assistant Attorney General George A. Youngquist in Washington.

WASHINGTON, Apr. 25—(AP)—An unqualified denial that President Hoover was asked orders that Al Capone be held incommunicado in the Chicago jail was made tonight at the White House.

License Change Committee Will Meet, Portland

PORTLAND, Ore., Apr. 25—(AP)—The motor vehicle license revision committee, appointed by Governor Meier, will hold its first meeting here tomorrow.

H. W. Sawyer of Bond and M. C. Glover of Eagle Creek are the only members of the committee not expected to attend. The other members include Dr. E. B. McDaniel, chairman; Ben O. Burns and Ralph Hamilton, both of Portland; A. B. Robertson of Condon; Lyle Compton, of Coquille; J. E. Smith of Salem; and B. E. Harter of Medford.