Wilful Neglect Is not Charged

'Ultimate Responsibility' For Shortage Laid To Officials

(Continued from page 1)

ed was a personal and political friend of the present county judge. . . ."

Specific Instances Cited By Grand Jury

The jury cited one instance when a deputy, after three months' employment in the county treasurer's office, was asked to audit the office's books.

"This deputy found a shortage of some $9,000 in the books of the county treasurer while working as an employe, and reported the situation to the county treasurer and yet was unable to find this shortage when he was representing the county court auditing the same books for the same year . . ." the jury found.

The seven jurors recommended taking a time other than the end of the year for the making of audits as a means of checking future discrepancies in county books at the time of this inception.

They continued to assert, however, that lacking "wilful neglect" on the part of the county officials, no criminal prosecution could be had under Oregon constitutional and statutory law.

The present gasoline checking system the jury briefly commended, and added further appreciative comment for the "efficient, business-like" manner of administration in the county clerk's office.

The report, signed by Mrs. Lana M. Beechler as foreman, completed the investigation begun by order of Circuit Judge L. H. McMahan last August after Governor Charles A. Sprague had denied his request for a special prosecutor to investigate the affairs of the Marion county court.

The judge, having disqualified District Attorney Lyle J. Page from appearing before the jury in connection with the investigation, proceeded to appoint Mark V. Weatherford of Albany as special prosecutor with orders to investigate extra payments to the district attorney and he county cour's fiscal practices.

After his appointment on August 3, Weatherford convened the grand jury intermittently during the fall months until mid-October, when meetings were disconitnued pending the filing of the report on county books for 1938 by the state auditor.

Calling of Jury Simultaneous With Filing of Report

Simultaneously with the release of this report on Tuesday, it was announced that the grand jury would meet yesterday. Prior to making their report it was understood that the jury considered the audit and also interviewed Mrs. Althea Presnal of the county clerk's office.

Filing of the report failed to throw light on the manner of compensating Special Prosecutor Weatherford, a matter which has been the subject of speculation in courthouse circles for months.

Weatherford has not indicated whether he will turn in a cost bill to the circuit court, which would then, it is presumed, order it paid by the county court.

Grand Jury Criticizes Court But Says 'No Wilful Neglect'

The Marion county grand jury yesterday reported on its four-months investigation of county officials' conduct, found fault but reported no "wilful neglect." The report reads as follows:

"We, the grand jury, duly drawn and sworn for the county of Marion, respectively submit to the judge of the above entitled court a report of our investigations concerning the specific matters referred to us by the court for investigation:

"We find that the district attorney's salary for Marion county, Section 31-113, Oregon code 1930, is the sum of $2700 per year:

" 'The salaries of the several district attorneys created under this act shall be paid by the state in the same manner that the salaries of the district attorneys are now paid, and the same shall be received by them in full compensation for their services, and shall be as follows:

" 'For Marion county, $2700.'

"Section 31-117, Oregon code 1930, provides as follows:

" 'No salary, fees, percentage, or compensation of any kind, shall be allowed or paid to or received by any district attorney, except as herein provided, and no deputy district attorney shall receive any compensation for his services as such, except from the district attorney who appointed him.'

"We find a further provision of the statute applicable, viz., Section 31-119, Oregon code 1930:

" 'Whenever, in the judgment of the county court of any county of this state, there is business enough to warrant the appointment of a deputy district attorney in and for said county, the said county court is hereby authorized to empower the district attorney of said county to appoint a deputy whose compensation shall be fixed by the said county court and paid out of the county funds at the same time and in the same manner as county officers are now paid.'

"There is no statutory provision providing for additional payments to the district attorney of Marion county or his office. The county court has provided for deputy to the district attorney as lawfully provided under the above section for his payment by Marion county.

"The question that we have considered is whether or not the payments expressly authorized by the statute exhausts the power of the county court to make compensation to the district attorney of Marion county, or may the county court of its own motion make additional payments, such as, stenographer hire, office rent, and so forth, in addition to the amount expressly authorized by the statute to which we have above referred.

"The district attorney of Marion county is a state officer and not a county officer. His salary is paid by the state the same as any other state officer. There is no mandatory obligation on the part of the county to furnish office space, stenographer hire, or make similar expenditures for the district attorney or his office.

Cites Office Rent

"We find for a number of years last past extending at least through the administration of the present district attorney, his immediate predecessor, and the next preceding district attorney, that the county court of Marion county, of its own motion, has paid the stenographer hire for the office of the district attorney and is now paying the present district attorney's stenographer the sum of $50 per month and is now paying $25 per month office rent for the district attorney.

"This amounts to an indirect increase in the salary of the district attorney in the sum at least of $900 per year.

"The attorney general . . . in three separate opinions has held that the county court possesses the power to make these extra payments. The county courts of a few of the counties of the state of Oregon are following the same practice as the county court of Marion county in this particular; other counties do not make these additional payments to the office of district attorney.

"Since the office of district attorney is a state office, there should be a uniform state policy upon this question throughout the state. There should not be one rule in one county and another rule in another county. As a matter of public policy, it is the judgment of this grand jury that the county court, even if it possesses the power, which we doubt, should not be permitted to pay stenographer hire or office rent to the district attorney, a state officer. The vice of the policy pursued by the county court of Marion county in this matter is this: If the county court of its own motion possesses the power to make these extra allowances to the district attorney, it likewise possesses the power to refuse to make them. This creates a situation where the district attorney in this regard at least could be placed under the control of the county court. Should his conduct in office displease that court, it could withdraw these extra payments; should his conduct please the county court, the payments could be, and probably would be, continued. A sound public policy demands that the important office of district attorney should be free from all constraints; he should possess absolute freedom of action. We, therefore, recommend that the policy of the county court in making these extra payments should be discontinued.

Suggest Legislative Action

"We find that the legislature possesses the power to provide adequate salaries and competent clerical assistance for all state officers. If the present allotment for the district attorney of Marion county is insufficient, that situation should be of concern to the legislature.

MORE TO COME

II

"We were next directed to investigate, in effect, the financial administration of the affairs of Marion county. There is at the present time a shortage upon the books of the county treasurer of Marion county in a sum aggregating approximately $23,000. This has been made good by the bondsmen covering that officer; there has been no financial loss to Marion county as a result of these transactions. The county treasurer and his deputy are now under indictment. It is apparent that this shortage existed for some 20 years or more, gradually increasing in amount until it reached the stupendous total above mentioned.

"We were directed to determine what, if any maladministration of public affairs exists which could permit such a shortage in public money to exist at all and particularly over such a long period of time. It is the judgment of this grand jury that the ultimate responsibility rests upon the shoulders of the county court of Marcounty.

"Section 27-50-, Oregon code 1930, provides as follows:

" 'It shall be the duty of every county court of the state of Oregon to have an official audit made by a competent accountant at the end of each calendar year of the records and affairs of each and every county official handling county funds, said audit to be made oftener if deemed advisable by the county court; all such audits to be made under the jurisdiction and supervision of the county court, and between the county court and the accountant making such audit or audits and shall be passed upon by the county court and a warrant drawn upon the county treasurer in payment of such claim or claims as other claims against said county are paid.

"It will be observed that the audit shall be made by a 'competent accountant.'

Questions Auditors' Knowledge

"We have examined substantially all of the persons designated by the county court for the past 15 years to audit the books of the county treasurer prior to the recent audit made by the secretary of state's office, wherein the shortage was found. Not one of the persons who made this audit even claimed to be an accountant, let alone a competent accountant. All of them possessed a limited nowledge of bookkeeping experience. One of them who has audited the books or assisted in auditing the books at least 10 years knows nothing of the double entry system of bookkeeping. Most of the persons designated to make this audit have held positions as deputies in one county office or the other over a period of years. Most of the persons designated to make these audits were warm personal friends of long standing of the county officers and their deputies whose books and accounts they were engaged to audit. In one instance a deputy worked for three months in the county treasurer's office and then was designated at the end of the year to audit the books of that office. This deputy found a shortage of gome $9,000 in the books of the county treasurer while working as an employe, and reported the situation to the county treasurer and yet was unable to find this shortage when he was representing the county court auditing the same books for the same year, and did not reveal the information he possessed as a deputy concerning this shortage to his co-auditor.

"A brother of the chief deputy in the office of the county treasurer has upon four occasions been designated by the county court of Marion county to audit the books of that office. It is the opinion of the grand jury that not prior to the audit conducted by the representative of the secretary of state's office during the entire period of our investigations did the county court appoint a competent accountant to audit the books of Marion county, nor did they appoint one who claimed to be an accountant at all. In almost every instance the person appointed was a personal and political friend of the present county judge and designated by him for this position which designation was concurred in by other members of the county court.

"It is true that those entrusted with the care of the county's funds in the office of the county treasurer knew of the existence of the shortage in that office and designedly covered it up at the end of each year. This made it difficult for those auditing the books to ascertain and determine the shortage. The shortage was discovered by those who revealed the shortage by taking a time other than the end of the year to balance the books. Had such a method been used, the shortage would have been discovered in its inception or in any of the subsequent years over the long period that it existed.

Recommends State Audit

"The auditing of public funds is of deep concern to the taxpayers of Marion county and to every county in the state of Oregon. It is the opinion of this grand jury that the present laws leaving the power in the county courts to have these audits made is not sound public policy. It is recommended that the laws pertaining to the audit of county funds be amended and that it be compulsory for the audits of public funds of every county and city in the state be made by the auditors working under the direction of the secretary of state. An auditor should be fearless and free from all local influences; he should be competent and qualified and should not receive his position because of friendship or political reward. The expense to the taxpayers under such a system would not exceed the cost of the present inefficient, inadequate and wholly unsatisfactory method used at the present time.

III.

"The next question for us to determine was whether or not conduct of the county court constituted a violaiton of the criminal laws. There are two provisions, one in the constitution and the other Section 14-428, Oregon Code, 1930, which we have seriously considered.

"The constitutional provision is Section 6, of Article VII, which is as follows:

" 'Public officers shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.'

"The legislature has not passed any law since 1911 providing the statutory machinery for carrying out the provisions of this constitutional amendment. We are advised that there is substanial doubt upon the question as to whether the amendment is self-executing. We are also advised that there is substantial doubt whether this provision of the constitution contemplates a civil or a criminal procedure. In many states such procedure is defined as civil and the legislature has provided the procedure for carrying out the effect of such an amendment; in other states we are advised that a proceeding of this kind is a special proceeding, and in a few states we are advised it is held to be criminal in nature. We do not believe that a grand jury at the present time in the state of Oregon is authorized to proceed under this constitutional amendment. We recommend that the legislature provide adequate statutory law which will make this constitutional provision operative.

"We next investigated the facts in this case with reference to Section 14-428, Oregon code, 1930, which is as follows:

" 'If any officer of this state, or of any county, town or other municipal or public corporation therein, other than the governor, justices of the supreme court, or members of the legislative assembly, shall wilfully and knowingly charge, take, or receive any fee or compensation, other than that authorized or permitted by law, for any official services or duty performed by such officer or shall wilfully neglect or refuse to perform any duty or service pertaining to his office, with intent to injure or defraud any one, or shall wilfully neglect or refuse to perform such duty or service to the injury of any one, or the maniest hindrance or obstruction of public justice or business, whether such injury, hindrance, or obstruction was particularly intended or not, such officer, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than six months nor more than one year, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than $50 nor more than $500, or by dismissal from office with or without either or any of such punishments.'

Find no "Willful Neglect"

"We are not of the opinion that the members of the county willfully neglected the duties of their office.

IV.

"We have examined the records installed and used by the county court having to do with the administration of the gasoline purchase and used by the county in its business. It is our opinion that the records used and the system employed are highly satisfactory and that true and accurate account is kept of all and singular the gasoline bought and used by the county. We commend the county court for the efficient system they employed.

V.

"We desire to mention that our investigation has caused us to be in continuous contact with the various departments of the county clerk's office. We have found the records in this office to be full, complete and accurate. We have found the clerk and deputies to be efficient and courteous. We desire to commend the county clerk and his deputies for the efficient, business-like manner with which the office is administered.

VI.

"We further report to your honor that there is other business upon which we will report at a later date.

Dated this 24th day of November, 1939.

(Signed) LANA M. BEECHLER
Foreman.

Movie Strike Is Threatened

Producers Reject Union Demands as Deadline For Call Nears

(Continued from page 1)

employes with an alternative of a strike.

The union announcement, by William Bioff, western representative of the AFL Studio Technicians, did not fix a more definite deadline for the strike call.

Referring to a statement of producers in rejecting the demands, "due to the necessity of a complete readjustment with which the industry is faced," the union announcement said:

"We feel the underpaid workers should get that increase now."

Bioff, surrendered at city jail today on telegraphic warrant from Chicago.

The warrant asked his arrest for extradition to face pandering charge on which it asserted Bioff was convicted 17 years ago but had failed to serve his sentence.

"This is just a frameup and a plot to discredit and embarrass me," Bioff declared.

Bioff surrendered at city jail bail.

Joseph M. Schenck, speaking for the producers, said that in the case of Bioff "the producers wishes to assert in the most emphatic terms they do not feel responsible, directly or indirectly, as reputedly charged by him, for his present personal predicament and they resent the implication they would resort to any such methods."

"The motion picture producers feel they have earned the reputation of dealing fairly and honestly with labor and its representatives," Schenck's statement continued. "That has been our policy at all times."

Il Duce Hailed As Peacemaker

(Continued from page 1)

hate communism and any association with it."

"Since Germany has taken Stalin as a leader and the comintern as its supporter, then Italy—a Catholic nation—can withdraw aid to Germany with great propriety," he said.

Without Italian support, the senator said, Germany "would be encircled by democratic nations or those desiring peace, because Russia will not fight."

Batista Seen as Likely Candidate

HAVANA, Nov. 24—(AP)—Reports of Col. Fulgencio Batista's projected retirement as chief of Cuban armed forces to become a presidential candidate were strengthened tonight by authoritative sources who said he would return to civilian life within a month.

It was expected the house of representatives would pass next week a bill to enable Batista to retire. The bill had been approved by the senate.

Jittery Burglar On Firing Spree

PORTLAND, Nov. 24.—(AP)—A jittery robber went on a shooting spree last night as the result of tavern bartender George Gilo's advice to "come back tomorrow."

The robber, who concealed his face with a handkerchief, fled without loot after firing four wild shots which slightly injured a customer, smashed a vending machine, broke a window and scarred the plaster behind the bar.

NW Conference Schedules Made

(Continued from page 1)

the title will be decided in an inter-divisional playoff at Walla Walla May 23-24-25.

The conference track meet will be the night of May 17 at Walla Walla and the tennis championship will be decided at Salem on May 18.

1940 football schedule includes:

Willamette university:

October 25—CPS at Salem (night).

November 8—Linfield at Salem (night).

November 21—Whitman at Salem.

Linfield college:

September 27—COI at Caldwell (night).

October 11—CPS at Tacoma (night).

October 19—Pacific at McMinnville.

November 2—Whitman at McMinnville.

November 8—Willamette at Salem (night).

Pacific university:

October 11—C of I at Caldwell or Nampa (night).

October 19—Linfield at McMinnville.

October 26—Whitman college at Forest Grove (night).

November 1—CPS at Tacoma (night).

The 1940 Pacific Northwest conference basketball schedule includes:

Willamette university:

January 19—Linfield at Salem.

January 30—Pacific at Salem.

February 2—Linfield at McMinnville.

February 9—Pacific at Forest Grove.

February 16-17 — College of Idaho at Caldwell.

February 19-20—Whitman at Walla Walla.

Linfield:

January 19—Willamette at Salem.

February 2—Willamette at McMinnville.

February 9-10—College of Idaho at Caldwell.

February 16-17—CPS at McMinnville.

February 20—Pacific at Forest Grove.

February 27—Pacific at McMinnville.

Pacific university:

January 11-12—CPS at Tacoma.

January 30—Willamette at Salem.

February 9—Willamette at Forest Grove.

February 12-13—Whitman at Walla Walla.

February 20—Linfield at Forest Grove.

February 27—Linfield at McMinnville.

Losses at Sea Near 30 Ships

English, Dutch Vessels Among Latest of Casualties

(Continued from page 1)

in London were that the British would go ahead with an order in council next Tuesday authorizing the seizure of German exports on the high seas.

Such seizures were outlawed in the Declaration of Paris in 1856 but Britain has moved to meet that statute by declaring illegal Germany's mine warfare.

For her part, Germany has replied she would meet the export blockade with sharp retaliation.

One official in Berlin said "our principle of conducting the war, namely firing 10 shots back for every shot against us, will be used in the economic sphere also."

On the western front, the French high command said a "few prisoners" were taken in an unsuccessful German raid east of the Moselle river—the chief land action reported for the day.

Nazis Claim Control of Air Over France

The nazis said they had control of the air over France and Great Britain—but the allies declared they had bagged 14 German planes in the last two days.

Rumania's new cabinet troubles ended for the present when George Tataresca, fourth premier in two months, set up a coalition government in which he will serve as minister of the interior.

Tataresca made it known that he would continue Rumania's policy of neutrality and good relations with all major powers.

Hull Will Fight For Trade Pact

(Continued from page 1)

tinued. Although he did not commit himself on the question of waging a fight for its reenactment at the next session, he described the program as an indispensable cornerstone for any lasting world peace.

He and other administration officials contend that the principle of bargaining down tariffs reciprocally offers the only means of freeing world trade from restrictions and thus promoting "healthy economic relationships."

The trade agreements give each contracting nation the right to impose import restrictions and prohibitions in event it becomes engaged in war.

In taking advantage of this provision, it was said reliably here, officials of the United Kingdom stated, in connection with the prohibition against American apple imports, that it was their idea to conserve dollar exchange. They contended, it was reported, that in prosecuting the war they would have to buy a large number of essential items in this country and either would have to forego purchases of other goods or buy them in parts of the kingdom.

Officials here consider the idea of diverting purchases from the United States to other countries open to discussion, and in the case of the apple ban have announced they were presenting their views to the British.

The administration has several devices with which it could prosecute demands that restrictions be modified or held to a minimum.

The treaty with the United Kingdom provides, for instance, that that government must consider any representations or proposals the United States may make in the event of action nullifying or impairing any objects of the agreement.

Guardsmen Will Mobilize Today

4000 Part-Time Soldiers To Take Special Work In Various Camps

More than 400 Oregon national guardsmen will mobilize today for the first weekend unit of seven days' extra field training recently ordered by the war department.

The men will assemble near their home armories and will sleep in warm quarters rather than under canvas. Field ranges will be set up and food supplies will be bought at local stores. The government has granted a food allowance of 80 cents per man per day.

Salem's company B, 162nd infantry, will do its drilling at the state fairgrounds, starting at 3 p. m. with Captain H. G. Maison in command. Headquarters battery, 249th coast artillery, in charge of Lieutenant Ernest Knapp, and the medical detachment directed by Captain R. Lee Wood will drill at the armory.

In Portland the main concentration of more than 1700 troops stationed there will be at the Pacific International Livestock exposition grounds. The 218th field artillery, including Portland units of the regiment and units at Milwaukie, Hillsboro and Newberg, will go to Camp Bonneville for training.

With the exception of the anti-tank platoon, headquarters company, Woodburn, which will train with a like unit of the 162nd infantry at Silverton and the Union company which trains with La Grande and the Springfield company which trains at Eugene, the other units throughout the state will train near their home cities.

Rites Held

SYRACUSE, N. Y., Nov. 24—(AP)—Final rites were held here today for Bishop Wallace E. Brown, Pacific northwest Methodist leader who died at Portland. Bishop Brown's death occurred a little more than a week after he reached Portland to take up his duties as Resident Bishop.

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Sportsmen Spend Almost Billion

WASHINGTON, Nov. 24—(AP)—Sportsmen of the line and rod variety shelled out nearly $1,000,000,000 this year for tackle, bait, gasoline for the old car and other necessary items, the interior department reported today.

Expenditures for tackle alone, according to Charles E. Jackson, acting commissioners of fisheries, totaled approximately $35,000,000.

License fees paid to the state fish and game departments represented one-eightieth of the total expenditures.

Texas followers of Isaac Walton spent $1,250,000 for gasoline; $2,500,000 for groceries, meals at restaurants and accomodations at hotels; $1,000,000 for bait, boats and guides; and $1,500,000 for clothing.

Oregon reported anglers alone contributed $1,000,000 in gasoline taxes.

Among expenditures by fishermen by states in 1939 were:

California, $50,000,000; Oregon, $20,000,000; Washington, (all tourists, a large part of whom fish), $7,721,625.

Driver Is Killed In Crash of Car

SANDY, Nov. 24.—(AP)—Wade Ellisburg Wiswell, 20, of Sandy, was killed last night in the plunge of an automobile over a 30-foot embankment on the Clarkes-Beavercreek highway.

His brother, Sam G. Wiswell, and his sister-in-law were injured. They were driving home from a Thanksgiving day dinner.

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Violence Flares In Auto Strike

(Continued from page 1)

request of a CIO foremen's union for a bargaining conference, will not be renewed.

Two policemen were among the injured in the picket-line clash at the Dodge plant, closing of which forces suspension of operations at other Chrysler units and brought idleness to 53,000 Chrysler employes. The injured officers are Lieut. Marvin Berry and Patrolman Thomas Burke. Both suffered head injuries.

Police observers said bricks and stones were hurled from alleys and parking lots by UAW-CIO "Flying Squadron" members as the workers, mostly negro foundry employes, appeared at the plant this morning. UAW-CIO officials charged that the men tried to use knives. A union leader speaking through an amplifier warned 600 pickets not to participate in the disorder.

The fighting was broken up by police and the workers entered the plant, where they were reported to have started operation of one blast furnace. They left without molestation from pickets this afternoon.

One of the workers, John Robinson, was taken to receiving hospital in serious condition with a fractured skull. Five others suffered lesser injuries.

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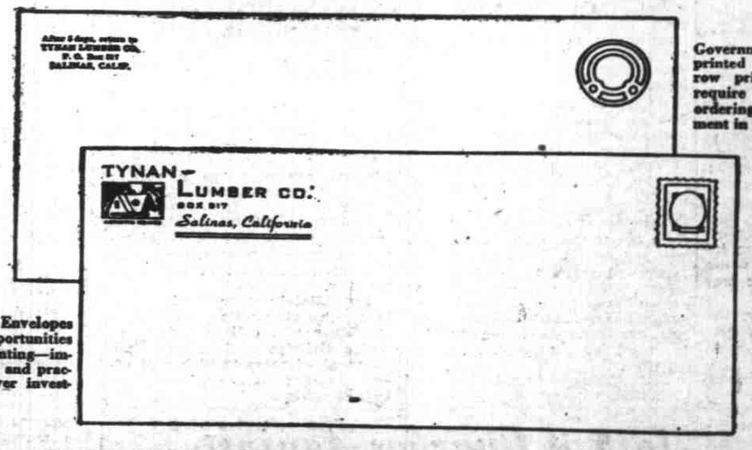

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