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Capital Journal

THE WEATHER
OREGON: Cloudy east, unsettled with occasional rain west of the Cascades tonight and Saturday.
Local: Max. 52; min. 44; river, 15.2; rain, .17; atmos., cloudy.

FORTY-SEVENTH YEAR No. 2 SALEM, OREGON, FRIDAY, JANUARY, 2, 1925 PRICE THREE CENTS ON TRAINS AND NEWS STANDS FIVE CENTS

COURT DEFINES SEARCH LAW

MILLIONAIRE ORPHAN NOT POISON VICTIM

Coroner's Statement of Chemist's Findings Regarded As Exoneration For Foster Father.

Chicago, Jan. 2.—The coroner's chemist has found that William N. McClintock, known as the "millionaire orphan" died of typhoid fever, Coroner Oscar Wolff announced today. The chemical examination disclosed nothing abnormal. The findings corroborated that of the pathologist employed by William D. Shepherd, foster father of the young man, who was left the bulk of the \$1,500,000 estate by young McClintock's will. "We consider the coroner's statement a complete exoneration of Mr. Shepherd," his law partner, Ralph Stoll said when informed of the coroner's announcement. Mr. Shepherd has declared he would take prompt legal action against the persons he considers responsible for the investigation and which he declared had been directed against him. The report of Dr. W. D. McNally, the coroner's chemist, corroborates that of Dr. J. P. Simonds of Northwestern university, who was employed by Shepherd to assist in the autopsy. The death of McClintock, Dr. McNally found, "was due to typhoid fever complicated by a profound secondary terminal intestinal hemorrhage." The chemist's report was regarded by Mr. Shepherd and his associates as the end of the official investigation, in view of the statement of the state's attorneys made on Wednesday that their inquiry had developed nothing on which to base further investigations.

ASKS PIPE BE FOR TARIFF COMMISSION

Senator Robinson Calls For Investigation of Influence Charges In Sugar Inquiry.

Washington, Jan. 2.—An investigation of the tariff commission was asked today in a resolution offered by Senator Robinson of Arkansas, the democratic leader. The inquiry would be conducted by the senate finance committee with a view to determining whether any pressure had been brought to bear on members of the commission in connection with the sugar investigation. Under the rules the resolution went over for a day. Senator Robinson made no explanation beyond having the text read and its introduction led to no immediate debate.

Postal Bill Approved
Washington, Jan. 2.—The senate post office committee approved today the administration bill providing for increases in postal salaries and rates. Rate increases recommended by the post office department however were repositioned so that second class mail will be charged considerably less than originally proposed.

Edge Blocks Power Probe
Washington, Jan. 2.—Characterizing the federal trade commission investigation of the so-called "power trust" proposed by the Norris resolution, as a "fishing expedition" Senator Edge, republican, New Jersey, again blocked immediate consideration today of the resolution in the senate.

COURT LEAVES CHILD IN CUSTODY OF HIS FATHER

A Polk county case decided by the supreme court today was that of Ethel Rasmussen, now Ethel Bowers, appellant, against Walter Rasmussen, growing out of the court's award of custody of their child, Leroy Rasmussen, after the divorce of the principals in the case. Rasmussen was awarded a divorce May 2, 1921, after Mrs. Rasmussen had withdrawn her complaint for divorce. The care of the child was given Rasmussen with the provision that she could have the right to visit the child and have the child visit her at all reasonable times and places. Rasmussen applied for a modification of this order by the elimination of the provision that she could have the child visit her. She filed a counter application for modification which would award the care and custody of the child to her. His application was granted until further orders of the court, with a provision that she was allowed to visit the child once every two weeks for one hour each time. She was not allowed to take the child from Rasmussen's home and he was not allowed to remove the boy from Polk county without written consent of the court. Rasmussen had remarried and under the order both he and his wife were to remain out of the room while the child's mother was present. She appealed from this order. Rasmussen and his wife live on a farm in Polk county, where, says the supreme court, he is better able to care for the child than he was at the time the divorce was obtained. The child's mother, now Mrs. Sowers, lives in Salem.

FRAUD CHARGED TO CONTESTANT IN MINGER CASE

Intimation of fraud and forgery in connection with the estate of Adele Minger, deceased, are made in an affidavit filed in circuit court by James G. Helzel, local attorney. Helzel is attorney for Louis Ashlman, executor of the estate, who had been made defendant in an action brought by John Minger, John Minger, in his action, is endeavoring to collect \$2,000 on a note which he alleges Adele Minger made out to him before her death and never paid. In his affidavit Helzel declares that the defendant in the action brought by John Minger believes that the plaintiff for several years prior to the death of Adele Minger possessed the motive, desire and intent to cheat and defraud Adele Minger and her estate in case of death, out of considerable sums of money. Helzel goes on to assert that the defendant believes that the pretended note involved in the action was procured by the plaintiff either through fraud or forgery and that the defendant can obtain full disclosure respecting matters surrounding the pretended note by examination of the plaintiff and the taking of his deposition before the court, and he asks that such examination be had and such deposition taken.

ENGLAND LASHED BY GALE

London, Jan. 2.—Another fierce gale, the fourth within six days, struck Great Britain yesterday and widespread damage is reported. Telegraph and telephone wires are down in all directions, and communication with the inland and continent is greatly hampered. All the river valleys are flooded, and many houses have been inundated, with numerous minor casualties.

Bootlegger Put Water in Booze Sold Customers

When Deputy Sheriff Henry Smith of Stayton stepped from the stage here this morning he was informed by Deputy Sam Burkhardt of Salem that J. M. Ehrenreich, alleged bootlegger, had tried to pass the bars of the Stayton jail and made his escape while Smith was on his way to Salem. A woman named Hamilton, carrying a number of alibis, partner to Ehrenreich, had escaped from a Stayton hotel yesterday afternoon where she had been placed pending hearing, being picked up by an automobile waiting for her in the outskirts of town, Smith states. Smith says the woman partner of Ehrenreich was an attractive woman, about 22 years of age. When the car went into the ditch the couple were said to have been heading for a dance at Gates where they expected to dispose of their wares. A jug and a suitcase from the car after it had tipped over, and put them over a fence by the roadside. Smith, with the informant, made a speedy trip to the scene of the accident, beating the wrecking crew and finding over the fence, as the informant stated, a gallon jug of whiskey and a suitcase containing 19 bottles, empty save for about three ounces of water in each bottle. Smith said Ehrenreich told him that when he sold a pint of whiskey he poured the undiluted booze into the bottle containing the water, thus making an additional profit. Smith says the woman partner of Ehrenreich had been making such a business for some time. When the car went into the ditch the couple were said to have been heading for a dance at Gates where they expected to dispose of their wares.

SIX VETERANS OF POSTAL SERVICE ARE SUSPENDED

Washington, Jan. 2.—Official investigation into the use of money to influence pending postal pay legislation has culminated in the suspension from duty of six veteran officials of the postal service, the discharge of an employee of the senate postoffice committee, and the resignation of the clerk of the house postoffice committee. All six of the officials, located in as many cities throughout the country are members of the executive committee of the national post office supervisors and held some of the most responsible positions in the service. Some of the suspended officials whose service averaged more than 20 years are: Peter McGurty, acting superintendent of mails, New York City; James M. Greig, postal cashier, Boston; Peter Wiggle, acting postmaster, Detroit; Harvey M. Tittle, assistant postmaster, Springfield, Ohio; J. J. Fields, superintendent of mail, Louisville, Ky., and William Sanson, assistant superintendent of delivery, Chicago.

The report of postal inspectors, made public in a statement last night by Postmaster General New charged that E. H. McDermot, the discharged assistant clerk of the senate committee, received \$2500 to work for the interests of the supervisors' association and that Frederick C. Riedesel, clerk of the house committee, received a "gift" of \$1000 from the association. Riedesel resigned. The inspectors report, which gave a circumstantial story of the negotiations between McDermot and postal officials resulting in the money payment, was based on an investigation undertaken after the department of justice had found that technically no law had been violated in the transactions. The facts in connection with the justice department's investigation were revealed for the first time in the postmaster general's statement.

4 DIE GREETING YEAR IN NEW YORK

New York, Jan. 2.—Four dead, a score hurt and more than a hundred patched up in local hospitals made up the toll of New Year's celebrations in New York, a check of police records revealed today. Two deaths were traced to poison liquor, one to a street brawl and the fourth to an automobile accident that occurred during the reveling. The lineup of those arrested for intoxication was the slimmest since the advent of prohibition. The death of one of the victims of bad liquor at Bellevue hospital brought a total of 15 deaths from the same cause during the past 15 days in that institution.

RIGGS SEEKING ABRAMS' PLACE

Z. J. Riggs, for many years druggist here who recently sold the Capital Drug store to J. H. Willett, is an active candidate for the secretaryship of the board of control, now held by Carl Abrams, to which place he was recently switched by a majority of the board of control from the secretaryship of the budget commission. Riggs is figuring. It is understood that Abrams was for Myers against Kay in the recent election, that Kozer was non-committal and therefore against Abrams on the board of control job, and also on the fact that Abrams is not qualified, as having had no business experience. On the other hand Riggs figures that he is qualified as having been in the buying game for many years. Riggs has made informal application to one member of the board for the place. Riggs and Kay have never been political bedfellows, however. Pierce, unquestionably, will stand pat for Abrams.

FRENCH MAKE PROPOSAL OF SETTLEMENT

Minister of Finance Suggests 10-Year Moratorium In Communication To Secretary Mellon.

Washington, Jan. 2.—(By Associated Press.)—France's formal submission of a plan for settlement of her war time debt to the United States has put a new face on what hitherto has been a highly troublesome situation. The Washington government desires for the present to make no comment on the step, pending a careful examination of the French note, but there is manifest gratification that the settlement discussions have produced at least a concrete proposal from Paris. Hitherto French officials not only have refrained from making any such proposal, and thereby providing a basis for objective negotiations, but there has been some apprehension over reports that instead the debt might be repudiated. The possibility now is regarded as definitely removed.

Paris, Jan. 2.—(By Associated Press.)—The French foreign office today confirmed reports that negotiations had been opened between Finance Minister Clemenceau and Andrew W. Mellon, secretary of the United States treasury, regarding the funding of the French war debt. A note signed by M. Clemenceau went forward Tuesday. It suggested a ten-year moratorium and gives an indication as to what the French government thinks France might be able to do in the way of payments.

Although the note is signed by the minister of finance, instead of Premier Clemenceau, as in the Herriot, it is admitted by the foreign office that it contains the first tangible proposition France has made toward a settlement. It is thought in official circles that M. Clemenceau's note cannot afford the basis for an actual settlement but that it will open a discussion that may lead to a final agreement. It is understood a similar note with similar propositions has been sent to London concerning the funding of the French debt to Great Britain.

British Not Opposed
Washington, Jan. 2.—(By Associated Press.)—Officials here apparently see no great tendencies in the New Year dispatches from (Continued on Page Six)

BROWN LOSES APPEAL OVER MASH SEIZURE

Among opinions handed down by the supreme court today was one from the lower court for Polk county in which more than usual interest has been shown. This is the case of the state against Clarence Brown, appellant, who was convicted in the lower court for the unlawful possession of mash for liquor making purposes. Justice Brown wrote the opinion of the higher court which is an affirmation of the lower court. Judge Belt presiding. Two accomplices of Brown, Jim Hubbard and Austelle McCarter, who pleaded guilty, testified against Brown. The higher court admits that Brown was not in actual possession of the mash and that it was in Hubbard's chicken house, but cites the law which declares that such confederate is liable for each act of an accomplice. Much evidence is cited to show Brown's connection with the other defendants, including delivery of the still by him in person during the night. His appeal was on a claim of error by the court in the admission of testimony and instructions to the jury, he having moved for instructions to the jury to bring in a decree of nullity, which was denied by the court.

MRS. JACKSON GIVEN ESTATE

Portland, Or., Jan. 2.—Martha C. Jackson, widow of the late C. S. Jackson, is made sole heir to the bulk of the estate under the terms of the will filed today by attorneys and admitted to probate by Circuit Judge Taxwill. One thousand dollars are willed to Phillip L. Jackson, his son, and \$1000 to C. S. Jackson, a grandson, and the will provides that Julia Hobday, named with Mrs. Jackson and Phillip L. Jackson as an executor of the estate, shall be paid \$5000 for her services. The will was made September 29, 1920, and witnessed by Joseph N. Teal and David H. Smith. In their petition the heirs state that the value of the estate is unknown to them. The principal property is the proprietorship of the Oregon Daily Journal, which C. S. Jackson controlled.

Urges Annulment of Childless Marriages



Dr. A. S. Pinto, city health commissioner of Omaha, Neb., has announced his belief and is adhering firmly to it, despite a storm of protests—that childless marriages should be declared void after two years. Mrs. Pinto is one of those who takes issue with the commissioner.

FIRE BREAKS OUT ON LINER AT SEA BUT IS SUBDUED

New York, Jan. 2.—The Clyde liner Mohawk, which caught fire yesterday while en route from New York to Charleston and Jacksonville, today was beached at Lewes, Del., officials at the steamship company's office here announced. The ship is safe. Lewes, Del., Jan. 2.—The Clyde liner Mohawk with 200 passengers from New York for Charleston and Jacksonville, caught fire in one of the wildest storms of the present winter off the New Jersey coast last night and ran into Delaware bay to save the passengers. The blaze, which started in the after hold, spread rapidly and all passengers were ordered to get ready to leave the ship. The last radio report stated that the fire was under control and that the passengers would be landed at Lewes and returned to New York or sent to their destinations. So far as is known there were no casualties. The Mohawk left New York New Year's day about noon. The fire was discovered when the ship was 70 miles off Sandy Hook. A high northeast gale, accompanied by snow, was blowing. Captain J. M. Staples acted promptly and decided to run for the Delaware capes at the same time sending out calls for assistance. The Mohawk will return to New York and unload her general cargo. The steamer carries a crew of 80.

WATER RIGHTS ON SANTIAM APPLIED FOR

Farmers of Stayton and Aumsville District File Application for Irrigation Lands.

Farmers of the Stayton and Aumsville districts of Marion county led by Henry C. Porter and A. E. Bradley, determined that irrigation must be established in that section, have filed with the state engineering department applications for authority to appropriate water from the Santiam river for irrigation purposes. Separate applications were filed by Porter and Bradley. The former covers 1220 acres. Irrigation has been hanging fire in that district for many years, but the extremely dry growing season of 1924 demonstrated that irrigation is actually needed in the Willamette valley, and the farmers apparently are determined to get it as soon as possible. The filing of the farmers' applications, however, has precipitated further controversy over the question. Their applications are being protested by the Santiam Reclamation company and the Western Oregon Development company, concerns organized largely by the same men, and which have been engaged in internal litigation.

As early as 1912 applications were filed by these companies and permits subsequently allowed. Originally they were supposed to have the works completed by 1915, but an extension of time was given until 1920. In the latter year their permits expired and Percy A. Copper, who was then state engineer, refused to renew them until the internal differences of the promoters had been ironed out. The permits have never been renewed. Filing of the applications by the farmers has caused State Engineer Rhea Luper to institute an investigation, which is now in progress. The land involved, says Luper, offers very easy irrigation. The old application of the Santiam Reclamation company covered 20,227 acres and that of the Western Oregon Development company 6940 acres.

WARRANT TO SEARCH HELD A NECESSITY

Supreme Court Holds Search and Seizure of Liquor Without Warrant Illegal.

Search of the person of an individual suspect of having intoxicating liquor in his possession by peace officers, except where such officers are duly armed with a search warrant, or where the subject of the search is legally under arrest before the search is made, is illegal and the evidence secured in such a search is not admissible in a trial at court. Such is the decision of the Oregon supreme court, handed down in the appeal on E. A. McDaniel from the circuit court for Benton county this morning. The decision was written by Justice Pipes and is concurred in by Justice Bean and Brown, with Justice Coehow writing the dissenting opinion with the concurrence of Justices Burnett and McBride.

The decision is the first passed down by the court on the legality of liquor searches without warrants. The case involved the forcible search of McDaniel by officers who testified at his trial that they smelled liquor on his breath; that his overcoat was buttoned away, and that his face was flushed, and also concerned the admissibility of the testimony of the officers and a chemist derived from an examination of the whiskey seized in the illegal search. Testimony developed the fact that McDaniel was seized by one officer while another searched him. Following his arrest and prior to his trial McDaniel filed application for the return of the liquor, alleging it to have been illegally seized. In the justice court the petition was denied, but it was granted by the circuit court, which held the search illegal.

The circuit court, however, permitted the officers and a chemist who examined the seized liquor to testify as to the contents of the bottle. "An officer has the authority to search the person of a man when he holds a search warrant issued to him by a magistrate . . . or he may search a man who is in his custody by virtue of a legal arrest to answer some criminal charge pending or in contemplation," says the majority opinion of the court. "It is admitted here that the officers had no search warrant, if the search was legal, it must come within the authority of the officers to search the prisoner in their legal custody to answer for some crime. If it does not come within that rule, then it comes within the prohibition of the constitution against illegal searches . . . The officer, therefore, did not have the defendant in custody on some criminal charge, at the time of the search, however strongly his breath, walk and conduct might indicate that he had intoxicating liquor on his person, the officer had no legal authority to search him for it. The officer had two courses to pursue: To arrest defendant for the crime committed in his presence, if he was there committing a crime, and then search his prisoner for the whiskey, or, if not that, obtain a search warrant and search him, under the authority of his warrant. . . .

"The question is whether the evidence proves an arrest and a search, or a search and arrest. In the former case, the search was legal. In the latter case it was illegal." Unlawful Search. The opinion points out that unlawful search of a person involves a restraint of his liberty during the time of the search, "and, therefore, in a sense, is an arrest. . . . But that restraint is not an arrest to answer a crime, but the means of making the search. When the constitution prohibits a search without a warrant it prohibits the force necessary to accomplish it." Touching upon the particular case of McDaniel, the opinion further states: "Asuming, without deciding, (Continued on Page Five)

\$500,000 For Vale Project
Washington, Jan. 2.—An appropriation of \$500,000 to be used in beginning the development of the Vale reclamation project in Oregon was requested today of congress by the budget bureau.