

LOCALS

For the first time in about five weeks, the level of the Willamette river at Salem began rising late night. By 7 o'clock this morning it had risen from 2.5 feet below normal, its lowest point of the present season, to 2.3 feet below normal, a rise of slightly more than two inches.

Fancy Oregon grown French walnuts, Peary Bros., 178 S. Commercial. 261*

The monthly report of enrollment in Salem public schools, as announced yesterday from the office of the city superintendent, shows a total registration of 4237, an increase of 214 during the past two weeks.

Hear the new orthophonic all this week at Stiffa. 262*

A. I. Bettencourt has filed a counter affidavit in his case against R. J. Bettencourt in circuit court in which he denies that he left Oregon for parts unknown, as contended by the defendant, and he further alleges that the defendant is disposing of crops on the premises involved in the suit, that he is threatening to dispose of crops not harvested and that he has failed to keep in repair machinery and a wood saw on the place.

If you are an Elk be sure and come to the dance tonight. 262*

Alta Wyan of Gervais was given a major operation at a hospital in Salem today.

Concert. 1st Presbyterian church Wed. Nov. 4th, 8 p. m. Tickets 50 cts. 263

A girl was born Sunday to Mr. and Mrs. Elmer Anderson of route 3, Salem.

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Two songs, "Birthday" by Woodman, and "A Kiss in the Dark" by Victor Herbert, were sung by Miss Gayle A. Roberts before the Salem Kiwanis club at its meeting at the Marion hotel this noon. Miss Roberts was accompanied on the piano by Miss Dorothy Pearce.

Mr. Elk come to the dance tonight at nine. Elks temple. 262*

Mrs. Alvina Klesch was given a minor operation at a local hospital yesterday.

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Mrs. Charles Moore of Gervais returned home from a hospital in Salem today. She has been at the hospital since the middle of September, when she was given a major operation.

This week is the week. Hear the orthophonic at Stiffa. 262*

Mrs. Kenneth Ranner of Salem was today discharged as a patient at a hospital here.

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A large wooden framework with artistic hand carvings in it has been secured by Bishop's clothing store for window decorative purposes. The piece cost \$75 thirty years ago, having been hand carved throughout. It was secured by the Bishop's management from the cigar store just south on Commercial street. It measures 13 feet 4 inches in length and about 4 feet in height.

Dance tonight at new temple, for Elks only, 9 o'clock. 262*

Paul Herz of Woodburn underwent a serious major operation at a hospital in this city Sunday. His condition was reported to be much improved today.

The Salem Laundry will be in operation Wed. and Thurs. evening 7:30 to 9 for visitors who wish to see its operating methods. 262*

J. E. Davys of Portland, a truck driver, suffered a number of minor bruises when his truck upset on the road between Jefferson and Salem early Monday. He was brought to a hospital at Salem, and last night was sent on to Portland. His condition was not serious.

Orthophonic Victrola, hear it all this week at Stiffa. 262*

A special Kiwanis club committee was this noon appointed to confer with committees to be appointed by the other two service clubs of the city with the idea in view of bringing up business.

Hotel Bligh Arrivals

Portland, W. G. Sumpter, Chas. Beckwith, J. H. McFeters, Robert Allison, Miss Nellie Bryan, Edward Henshale, Joseph Saxe, Mr. and Mrs. Joseph M. Tressler, J. J. Crowley, Harry Spencer, M. C. Spiller, Mrs. Mary E. McClaine and daughter, R. W. Rowley, Frank L. Patterson, Medford, J. B. Coleman, Hugh E. Watson, Kings Valley, S. E. Francis, Corvallis, James S. Stewart, Roy Fuller, Klamath Falls, Mr. and Mrs. M. H. McClure, Globe, C. A. Foster, Myrtle Point, C. W. Gano, C. R. Crabtree, Astoria, Clatskanie, Henry, Joseph Lindberg, Eugene, Mr. and Mrs. E. H. West, Miss Ethel Hodley, T. E. Powers, Oakland, R. L. J. B. Johnson, Oregon City, W. B. Cook, J. B. Wilson, Wallowa Lake, J. L. Rose, Yakima, Wn. A. Smedley, Aberdeen, Mr. and Mrs. Rodney H. MacFarlane, Seattle, Andrew McWilliams, Mr. and Mrs. Francis M. Broderick, Lodi, Cal., Mr. and Mrs. Pate Hein, Edward Hand, Los Angeles, Mr. and Mrs. M. B. Colof and maid, Miss Muriel M. Colver, Redlands, Mr. and Mrs. George M. Foxen, San Jose, Mr. and Mrs. Martin E. Sanborn, Wichita, Kans., Sam White

Men's and ladies slicker rain coats at Bishop's. 262*

Dr. Marshall, osteopath, Or bid

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Rev. Charles Ward of the First Congregational church sprained his ankle in an accident Monday evening.

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Tonight is Forest Taylor night at the Heilig. 262*

Beat coffee in town. Terminal cafe.

William Krauger was fined \$10 in justice court today on a charge of failure to give right of way.

Forest Taylor Sinek company in "Hell Bent for Heaven" at the Heilig tonight. 262*

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The preliminary hearing of Neel Sorbus will be held in justice court tomorrow afternoon beginning at 2 o'clock. Sorbus is the man who was detected in the act of smuggling a gun into the state penitentiary enclosure, presumably for Frank Fallon, and officers believe Fallon in turn was to put the gun into the hands of Tom Murray while Murray was on trial at the court house. Fallon was to be called as a witness.

W. S. Jefferson of Newport was brought to a hospital in Salem for medical care late yesterday.

Ferns, 15c up. Pike's Petland, 273 State. 261*

Want used furniture, phone 75.

E. Cooke Patton gave a short humorous speech and a few sleight of hand tricks before the Salem Kiwanis club at their luncheon this noon. He touched

nearly every subject except the one which President McCullough announced for him, "Wild Women I Have Met in Marion County."

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Mrs. J. O. Silha returned to her Salem home last night from a hospital where she had been under medical care for the past two weeks. Two weeks ago she was given an operation.

All dress hats at 1-5 off at Gibson millinery, Worth's Dept. 2nd floor. 262*

Larch Douglas of this city underwent a minor operation at a local hospital today.

Boys all wool overcoats \$5. Boys all wool suits \$7. Thos. Kay Woolen Mill Co. 262*

Mrs. Nellie M. Keefer was discharged from a local hospital late yesterday "much improved in health," according to report of attendants at the hospital.

Want used furniture phone 511.

Rose Poppe has been named as guardian of the estate of Josephine J. Kruschick, Frances N. Kruschick and Louisa Kruschick, minors. The property of the minors consists of real estate in this county.

Whole grain wheat, phone 1179. Henry Lee, distributor.

M. O. Hill and Nancy E. Hill have filed a certificate of assumed business name with the county clerk for their Brookside Confectionery on State street.

Mums by doz. or hundred, \$61. Locust, phone 1924-W. 271

Consus rolls for various school districts are coming into the office of County Superintendent Fulkerson rapidly. She states that all such rolls should be in the office under the law by the end of this week.

A visit to the new Salem Laundry (the Wiedler laundry) at 263 S. High will be of interest to anyone. 262*

The three schools at Woodburn are functioning in wonderful shape according to County Superintendent Fulkerson who visited them yesterday and she states that the organization there is second to none in the county. W. H. Baillie formerly of Salem, is principal of the two grade schools there.

A special for 10 days; 1 large load of 16 in. mill black wood at \$5. 1 large load of 16 in. old fir at \$8.50. 4 ft. second growth fir at \$6.50 per cord. 4 ft. old fir limbs at \$6.50 per cord. Fred E. Wells, 238 S. Church, phone 1542. 263*

Application to have the case of Adolph Bombek against L. C. Liedstrom placed on the trial docket at the coming term of circuit court has been filed with the county clerk by the plaintiff.

Newly furnished, new bungalow, east front, \$6650. Gertrude J. M. Page. 262*

According to an order by County Judge Hunt \$150 attorneys fees have been allowed in settling the estate of Eleanor Winstanley of which W. T. Jenks is administrator.

Alma Clara Bicknese, voice teacher, Barbours national school of musical unfoldment thru music of Erannson and Chicago, Ill., is at 1955 State St. every Thursday from 1:30 to 3 p. m. Phone 2949. 262

Final order has been filed in probate in the estate of F. P. Whitlock. High O. Whitlock, administrator. Heirs are Cora M. widow, Hugh O. Leon L. and Maxine H. Whitlock, all children, of Silverton.

Robert W. Craig has filed his final report in probate as guardian for Dolph Craig, minor, who has reached his age of majority and assumes full control of the estate.

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ZONING PLAN IN PORTLAND HELD LEGAL

That appropriate to a mere private dwelling.

"The property of the plaintiffs is not taken," says the opinion further. "They have precisely the same estate that they had before. All that the people of Portland have said is that within certain districts certain businesses shall not be carried on and the property situated therein shall not be used for such undertakings. It is far more convenient and conducive to the welfare of the city that enterprises of certain kinds shall be located in certain districts than to have them scattered promiscuously throughout the municipality. It makes the administration of the regulation less expensive and hence easier upon the taxpayer for one thing."

"The case ought to have settled on demurrer," concludes the opinion.

In his dissent Chief Justice McBride says that he is "frank to admit that the theory of the majority is supported by many reputable authorities, and perhaps by a majority in number of the later authorities, who seem to be much taken with the prevailing idea in regard to the 'city beautiful' as contrasted with the 'city from the somewhat old-fashioned idea of the 'city useful.'"

Eloquently Judge McBride pictures the growth of Portland since he first knew it as a "little muddy village into its present condition of progress and beauty."

"I have always felt," says Judge McBride, "that when a man invested his means in a lot and proceeded to improve it by the erection of any sort of building, which in itself, or in the manner intended to be used, was not a nuisance, it was his right to do so; and that any abridgement of that right for the benefit of the public, or for the sake of beauty or other esthetic reason, constituted a taking of his property without compensation. It is said in the prevailing opinion, the plaintiff still has his property, but, before the zoning ordinance was passed, he had an unrestricted right to use it for any business not constituting a public or private nuisance. He must confine its use to a particular object, or leave it vacant and unimprovement."

"You take my house when you take that with other support my house," says Shakespeare, and I do not see any way around the proposition that, when the public deprives an owner of an element, which goes to make up the value of his property, to-wit, the right to use it for any lawful purpose, not a nuisance or dangerous to the community, it takes from him an interest in his property, and is for that reason unconstitutional."

Chief Justice McBride holds that the police power does not admit of taking without due process of law. He points out that the "United States supreme court in a large number of recent decisions has emphatically pronounced against locating that the general welfare alone, either real or fancied, is a sufficient ground for the exercise of the police power," mentioning among these the Hill Military academy case in which it was held that "no theory of general welfare could take away from the parent the right to supervise the education of his own child." Seven other cases are cited on this point.

Chief Justice McBride also states his belief that the zoning ordinance "is void in that it places arbitrary power in the hands of the council."

"When it comes to imposing regulations restricting or limiting the lawful use of property, unless such restriction is one which can lawfully be imposed by a proper and valid exercise of the police power, it can only be imposed by the exercise of the power of eminent domain," says Justice Rand's dissent.

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FULL EXPOSE OF AIR CORPS NOW INSURED

(Continued from page one)

part of the case of the defense.

Long Trial Certain.

Whether the right of the court martial to demand access to all of these documents will be recognized by the White House and the departments concerned remains undecided.

A trial running into several weeks now seems certain, and as a result the debate over the government's air craft program doubtless will be carried over into the next session of congress, which begins early next month. The president's air board, which already has been over much of the ground to be covered in the Mitchell defense has under consideration a report which it had hoped to submit before congress convenes.

Dismissed Overruled.

Colonel Mitchell again was overruled when he sought to have the charges against him dismissed on the plea that the prosecution had presented no proof of his guilt.

The decision was handed down without delay after an argument of counsel during which defense counsel declared the prosecution had rested yesterday without producing "one scintilla" of proof that the air officer violated army discipline by his utterances in the air controversy. This contention the prosecution denied.

Representative Doolittle of Illinois, Mitchell's counsel, argued that no defense testimony will be necessary because the prosecution had rested yesterday without proving the charge that the colonel's utterances in the air controversy amounted to an infraction of army discipline. Meantime the question of issuing subpoenas for four scores of defense witnesses, headed by three cabinet members, remained undecided.

Guilt Not Proved.

"In a criminal case, which this is," he next argued, "the burden of proof is always on the prosecution to establish the guilt of the accused."

"The elements which constitute the offense charged in this case are the same as in every criminal case and are enumerated in the manual for court martial."

"The accused is charged with a specific intent to discredit the war department and to 'discredit' the navy department."

"Not one scintilla of evidence has the prosecution produced to prove that Colonel Mitchell's statement was made, uttered and published with any intent to bring discredit upon the military service, or to prejudice good order and military discipline."

"The prosecution comes here and asks you to find that on their face, with not one jot of evidence to support the claim, they were issued from his despicable motive and with this wicked intent."

The prevailing opinion holds that all acts of the city council in the bond issue were legal.

"It is urged by the learned counsel for plaintiff," says the opinion, "that this proceeding involves the question of taxation, and is legislative." This contention may be answered or explained as follows: The enactment of the charter amendment by the voters of the city is legislative in character, and is in fact a question of taxation, and is legislative. The action of the council in calling the election is merely the administration of a power given to the council by the statute and simply proposes legislation and does not pretend to enact legislation. The power to cause the taxation is vested in the people of the city, and they alone exercised the power."

Decree of divorce has been granted Regina Perkins against Edwin Perkins and she is given back her maiden name of Regina Hirsch. Cruel and inhuman treatment was the ground on which the decree was granted.

Trial of the action of James Ingles against Dr. O. A. Olson is being heard by a jury in circuit court. Ingles seeks to recover something over \$2000 damages for alleged inefficient dental work.

Died.

GLOVER—Mabel Glover died at a local hospital Nov. 3 at the age of 23 years. She leaves one daughter, Grace Elizabeth, father, Roy Glover of Wash., 2 brothers, Robert and Lyle, of Brooks. She was the niece of Mr. and Mrs. Hockett of Brooks. Funeral services will be held from Webb's funeral parlors Thursday at 2 p. m. Rev. Lovell officiating, interment in Pioneer cemetery near Brooks.

Out of Bondage.

Thou art slave to the earth no more!

O Soul, thou art freed!—and we!

Ah! When shall our toil be o'er?

Ah! When shall we rest with Thee?

—Sir E. Bulwer Lytton.

W. T. Rigdon & Son

Tonight

FORREST TAYLOR DRAMATIC STOCK CO

Hell Bent For Heaven

HEILIG

HEILIG Thursday Mat. and Eve. Nov. 5

ANNE NICHOLS RECORD BREAKING COMEDY

ABIES IRISH ROSE

Matinee: Adults 1.65. Evening 85c, \$1.65, \$2.20 Including Tax

Mail Orders Now—Box Office Now Open

PACKARD SIX SEDAN \$2900

Fully Equipped DELIVERED IN SALEM

Terms: \$750 down payment, balance monthly

Fred M. Powell MOTOR CARS

350 N. High St. Phone 2126

KAFOURY'S Wool Dress Goods Sale

IS NOW GOING FULL SWING

Come See For Yourself The Bargains Prepared For You

Kafoury Bros. THE STORE FOR THE PEOPLE

SALEM STORE "CAN AND DO" PORTLAND SILK SHOP 160 State Street 233 Adler Street

OREGON TODAY

"The Pony Express"

F. N.