JURY STILL OUT AFTER 24 HOURS

Herald and News

Telephone 3111

PRICE FIVE CENTS | KLAMATH FALLS, OREGON, FRIDAY, FEBRUARY 1, 1946 | Number 10734

In The Day's News

By FRANK JENKINS

HERE'S one for your book: According to the Fish and Wildlife Service, America's big game population is increasing faster than the number of potential hunters!

• • •

(IN 1943, Fish and Wildlife tells us, we had a total of 7,148,422 big game animals, an INCREASE of 5.9 per cent over 1941. In the same period, our human population grew less than one per cent.)

• • •

HERE'S another one for the book:

In 1943, PENNSYLVANIA had the nation's LARGEST big game population. Michigan ranked second, Minnesota third and Far Western California and Oregon trailed along in fourth and fifth places.

Pennsylvania is one of our OLDEST states. Michigan and Minnesota are no spring chickens, as age is reckoned in our young country.

• • •

A FULL generation ago, in our minds, we'd kissed our big game goodbye, and small boys were saying sadly that they would never get a shot at a deer or a bear or a catamount. They were gloomily SURE of it.

Yet NOW highly industrialized Pennsylvania and Michigan are our No. 1 and No. 2 big game states and richly agricultural Minnesota is No. 3!

• • •

WE'VE been gloomily sure of so many, many depressing things that never came to pass.

As long ago as a couple of centuries, a pessimistic economist named Malthus had us all convinced that the world's human population must increase so much faster than the world's capacity to produce food that we'd all starve to death.

He had figures to prove it.

• • •

IN these days "radical" politicians and "radical" trends in thinking are scaring our ultra-conservatives out of their boots.

A century and a quarter ago Andrew Jackson, the wild man from the West, was frightening the ultra-conservatives of the Atlantic seaboard until their teeth chattered. They could see the end of the American way of life approaching at a gallop—and no way in sight to stop it.

• • •

WE didn't starve, as Malthus was so sure we would. The reactionary conservatism of the late 19th and the early 20th centuries followed Old Hickory's "wildness."

• • •

WE'RE worried sick about strikes. We see inflation creeping up on us like a hungry tiger and no way to stop the brute.

• • •

WELL, the strikes of the late 80's and the early 90's were vastly more disconcerting than anything we're seeing now. They were BLOODY, among other things. But the MIGHTY PRODUCTIVE UPSWINGS of the early part of this century came after them.

There was REAL inflation, based upon lack of production of things, after the Civil War, and people went hungry with greenbacks in their pockets. But the heavy PRODUCTION and the stiff COMPETITION that followed licked the inflation quickly enough.

• • •

WE'RE terrified into conniption fits by the spectacle of the pressure groups that are converging on Washington.

How about Coxey's army?

Did it wreck us?

Of course not. In the long perspective of time, Coxey's army was no more than a buzzing gnat.

• • •

HERE'S some good advice: QUIT WORRYING about America. There is nothing in the American picture of today that hard work, BIG PRODUCTION, intelligent competition and a reasonable measure of tolerance won't cure.

Engineers OK Walkout Vote

CLEVELAND, Feb. 1 (AP) — Committee chairmen of the Brotherhood of Locomotive Engineers today unanimously authorized a strike vote among the organization's 78,000 members.

The Brotherhood of Railroad Trainmen already is polling its 215,000 members on the question of a strike and expects to have the results compiled about Feb. 10.

Both Alvanley Johnston, grand chief engineer, and A. F. Whitney, president of the trainmen, have predicted that a strike, if called, would paralyze the nation's railroad system. The two brotherhoods, since last July, have been demanding wage increases and changes in working rules from the country's railroads.

WEATHER

February 1, 1946

Max. (Jan. 31)...33 Min....14
Precipitation last 24 hours....00
Stream year to date.....9.04
Normal ....6.61 Last year....5.07
Forecast: Snow or showers.

BLIZZARD HALTS EFFORTS TO REACH CRASHED PLANE

75 M.P.H. Gale Rages On Summit

40-Below-Zero Cold Forces Climbers To Retreat

By RICHARD K. O'MALLEY

ELK MOUNTAIN, Wyo., Feb. 1 (AP)—A screaming blizzard on the perilous sides of 11,125-foot Elk mountain today prevented new efforts to scale the peak into which a United Air Lines transport apparently crashed yesterday with 21 persons.

P. R. Gallagher of Cheyenne, member of an eight-man search party that fought to within 300 feet of the summit last night, said the climbers were forced back at a 75-mile-an-hour gale and 40-below-zero cold.

"I was on my hands and feet at the last," Gallagher said. "If we had gone on, we would have had to spend the night. If we had, I don't see how we could have lived."

Gallagher was suffering from frostbite and others in the party were covered with ice when they returned here last night.

They reported visibility on the bald, formidable peak, which reaches into the clouds above timberline, was less than 50 feet.

See No Wreckage

They saw no signs of wreckage but were headed directly for the spot where a deep, quarter-mile furrow in the snow convinced aerial searchers yesterday that the plane had smashed into the mountain top about 3 a. m. (mountain standard time).

Clouds and swirling snow continued to shroud the peak today and old-timers said the storm might last a week or more. Tom Reese, a rancher, told the rescue party it would be foolhardy to try to scale the mountain unless the top was visible.

An army convoy of 50 men from Fort Warren, Wyo., arrived here last night but when officers viewed the storm-blasted mountain they sent 40 of the men back to Warren to wait for a break in the weather.

Bob Ross, a coal mine superintendent at Hanna, Wyo., had a ski party organized and was considering the advisibility of tackling the mountain from the northwest.

Chilean Body Defies Labor

SANTIAGO, Chili, Feb. 1 (AP) The powerful leftist popular front withdrew its support from the government today after the latter's rejection of labor and leftist demands for reorganization of the cabinet.

The popular front, which put the government in power, issued a communique accusing Acting President Alfredo Duhalde of "total responsibility for the present grave crisis" and charging that the existing situation "could drag the country to a catastrophe of incalculable proportions."

Japan... from Sinking Ship

Capt. Emusabure Kato of Nagoya, skipper of the Japanese repatriation ship Enoshima Maru (center, with binoculars), stands on the deck of the American ship Brevard surrounded by some of the 4300 repatriates, after the American ship had rescued them in 25 minutes. The Enoshima hit a mine near Shanghai and sank. The American ship was skippered by Lieut. John Elliott of San Diego, Calif. (AP wirephoto).

Strike Curb Bill Rapped

WASHINGTON, Feb. 1 (AP)—The house, debating heatedly today over sweeping new strike control legislation, received conflicting demands from national farm and labor leaders.

AFL President William Green, in a telegram read to members by Rep. Bailey (D-W. Va.), urged defeat of the bill introduced by Rep. Case (R-S. D.). Green said the measure would bring "chaos, confusion and injustice" and would "disrupt industrial relations."

Edward A. O'Neal, president of the American Farm Federation, took the opposite view, however. He wrote all representatives advising passage of the Case plan. He said it would protect the public and this is necessary because of "the apparent disregard for the public interest on the part of both disputants."

7000 More MD's To Be Released

WASHINGTON, Feb. 1 (AP)—The war department today eased the discharge requirements for medical officers to permit the release of 7000 additional doctors within the next five months.

By that time, Secretary Patterson said, all but approximately 4000 of the 41,000 physicians who were taken into the army during the war will be back home.

Portland Jail Said 'Disgrace' For Second Time

PORTLAND, Feb. 1 (AP) — Portland's city jail was called a "disgrace to the city" by the county grand jury again today, for the second time in two months.

The January grand jury report made particular criticism of the women's quarters, as overcrowded.

Just a month ago the December grand jury reported that the jail "is a disgrace to the city of Portland" and said that "plain soap and water would help."

Sled Accident Injures Girl

Emilie Elliot, 11-year-old daughter of C. S. Elliot, manager of J. C. Penney company, was seriously injured at 4:45 p. m. Thursday while coasting on the Washington street hill near her home. The little girl crossed the Washington and N. 2nd intersection on her sled and passed under a car operated by Jack D. Ellison, 21, KFJI announcer.

Ellison was traveling at a slow rate on the snow packed street and was able to stop immediately. He assisted the child to her home, 103 Washington, and then moved her to Klamath Valley hospital where the attending physician reported the little girl suffering from severe contusions of the head, concussion and a severe laceration of the back. She also has bruises on the right leg.

Emilie was moved to her home last night and was reported as resting today. Ellison was absolved of blame.

Seattle Man Buys Variety Store

Sale of the Klamath Variety store to E. M. Alspaugh of Seattle was announced today by Fred Eyerly, who has operated the business for the last 17 years.

Alspaugh is an experienced operator of stores similar to Klamath Variety, and it is expected his son will come here as resident manager. The new owners took over this morning.

Eyerly operated the store at 464 Main for 12 years, and moved it to 838 Main about five years ago. He came here from Woodburn. He said today that he plans to retain his home in Klamath Falls, but will go south for a vacation trip.

Legion Claims VA Breakdown

WASHINGTON, Feb. 1 (AP)—The American Legion called on congress today for an immediate investigation of a "tragic breakdown" in the veterans administration under Gen. Omar H. Bradley, who took over as chief less than six months ago.

John Stelle, the Legion's national commander, made the "demand" for action in letters to all members of congress and said the law makers should see that their "mandates are no longer ignored by the veterans administration."

VA officials at first reserved comment on the letter, but Stelle's aides said its release was preceded by an acrimonious telephone battle between Stelle and Bradly over major VA policies.

Later, officials of the administration announced that Bradley would give a report at a late afternoon news conference on his six months administration.

Price Of Sugar Will Be Raised

WASHINGTON, Feb. 1 (AP)—Stabilization Director John C. Collet announced today the retail price of sugar soon will increase "slightly more than half cent" a pound.

He said the effective date would be announced by OPA. An official of that agency said an increase of approximately six-tenths of a cent a pound would be put into effect "in the next few days."

GOP Senators Ask Action To Choke Off Filibuster

By FRANCIS J. KELLY

WASHINGTON, Feb. 1 (AP)—Republican senators demanded today that action be taken to choke off the FEPC filibuster.

The GOP lawmakers announced they are ready to take the initiative if something isn't done quickly by the democrats who favor the bill to create a permanent fair employment practice commission.

Kenneth S. Wherry, republican senate whip, gave Senator Chavez (D-N. M.) until the end of the week to seek limitation of debate.

Senate republicans, he said, "are getting restless and they want some action. They mean business."

Chavez, who maneuvered FEPC up for consideration despite the vehement opposition of southern senators, has been soliciting votes to have the so-called gag rule invoked against the filibuster. He claims to have lined up 44.

It requires a two-third vote of the senate to limit debate, but only 16 votes to petition that such a limitation be considered. The latter move is what Wherry has in mind.

He told Chavez after the senate adjourned last night that 21 of those signed up against the filibuster are republicans, or five more than the number required to seek debate limitation. Wherry added if Chavez did not move on a bi-partisan basis that limitation be considered, the republicans will file such a petition on a partisan basis.

Getting 16 signers, however, is only the first step. The petition then must be formally filed with the senate, and that is a formidable task under the present parliamentary situation.

Southern opponents of FEPC have not based their two-weeks-long filibuster on the measure itself, but on technical motions to correct the journal of senate proceedings for January 17. The southerners contend debate limitation cannot be applied against such a motion.

Group Struggles Throughout Night Without Success

A tired jury that had been out nearly 24 hours reported this afternoon that it was deadlocked on a verdict in the sodomy case against ex-Police Chief Earl Heuvel, but Circuit Judge Arlie Walker sent word to the jurors to keep on trying.

It was at 2:30 p. m. today that the jurors knocked on the jury room door and said they could not reach agreement. By that time, they had already established a probable local record for length of deliberation. Old-timers said they could recall no case of jury deliberation going over 24 hours here, and one said that no jury in 20 years had stayed out all night.

Apparently hopelessly deadlocked, jurors had nevertheless continued for many hours in discussion of the sensational case. But Judge Walker sent back word that he hoped they could still bring a definite conclusion to their deliberations, and their secret conference went on. At 3:10 p. m. this incident was repeated.

Only three trips to restaurants for meals, and a brief return to the courtroom for clarification of instructions, had broken the deliberations of the 12-man body behind the locked door of the courthouse jury room. Actual lapsed time in the jury room at 3:10 today was approximately 20½ hours. The jury took the case at 3:10 p. m. yesterday.

The judge had previously stated that the trial of Heuvel on a charge of contributing to the delinquency of a minor would follow the sodomy case, but when new jurors came in this morning he dismissed them temporarily to await developments from the jury room. This afternoon, he strongly indicated his intention of re-trying the sodomy case if the jury is unable to reach a verdict.

Courtroom spectators listened closely today for some hint of the trend of the jury-room controversy when the jurors filed back into the jury box to ask the court some questions.

Puts Question

Jury Foreman Ben Henzel put the question, stating that the jurors wished the judge to repeat his instructions concerning an accomplice. Previously, the jury had sent word from the jury room to ask for a dictionary to look up the same word. Judge Walker denied that request, but when the jurors came in this morning he carefully repeated his instructions and answered specific questions from various jurors concerning the testimony of an accomplice, the importance of flight, and corroboration.

In answer to a question, the judge emphasized that the testimony of an accomplice must be corroborated to bear weight, and that under Oregon law the tendency is to view the testimony of an accomplice with distrust. Reference was to the testimony of Virginia Rose Gibson, the complaining witness, with the respect to the act with which Heuvel is charged. Jurors seemed to be puzzled as to whether she was an accomplice in the commission of a crime, how much weight her testimony should have, whether she acted under duress and undue influence from Heuvel, and whether Heuvel would be guilty if the girl had been an accomplice in the commission of a crime.

Weigh Testimony

In reference to the latter question, the judge said that this matter concerned the weight to be given the girl's testimony, and that even though jurors might believe she committed a crime, that fact, alone, would not clear the defendant.

The jurors then returned to the jury room, making the later report that it seemed impossible to reach a verdict.

Bailiff Ike Rumer maintained a lonely vigil at the jury room door throughout the night. Judge Walker stayed at the courthouse until after midnight, as did attorneys, the defendant and his wife, Virginia, and others. The judge said that the longest he had ever kept a jury out was 33½ hours.

In his instructions to the jury yesterday afternoon, Judge Arlie G. Walker told the 12 men that "any reasonable doubt you have is the property of the defendant, just the same as his horse or cow or money."

But not every possible or trivial doubt can be classed as a reasonable doubt, the judge added. He charged the jurymen that they had to be "morally certain" of guilt before a verdict of guilty can be returned.

He enumerated the three material allegations in the indictment, saying that it was incum-

(Continued on Page 2, Column 4)

Todd Says Shooting Accidental

Clyde Edward Todd, 37-year-old Southern Pacific railroad detective held in the county jail on a charge of second degree murder in connection with the death of Ross C. Simmers last Friday night, will contend that the shooting was accidental, Todd's lawyer, J. C. O'Neill, said today.

Todd has asked for a preliminary hearing in justice court, but the date for the hearing has not been set as the district attorney has been busy all this week prosecuting the Earl Heuvel case.

No Ill Will

O'Neill said that Todd had told him that the shooting was purely accidental and that he had no ill will or any intention of causing Simmers any harm during the session of "horseplay" which was climaxed by Simmers' death with a 32-20 bullet in his heart.

The shooting happened in a narrow, cramped office room of the Pacific Fruit Express ice dock in the SP yards. Simmers was a PFE employe working in the office and Todd had come in to use the telephone. He patroled the area around the ice dock.

Todd has told O'Neill that he accidentally kicked Simmers' chair as he passed by on his way to the telephone and that he had begged the man's pardon for bumping into his chair.

The railroad detective has been held in jail since the night of the shooting.

Pauley Denies Oil Land Deal

WASHINGTON, Feb. 1 (AP)—Edwin W. Pauley flatly denied today that he ever offered to raise several hundred thousand dollars in campaign contributions for the democratic party in return for withdrawal of the government's suit to establish federal title to submerged oil lands.

Pauley this afternoon told the senate naval affairs committee, which is holding hearings on his nomination to be undersecretary of the navy, that a statement to that effect by Interior Secretary Ickes was "not true."

He said he recalled having only one conference with Ickes, at a time when the democratic national committee had a $300,000 deficit, and that he went to see Ickes to solicit his personal efforts to meet the deficit.

Chief Acts To End Big Steel Tie-Up

By The Associated Press

Reports the administration was ready to step into the steel stalemate again with a new proposal gained impetus today when President Truman summoned the steel fact-finding board and Price Administrator Chester Bowles to the White House.

The fact-finding board was called to a 1 p. m. (PST) conference and an OPA official said Bowles had been asked to cut short a vacation in South Carolina and return to Washington immediately. Bowles was expected tonight or early tomorrow.

Plans for terminating the 12-day strike of 750,000 steel workers were reported in the hands of White House advisers, although these proposals were said not to involve seizure, as yet.

The president told his press conference yesterday that the administration still was working on possible price increases for steel.

Favors Increase

Although Bowles was reported favoring a steel price increase not in excess of $2.50 a ton, the U. S. Steel corporation said it would require a price increase "greatly in excess" of $6.25 a ton to meet the 18½ cents hourly wage increase the union demands.

More than 200,000 workers in 96 General Motors plants marked their 73rd day on strike as a federal mediator in Detroit continued his efforts to effect an agreement between the corporation and leaders of the CIO United Auto Workers union. Wages and the maintenance of union membership were the chief issues under discussion.

Bevin Charges Peace Periled

LONDON, Feb. 1 (AP)—Foreign Secretary Bevin told the United Nations security council today that "Moscow and communist party propaganda" endangered world peace.

This, he said, was "the real danger" to peace.

Bevin made this statement in blasting back at Russian charges that Britain imperiled world security by maintaining troops which the Soviet said, supported fascist and pro-monarchist elements in Greece.

Bevin demanded a straight yes or no verdict from the council on the Russian charge.

Countering the charges of Soviet Vice Commissar Andrei Vishinsky that a "white terror" exists in Greece, Bevin said British troops had supported the right of all factions to a voice in Greek affairs and had refrained from imposing on the country a minority government.

Snyder Backs Price Control

WASHINGTON, Feb. 1 (AP)—Reconversion Director John W. Snyder today told Henry Ford, 2d, that abandonment of price control now would retard industrial development "for years to come."

Ford, head of the Ford Motor company had proposed removal of price controls on automobiles and their supplies. Snyder telegraphed him:

"I believe strongly that at this time we need firm control of prices. Firm control is not inconsistent with the desire of the administration to remove impediments to production which are demonstrated to exist."

Death Ends Turbulent Career Of Carl Magee, Crusading Newspaper Editor Who Aided In Exposing Teapot Dome Scandal

OKLAHOMA CITY, Feb. 1 (AP) Death last night ended the turbulent career of Carl C. Magee, 73, crusading newspaper editor who played a prominent part in exposing the Teapot Dome oil scandal.

Magee—former editor, school teacher, lawyer, inventor and businessman—died of heart disease after a short illness with influenza.

The man who in later years invented the parking meter was a stormy petrel of political journalism in New Mexico where he once was tried on manslaughter charges.

As editor of the Albuquerque Morning Journal, he gained national prominence in the early 1920's for helping to expose the Teapot Dome naval reserve scandal which brought about the downfall of Secretary of the Interior Albert B. Fall.

His fiery editorials first inquired why Oilman Harry Sinclair's train should spend several days on a siding near Fall's expensive ranch home.

He was called to Washington to testify before a senate committee whose investigation led to uncovering the $100,000 deal between Fall and Sinclair for leasing of the naval oil reserve.

Magee, sentenced to jail in the summer of 1923 after a trial for contempt growing out of an editorial which appeared in his paper while he faced charges of criminal libel in District Judge D. J. Leahy's court, was pardoned by Gov. James F. Hinkle after serving a night and a day of the sentence.

Magee set out to defeat Leahy for re-election and his editorial campaign proved successful.

Two years later, Magee accidentally shot and killed a state highway employe in a fray which grew out of the trial.

The crusading editor was seated in the lobby of Las Vegas hotel when Leahy entered. The former judge spotted Magee, strode over, shouted at him, then struck him, knocking Magee to the floor.

From a prone position, the editor kicked at the judge and fired three shots from his pistol, striking Leahy in the arm and mortally wounding John B. Lasseter, a bystander.

Tried at Las Vegas on a manslaughter charge, Magee was freed by Judge Luis E. Armijo, who had defeated Leahy. Armijo ruled state's evidence was insufficient; that it failed to show an unlawful act, and that Magee acted in self defense.

Magee came to Oklahoma City in October, 1927, as editor of the Oklahoma News where he continued his crusading attacks on Oklahoma politics through his column, "Turning on the Light."