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SALEM, OREGON, TUESDAY, JANUARY 6, 1914.

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SEVENTY-FIVE ARE SWEEPED TO DEATH IN STREAM

WAR IS NEARLY AT END

Governor Offers Peace Terms to Sheriff of Baker County in Telegram.

WOULD PUT FRED SNODGRASS ON JOB

Tells Sheriff of Baker County Law Enforcement is All Now Desired.

Governor West this morning extended the olive branch to Baker county officials, but said branch was held in a mailed fist. He wired Sheriff Rand as follows:

"Whenever you will assure this office that you will co-operate with us in putting a stop to further violations of the liquor laws in your county and closing all houses of prostitution, we are ready to withhold any further activities on the part of the militia. As a pledge of co-operation we ask that you appoint F. H. Snodgrass as deputy sheriff for 60 days, without pay, to assist our office in performing the above duty. An early reply will be appreciated."

At the same time he wired Circuit Judge Anderson, Sheriff Rand and District Attorney Godwin as follows, and also sent the same wire to Colonel Lawson, and telling him to govern himself thereby.

"Section 3774 of our code provides no person belonging to the military forces of this state shall be arrested on any civil process while going to, remaining at or returning from any place at which he may be required to attend for military duty. Section 3855 provides members of the militia ordered into actual service of the state by any proper authority shall not be liable, civilly or criminally, for any acts done by them while on duty. We are advising Colonel Lawson to govern himself accordingly."

The governor said he knew nothing of any attempt to put Huntington under martial law, but the whole matter was in the hands of Col. Lawson, who is now in Huntington with his force.

Copperfield, Or., Jan. 6.—Governor West has made good his promise to the people of Copperfield.

Yesterday afternoon the town said farewell to one of the most elaborate collections of "boozes" in the state. Today the corporal's guard to Colonel Lawson left in control did not even have to watch the empty shells of what had been saloons.

In shipping out the liquor supply of Copperfield by train late yesterday Colonel Lawson got rid of a varied assortment of gambling devices as well. Although the boxes and barrels of liquor were billed to Baker, it is believed here they will be shipped to Portland, the liquor either sold or destroyed and the gambling machines burned.

Reinforcements asked by Col. Lawson Saturday when he expected Sheriff Rand might leave with a posse to carry the court injunction, arrived yesterday afternoon in the shape of 12 non-commissioned officers of the Third infantry in command of Lieutenant Holman of Portland.

Lieutenant-Colonel Lawson left Captain Metcalf, Special Agent John Abbott and seven guardsmen to watch over Copperfield, while he returned to Huntington with the remainder of the militia. Colonel Lawson is expected back here tomorrow with Attorney Collier, who will represent Governor West

Turner Sings His Swan Song

Doleful Ballad Moves Audience to Much Mirth as Old Members Quit Their Seats.

Councilman Turner sang the swan song of the old council last night at the close of its final meeting.

The ballad was much enjoyed and was heartily applauded, even by those who were joshed. The remarks and song of the councilman follow:

Mr. Mayor:

As the time has come for some of us to vacate, I have the unpleasant office of saying farewell as out the door we jog along, in other words to sing that old familiar ballad known throughout the world as "The Swan Song."

For 'tis true Great God is gone, Likewise also Honest John, George has faded like the dawn And Poor Old Jim just can't hang on.

Sure, Jones and Cummings will come back For their con was all the rage, But Skiafe and I still hold the sack While the new ones turn a Page.

I. W. W. Rigdon will no more be seen on strike, Already he has graciously "pulled his freight."

He was too big a traveler on the city's lowly pike, For the road to him was neither smooth nor straight.

Now Brother Avison and Sister Lynch Can rule the roost alone, And secret agents now will pinch The married men who stray from home.

Yes, we know that you will miss us, But there'll be no vacant chair, There'll be plenty here to cuss us While the mayor heaves a prayer.

We know you're sorry to see us going, But don't worry, never cry, We'll be here at next election Whether the town is wet or dry.

Lives of sldermen remind us We can waste a lot of time, As departing we leave behind us Streets of mud and slime.

FIVE PERSONS PERISH IN LODGING HOUSE FIRE IN OHIO TOWN

Newark, O., Jan. 6.—Five at least perished, one was fatally injured and five were less seriously hurt in a fire which destroyed Kearns hotel, a second class lodging house here, early today. Firemen were still searching the ruins for the bodies of other possible victims.

OATH OF OFFICE DOES NOT JIBE WITH HIS CLAIMS

The mandamus suit brought recently by Corporation Commissioner Watson against State Treasurer Kay to compel him to pay a warrant drawn in favor of Attorney McColloch, which the treasurer refused to pay, on the grounds that the commissioner had no authority to make the appointment, nor the attorney to act, has taken a new turn, owing to the fact that the attorney general has produced the oath of office of McColloch, and signed by him. It was the contention of Commissioner Watson that McColloch was not hired as an attorney, but as an assistant. The oath reads as follows:

"I do solemnly swear that I will support the constitution of the United States, the constitution of the state of Oregon, and the laws thereof, and that I will faithfully discharge the duties of attorney at law for, and in behalf of the corporation department of the state of Oregon according to the best of my ability, so help me God."

in any legal matters. Such men as are in Copperfield will be retained probably until the establishment of a civil government again.

RETRIALS IN CASES OF 6 UNION MEN

Circuit Court of Appeals Refuses New Trials to 24 Others, However.

CONSPIRACY PROVED DECLARES COURT

Principal Contention of Alleged Dynamiters Overruled in Decision.

[UNITED PRESS LEASSED WIRE.]

Chicago, Jan. 6.—The United States circuit court of appeals today granted the appeals of six of the union men convicted at Indianapolis for illegally transporting dynamite, for retrials. It denied retrials, however, to 24 others.

Retrials were granted to Olaf Tveitmo, of San Francisco; James Day, of Peoria; Richard Houlihan, Chicago; William McCain, Kansas City; Fred Sherman, Indianapolis, and William Bernhardt, Cincinnati.

The cases were heard by Judges Seaman, Baker and Kohlsaat. The court's opinion was read by Judge Seaman.

Claims Overruled. The court overruled all the challenges in error alleged by the defense attorneys. On this ground retrials were denied to 24 of the defendants. The claims overruled were:

That the lower court erred in consolidating the indictments, and in overruling a motion to vacate this order.

That the lower court erred in permitting Orrie McManigal and Clark, both defendants, to testify for the government.

That the lower court erred in overruling a motion to compel the government to elect whether to prosecute the defendants under indictments alleging conspiracy or under a charge of aiding and abetting conspiracy.

That the lower court erred in its instructions to the jury.

Conspiracy Proved. The principal claim of the defense—

(Continued on Page Five.)

Governor Who Seeks Second Term



Governor Johnson.

WHITE REMOVED FROM HIS PLACE AS ADVISER OF MILITIA

Governor West this morning made the following statement: "Samuel White is judge advocate-general and member of the staff of the governor, his duty is to advise the governor and officers of the militia in regard to their duties. We find that Judge White's advice is being extended to those sympathizing with the law violators who are attempting to reach. By relieving him of the duties imposed upon him as a member of the governor's staff, he will undoubtedly feel more free to offer advice to said parties, with less personal embarrassment."

He is no longer judge advocate.

It's difficult for the average man to live up to the opinion he has of himself.

The Weather

The Dicky Bird says: Oregon, Rain west tonight and Wednesday; rain or snow east tonight or Wednesday, winds mostly southerly.

(Continued on page 5.)

JOHNSON IS CANDIDATE FOR PLACE

Governor Will Again Seek to Be Governor of California, Announcement.

HENEY CANDIDATE FOR U. S. SENATE

Flatly Denies That There is Friction Between Him and Governor.

[UNITED PRESS LEASSED WIRE.]

Sacramento, Cal., Jan. 6.—Governor Hiram W. Johnson announced today his intention of becoming a candidate to succeed himself as chief executive of California. The governor sacrificed his personal desire to be a candidate for a seat in the United States senate, he said because he believed the interests of the Progressive party in California could be best served by his running for governor again.

Johnson stated that he will not sacrifice his independence in making his campaign for re-election, and will not personally solicit a single vote. He intends to make his campaign solely on the past record of his administration, which even his enemies are admitting has been one of success and a fulfillment of the party's promises to the people.

Up until this morning much speculation had surrounded the political intentions of the governor. Many had urged him to become a candidate for the United States senate. The governor, however, kept his own counsel and until today when he issued his official statement even the most active Progressive workers were apparently in the dark as to what course he intended taking.

San Francisco, Jan. 6.—Flat announcement of his candidacy as a Progressive to succeed United States Senator George Perkins, of California, was made here today by Francis J. Heney.

(Continued on page 5.)

Engine Topples Over in Stream

Engineer Is Injured and Fireman Compelled to Swim for His Life as Result of Flood.

[UNITED PRESS LEASSED WIRE.]

Montesano, Wash., Jan. 6.—The engineer was injured and the fireman was compelled to swim for his life when an Oregon & Washington passenger engine was derailed about midnight and toppled over into a swollen stream when a portion of the new grade into Montesano gave way. The engine broke loose from the train it was drawing. The ground had been softened by high water.

When they felt the ground give way, the engineer and fireman leaped for the cab window. The engineer succeeded in getting through and was injured in the jump to the ground. The fireman was taken under the water when the engine toppled over. He groped about and finally succeeded in escaping.

Streams in this vicinity are swollen by the torrential rains of the last few days.

CHERRIAN BANQUET WILL BE ELABORATE AFFAIR

Tonight, promptly at 8 o'clock, the big Cherrian banquet will be on in full swing. George Graves, the manager of the notable affair, will return from Portland some time this afternoon with a troupe of young ladies who are to furnish entertainment of the latest style. The twentieth century show, called the cabaret will be staged in the spacious dining hall at the Hotel Marion, and the guests will be seated in such a manner as to give them a complete view of the improvised stage.

Up to a late hour this afternoon, there were an even hundred places taken, and it is believed that about ten new members will be enrolled this evening.

CASE CONTINUED.

San Francisco, Jan. 6.—Miss Leah Alexander appeared before Superior Judge Dunne for trial today on the charge of killing J. D. Van Baalen, a newspaper man, in his office here, to the absence of Thomas Dozier, Miss Alexander's attorney, the case was continued until January 20 on the motion of Maxwell McNutt, assistant counsel.

THEIR BARGE SINKS

Of One Hundred on Craft Only Twenty-Five Reach Shore in Safety.

DASHED TO DEATH ON ROCKS OF RAPIDS

Ferrying Themselves Across Stream When Their Barge Hits Big Boulder.

[UNITED PRESS LEASSED WIRE.]

Winnipeg, Jan. 6.—That 75 laborers were drowned Saturday while trying to cross the Fraser river, near Fort George, B. C., was reported to the immigration department here today by Angelo Pugliese, a railroad worker, just arrived from the scene of the disaster. The men were ferrying themselves across the stream on a barge, which sank under them.

These were a round 100 men on the barge, of whom he was one, Pugliese said. Their craft was unmanageable, and finally struck a boulder, swamping it. The swift current made swimming nearly impossible, and the men were dashed to death on the rocks and carried through the rapids. Of the 25 rescued, the majority were injured.

Pugliese's figures were only approximate, since few of the bodies had been recovered. The men were employed at Grand Trunk Pacific construction work.

Decision Against Wiest in Supreme Court of Oregon

The supreme court this morning handed down twelve opinions besides denying five petitions for rehearings.

In the case of W. A. Wiest against School District No. 24, the decision was affirmed. In the opinion written by Chief Justice McBride, after stating the case, which was a libel suit brought against the district on the grounds that the directors thereof had in investigating certain charges made by Laura DeBord against plaintiff in his capacity as a teacher, sustained said charges and discharged Wiest, all of which he claimed damaged him in the sum of \$5000.

held that the district is not liable for a tort committed by its directors, or the clerk in entering the same on the minutes of the board. "We do not believe," said the justice, "it was the policy of the law to take a fund intended for the education of the young, and apply it to the payment of any of the malicious acts of its officers."

The other cases were State of Oregon ex rel. Geo. W. Shepherd, a row over a naval office. It was a motion to dismiss the appeal, which the court overruled and then dismissed the appeal on its own motion.

The state against Warner Valley Stock company, affirmed.

Petitions for rehearings were denied in Dire vs. Bandon; Johnson vs. Jackson county; Caro vs. Wollenberg; Knobhoff vs. Mark, and Hartley vs. Dye.

Other opinions were handed down as follows:

Eagle Cliff Fishing company vs. H. S. McGowan, et al., appellants; appealed from Clatsop; relating to fishing rights at Sand Island in the Columbia affirmed.

Randal Browning, appellant vs. Smiley-Lampert Lumber company; appealed from Clatsop; action for damages for personal injuries, reversed.

Victor Wasiljuff vs. Hawley Pulp & Paper company, appellant; appealed from Clackamas; suit for damages for personal injuries, affirmed.

Edward L. Fraley vs. W. M. Jones, appellant; appealed from Multnomah; involving the validity of a garnishment, reversed and dismissed.

William Ball, et al., vs. E. M. Croisan, appellant; appealed from Marion; suit for damages to property, reversed.

John Hunter, appellant, vs. Clark & Henery Construction company, appellant; appealed from Douglas; suit to enjoin trespass on real property, affirmed.

R. A. Hume vs. Seattle Dock Company, appellant; appealed from Multnomah; suit to foreclose a materialman lien, affirmed.

Z. T. Bogard, appellant vs. Thomas N. Kennedy; appealed from Marion; suit for an accounting under a contract, modified.

The Copperfield Situation and Constitutional Provisions

We have been asked to state on what law Governor West based his action in declaring Copperfield under martial law and suspending the operation of the civil laws there. Never having heard the governor say we do not know, but we print herewith the sections of the state constitution applicable to the subject, and the readers can figure it out to suit themselves.

Section 22 of article I of the constitution reads: "The operation of the laws shall never be suspended, except by the authority of the legislative assembly."

Section 9 of article 5, which describes the duties and powers of the governor, reads: "The governor shall be commander-in-chief of the military and naval forces of this state, and may call out such forces to execute the laws, to suppress insurrection, or to repel invasion."

Section 10 says: "He shall take care that the laws be faithfully executed."

These are the only provisions in the constitution, so far as we have been able to learn that are applicable to the matter. Now the question naturally arises: "Does the action of the governor at Copperfield amount to a sus-

pension of the laws?" If it does, what position does it leave the governor in? On the governor's side of the proposition three questions naturally arise. They are: "Is the declaring of martial law a suspension of the operation of the laws? Is the calling out of the militia in this case for the purpose of executing the laws, quelling insurrection, or repelling invasion? Is his act a necessary one, under the command of the constitution that 'he shall take care that the laws be faithfully executed'?"

In addition to this there is a provision that a member of the state militia ordered on duty cannot be arrested while on such duty or while going to or coming from the place where said duty was performed. This would settle the status of the sheriff in trying to arrest Col. Lawson or the militia.

"Concerning the powers of courts to control the acts of the governor, it has been pretty generally held that he is above their jurisdiction. To permit the courts to interfere would be to permit one branch of the government to invade and supersede another. It is well settled that mandamus will not lie to compel the governor to do any official act, and equally well settled that he

cannot be enjoined from doing any official act.

In the case of the state of Michigan against the governor it was said: "But in this case it is argued with great force and plausibility that the chief executive of the state may be enjoined from doing an unlawful thing. The statute laying upon the governor the performance of duty necessarily confers upon him the right of determining when and how that duty, within the law must be performed, and when he comes to do the thing required, he must be allowed to do it according to his own judgment as to the meaning of the law, and on his own sense of official responsibility under his oath."

The above, we think, states the position at Copperfield, so far as its legal aspects are concerned. That there will be suits and more suits grow out of the matter is certain, but what their outcome will be we do not pretend to predict, nor do we purpose to comment on the situation. The governor is playing his hand, knows what is in the widow, and seems to be confident that his position is unassailable. That is a matter the courts will have to thresh out, when the situation has quieted and the atmosphere cleared.