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THE OMAHA DAILY BEE

THE WEATHER. Cloudy

VOL. XLIV—NO. 166.

OMAHA, TUESDAY MORNING, DECEMBER 29, 1914—TEN PAGES.

On Trains and at Hotel News Stands, 5c SINGLE COPY TWO CENTS.

AMERICAN HUNTERS SHOT BY CANADIAN TROOPS AT FORT ERIE

One Instantly Killed and Another Seriously Wounded by Dominion Border Patrol.

MEN ARE OUT FOR DUCKS After Birds Out of Season and in Canadian Waters in the Niagara River.

REFUSE TO OBEY AN ORDER

Soldiers Fire on Poachers as Letter Head for U. S. Shore.

INVESTIGATION IS ORDERED

Vice Consul Declares No Arrests Have Been Made and that Victims Were in Wrong Anyway.

BUFFALO, N. Y., Dec. 28.—One American was instantly killed and another seriously wounded by Canadian troops patrolling the Canadian border at Fort Erie, Ont., opposite this city today.

Provisional Police Officer Thomas Delaney of Fort Erie ordered the men to stop shooting. They declined and Delaney called upon a company and two privates of the Forty-fourth battalion of the Canadian militia for assistance.

Ordered to Come Ashore.

The corporal ordered the men to come ashore. Instead they headed the boat for the American shore and were beating a hasty retreat when, at the order of Delaney, the soldiers fired upon them.

Secretary of State Bryan was notified of the shooting by Vice Consul J. B. Curtis of Fort Erie.

"Whether or not complications will result is a debatable question," said Mr. Curtis. "While two Americans were shot the information available indicates that they were shooting ducks without a Canadian license and were in Canadian waters, where they had no right to be under the circumstances. No arrests have been made as a result of the shooting."

Inquiry Ordered.

OTTAWA, Ont., Dec. 28.—Major General Samuel Hughes, minister of militia, today ordered an immediate inquiry into the shooting of two American duck hunters at Fort Erie by Canadian guards.

"I greatly regret the occurrence and will have a thorough investigation made," said General Hughes.

Considerable nervousness has been caused along the border by reports of raids and stories that dynamite have been planned to blow up public property in Canada. Since the opening of the European war the international boundary has been strongly patrolled by militia guards, who have orders to detain for examination all suspicious persons.

Organized Relief Morehead's Plan

(From a Staff Correspondent.) LINCOLN, Dec. 28.—(Special.)—Tomorrow, responding to a call issued by Governor Morehead, mayors of the different cities of the state, or their representatives will meet at the state house to organize a state relief committee, which will handle all funds and other donations made from out in the state.

Governor Morehead would like to see the formation of a committee with headquarters somewhere, so that parties may forward goods to a central point, and as fast as a carload is complete it may be sent to its destination.

The Weather

Forecast till 7 p. m. Tuesday: For Omaha, Council Bluffs and vicinity—Partly cloudy.

Temperature at Omaha Yesterday:

Table with 2 columns: Hour, Deg. Highest yesterday, 23; Lowest yesterday, 23; Mean temperature, 24; Precipitation, 0.00.

Comparative Local Record.

Table with 2 columns: Year, High, Low. Highest temperature, 42; Lowest temperature, 18.

Reports from Stations at 7 P. M. Station and State Temp. High, Low.

Table with 2 columns: Station, Temp. High, Low. Cheyenne, cloudy, 26, 34; Davenport, cloudy, 34, 38.

L. A. WELSH, Local Forecaster.

COMMANDER EVA BOOTH of the Salvation Army giving out baskets of food to the poor in New York on Christmas day.



CAR COMPANY MUST GIVE A VALUATION

Judge Sears Orders Street Railway to Furnish Court Physical Value of Its Properties.

IN THE CHEAPER FARE FIGHT

Order Includes Making Public of a Large Amount of Information as to the Business of the Company.

The Omaha & Council Bluffs Street Railway company is directed to furnish to the court a fair and reasonable physical valuation of all its property, both real and personal, with a statement of what it consists by an order issued by District Judge Sears.

The order also compels the street railway company to give the following additional information:

Gross revenue for each of the last three years and the amount of fares received in Omaha for the same period. Salaries of all officers and employees for the last three years.

The company enjoyed the operation of the new ordinance on a large number of grounds, all of which were thrown out by the court except the one charging confiscation of property, which is forbidden by the constitution.

A temporary restraining order was granted, holding up enforcement of the ordinance. In order to secure a permanent injunction, the company must show that the seven-fare-for-a-quarter rate would not allow a fair profit on the capital invested.

Funds of Miners' Unions Used to Buy Arms Charged

CANON CITY, Colo., Dec. 28.—David Robb, a national organizer of the United Mine Workers of America, spent between \$300 and \$400 of union funds for arms during the week preceding the attack by strikers upon the Chandler mine, according to Robb's own testimony today in the trial of seven ex-strikers charged with the murder of William King in the Chandler battle of April 26, 1914.

Robb, one of the defendants, was called to the stand for cross-examination when the trial was resumed after the Christmas recess. He said the money expended for arms had been raised by the six local unions of miners in Fremont county.

NEW GRANITE RATES TO BE EFFECTIVE

Three Judges in Federal Court Deny Petition for Injunction Against Their Legality January 1.

ORDERED SOME TIME AGO

Same Schedule for Monument Granite as Building Variety Demanded by Interstate Commerce Commission to Become Law.

A motion by eastern railroads to enjoin a new freight rate on granite becoming effective January 1 was denied by three judges sitting in the local federal court yesterday.

The tariff had been ordered some time ago by the Interstate Commerce commission and a stay of execution had been asked by its railroads affected.

The injunction sought was an interlocutory order, preventing enforcement of the new rates on granite until the railroads concerned can present their case to the Interstate Commerce commission.

The railroads were fighting to retain the extra revenue formerly derived from hauling the heavy monument granite. They point out that the latter is not in competition with building granite and requires more careful handling, as it is of much better quality and is more nearly finished and polished.

Stephens Selects Two Postmasters

(From a Staff Correspondent.) WASHINGTON, Dec. 28.—(Special Telegram.)—Representative Stephens of Third district, today recommended for appointment as postmaster W. H. Hardwick of West Point to fill a vacancy occurring January 15, and E. H. Bishop of Central City, the present incumbent's term of office expiring February 15.

N. H. Loomis of Omaha, general solicitor of the Union Pacific, is in Washington, to appear tomorrow before the subcommittee of the judiciary committee of the senate, of which Senator O'Gorman of New York is chairman, on the senate bill providing for a recession of the Union Pacific right-of-way to settlers.

The Norris bill reduces the right-of-way granted the Union Pacific under the act of July 1, 1862, from 400 feet to 100 feet, thereby favoring property holders along said railway to the extent of 300 feet.

T. J. Nolan of Omaha is in Washington on legal business.

KRIT COMPANIES FILE BANKRUPTCY PETITIONS

DETROIT, Mich., Dec. 28.—Petitions in bankruptcy were filed today by the Krit Motor Car company and Krit Sales company, both of this city. The liabilities of the motor company are said to be \$281,233, with assets amounting to \$22,532.

KAISER ASKS U.S. TO RECALL SOME BELGIAN CONSULS

Germany Formally Notifies State Department to Withdraw Number for Present.

THEY MUST BE ACCEPTABLE

American Representatives in Conquered Land Have to Be Agreeable to Military.

BERLIN IS MORE CONFIDENT

Joffre's Energetic Offensive Has Everywhere Been Successfully Resisted.

BRITISH DEFEAT CHEERING

Reverses English Suffer at Festhubert Gladden Teuton Hearts.

VICTORY REPORTED BY TURKS

Constantinople Officially Declares that There Was No Bombardment of the Dardanelles Forts.

WASHINGTON, Dec. 28.—The German government has formally notified the American state department that American consuls in Belgium must be acceptable to the German military authorities and that it is desirable that some of the consuls be withdrawn for the present, at least.

More Confidence. BERLIN, Dec. 28.—(By Wireless to Sayville, L. I.)—Among the items given out today for publication by the official press bureau were the following:

"Discussions of military happenings around Christmas indicate that the feeling of confidence has gained support here. General Joffre's energetic offensive as announced in an army order of December 17, it is pointed out, has everywhere been successfully resisted, and the defeat of the English at Festhubert leaves the allies in worse shape than when the French offensive started.

Chief Interest in Poland. "Chief interest continues to center in Poland, where the position of the Germans and Austrians is regarded as promising. There is a feeling here that important developments are probable in Poland within a few days.

"A Turkish official bulletin reports victorious progress on the Caucasian front, without specifying the operations in detail.

"Turkey also officially declares that last week there was no bombardment of the Dardanelles.

"A dispatch from Warsaw says Polish revolutionists have blown up there a monument erected in 1842 to the memory of Poles loyal to Russia."

Rube Dickenson, a Lincoln Actor, Dies In Fall of Scaffold

KANSAS CITY, Mo., Dec. 28.—Walter S. Dickenson, a vaudeville actor, was killed and five others dangerously injured when a scaffolding on a hotel in the course of construction here collapsed. Dickenson's skull was fractured when he was caught under the falling structure as he was walking along the street.

Sanders Kenner, a negro, one of the injured workmen died last afternoon. Theatrical friends of Dickenson, among whom he was known as "Rube," said his home was in Lincoln, Neb. He was married there last summer. His wife is now in Danville, Va., where she went to spend the Christmas holidays.

Farmer Shoots Wife In Accidental Way

HARVARD, Neb., Dec. 28.—(Special.)—A distressing accident occurred at the farm of Frank Hobbs, nine and one-half miles north of this city, yesterday afternoon. Mr. Hobbs took his gun out to the hoghouse to shoot a cholera hog. His wife accompanied him. As he was climbing over a partition his gun caught in some way, and was discharged, the contents lodging in his wife's back just above the hips. She had started for the house and was at the outside door about fifteen feet away. Medical assistance was at once summoned, but it is feared that the injury will prove fatal.

Honduras Consul in San Francisco Charged With Arson

SAN FRANCISCO, Dec. 28.—Fernando X. Somoza Vivas, consul general here of the republic of Honduras, was arrested today and booked on a charge of arson. He had been under surveillance by the police since last night, when firemen found that his burning house had been liberally sprinkled with oil and turpentine.

Bureau drawers in the bedroom were found filled with paper saturated in oil; carpets had been sprinkled with inflammables; holes had been cut through the ceiling of closets for fuses and streamers from the rafters to guide the flames.

Vivas was found partially clad on the sidewalk shortly after the fireman arrived. At police headquarters he asserted that his consular position as the representative of a foreign nation made him immune from prosecution.

BRITONS! TO YOUR CAVES! IS GOVERNMENT WARNING

LONDON, Dec. 28.—The London official bureau this evening made the following announcement:

Belated Freeze in Poland Expected to Bring On Decisive Engagement

PETROGRAD (Via London), Dec. 28.—The belated cold spell reported in Poland is expected to precipitate a definite result in the German Polish campaign, which is now practically at a standstill, despite daily predictions of an impending crisis and decisive battle.

The weather factor, always important, has become paramount in this theater of war since the whole German invasion of Poland is predicated on the freezing of the soft, mirey ground, which impedes the transport of heavy guns and favors Russian trench digging.

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Thus thwarted by mild weather, the activities around Miawa have reached a complete lull and after unsuccessful attempts to cross the Baura river the Germans are still resting on the left bank of the river near Sochaczew. They have in the meantime shifted their attacks southward toward the River Pilica near Rawka, where the ground is not marshy.

The Austrian activity in the Kielces region and along the River Nida, Donajee and both sides of the upper Vistula, continues.

The Russian forces which have been attacking the Galician fortress of Cracow have been driven back fifty miles, and Cracow is now free from immediate menace.

It is asserted in Petrograd that the Russians have improved their strategic position by falling back. The capture of Cracow, however, long has been sought by Russia, being regarded as an important step on the way to an invasion of Germany across the Silesian border.

The initiative in military operations apparently has been left for the time being to the Armen. Aerial raids across the English channel to the lower Thames, over Frieburg, Nancy, Metz and Sackhacew, Russian Poland, and on the German naval base at Cuxhaven, inflicted considerable damage in the aggregate.

Details of the Cuxhaven expedition are still lacking and although Berlin asserts that the British aviators accomplished nothing, it is said at Hamburg that some damage was done. It is evident, however, that the heavy fog prevented the British from carrying out fully their plans.

Activity on land and sea apparently is diminishing. Even in Russian Poland the fighting is becoming less severe, without a decision having been reached. Vienna admits that the Austrians have been compelled to retreat before the Galician Carpathians, and in Berlin it is said that the attempt to cross the Bzura river, in the advance on Warsaw, has been abandoned.

In the west, the onslaught of the allies would seem to have been checked by the counter attacks of the Germans.

RUSSIANS ABANDON SIEGE OF CRACOW

Armies of Czar Fall Back Fifty Miles, but Retreat Declared to Be "Advantage."

ENVELOPING MOVE IS ESCAPED

Retreat Said to Be Due to Discovery of Austrian Plan to Cut Muscovite Forces in Region in Two.

PETROGRAD, Dec. 28.—(Via London)—The retreat of the Russians in the Austrian fortress of Cracow has again been raised. Following the discovery of an attempt made by the Austrians to divide the Russian forces in Galicia the Russians retreated eastward for a distance of fifty miles.

The Russian Galician army, which a short time ago was in touch on the south with the Austrian garrison defending Cracow, moved back to the Biala river, which is some fifty miles east of the former Russian position.

Notwithstanding the fact that the Russian retrogression completely relieved the investment of the fortress of Cracow, (Continued on Page Two, Column Three.)

Cruiser Tennessee Takes Refugees from Jaffa to Alexandria

WASHINGTON, Dec. 28.—The cruiser Tennessee, with the permission of the Turkish government and at the request of American Ambassador Morgenthau, is transporting 500 refugees of various nationalities from Jaffa, Syria, to Alexandria, Egypt.

Captain Decker of the Tennessee reported the departure of his vessel from Jaffa in a message filed last night and received today at the Navy department. Secretary Daniels summarized the report in this statement:

"The Tennessee is transporting about 500 refugees of different nationalities from Jaffa to Alexandria. These refugees were unable to get passage from Jaffa by any other means. Captain Decker states that his action was taken at the request from the consuls, which request, approved by the ambassador to Turkey, had been made after permission had been given by the Turkish authorities."

FRANK IS GRANTED APPEAL BY LAMAR

Will Be Year and Half Before Case Comes Up in Regular Order Before Court.

GEORGIA FOR EARLY HEARING

Justice Asserts that High Tribunal Has Never Passed on Issues Raised in the Trial of Atlantus.

WASHINGTON, Dec. 28.—Justice Lamar of the supreme court today granted an appeal from the decision of the Georgia federal court, which refused to release Leo M. Frank on a habeas corpus proceeding. Frank is under sentence for the murder of Mary Phagan, an Atlanta factory girl.

Attorneys for the condemned man have been fighting for weeks for the appeal which was once previously denied them, although on another phase of the proceeding.

Arguments for Frank. In the present proceeding Frank's attorneys argued to the federal court that Georgia state courts in which Frank had been convicted of murder had jurisdiction over their client because he had not had a fair trial and had been convicted in an atmosphere of violence.

They asked the Georgia federal court to release Frank on a habeas corpus writ. Justice Newman refused and declined to grant an appeal to the supreme court.

The appeal to Justice Lamar granted today permits them to bring their case up for hearing in Washington. Justice Lamar, in a statement explaining why he had granted the appeal, said the application for the appeal presented an entirely different situation from the application for a writ of error, which he had declined to grant some time ago.

The case will be heard by the full court in the ordinary course of business in about a year and a half, unless the state of Georgia should ask to have it advanced. Meanwhile Frank's execution is stayed.

New Issues Involved. Justice Lamar concluded his statement by saying:

"The supreme court of the United States has never determined," he said, "whether on a trial for murder in a state court, the due process clause of the federal constitution guarantees the defendant a right to be present when the verdict is rendered.

"Neither has it decided the effect of a final judgment refusing a new trial in a case where the defendant did not make the fact of his absence when the verdict was returned a ground of probable cause as to warrant the refusal of an appeal."

"Such questions are all involved in the present case and since they have never been settled by an authoritative ruling by the full court, it cannot be said that there is a settled rule of probable cause as to warrant the refusal of an appeal."

Georgia Will Ask Early Hearing. ATLANTA, Ga., Dec. 28.—Solicitor Dorse, who conducted the prosecution of Leo M. Frank, said he hoped to have the case heard in the supreme court within sixty days. Frank was sentenced to be hanged January 22 next.

HOSTILE MOVES IN BOTH ARENAS OF WAR HALTED

Battle Lines on East and West Fronts Now Seem to Be Nearly Stationary.

ALLIED ARMIES LESS ACTIVE

Offensive Movements of French and German Troops Momentarily Show Lack of Vigor.

VON HINDENBURG IS ALSO QUIET

South of Vistula River Germans Are Merely Holding Positions Already Taken.

ONE VICTORY IN THE NORTH

Reinforced Army of Kaiser Takes City of Miwa.

AUSTRIAN ARMY IS CHECKED

Forces of Dual Monarchy Forced to Give Ground in Austrian Carpathians, According to Report from Vienna.

BULLETIN. PETROGRAD, Dec. 28.—(Via London.)—Russian forces, according to advices received today from Galicia, have succeeded in crossing the Biala river and in taking possession of a twenty-mile strip of territory south of Tuchow, thereby separating the two Austrian armies.

The forces of General Boehm-Ermoll, the Austrian commander, are claimed by the Russians to be retreating precipitately and the western Austrian army is said to be badly crippled.

LONDON, Dec. 28.—On the battle lines on both the eastern and western arenas of the war, onward movements seemed today to have lost something of their headway. On the western front the allied offensive has momentarily shown a lack of vigor, while General von Hindenburg, the German commander, seems to have come to a standstill on the Vistula. At the same time Vienna admits a check to the Austrian forces stationed along the Galician Carpathians.

French troops during the last few days have made minor advances, judging from the official communications given out in Paris, but apparently not at the same rate of speed as a fortnight ago. For accounts in a measure for this slackening of efforts, with the exception of the capture of certain Anglo-Indian trenches near the Lys last week, most of which the allies claim to have recaptured, the efforts of the Germans to send back the allied line appear, in the opinion of British observers, to have been generally abortive.

North of the Vistula river, in Russian Poland, the Germans, again reinforced, have retaken the town of Miwa, but south of the river they still stand on their old ground. In southern Poland, where the German right joins the Austrian left, there has been some fierce fighting with slight gains for the Austro-German allies, judging from the reports coming from Berlin and Vienna.

In the Galician Carpathians, the Austrians have been compelled to give ground, according to an official statement issued in Vienna, and Petrograd declares, also officially, that Russian forces are pursuing the Austrians into the Carpathian mountains, after taking many thousand prisoners.

TRAINS MAROONED BY ARIZONA FLOODS START

PHOENIX, Ariz., Dec. 28.—Eight west-bound transcontinental trains, marooned in southern Arizona by the floods last week, left here today with 800 passengers, some of whom had been stalled since Christmas.

Swapping Christmas Presents

Now's an appropriate time to swap Xmas presents. Just be honest—acknowledge that you have some presents you don't want.

Simply swap with others in the same fix and the chances are that happiness and satisfaction will be yours.

'Tis an easy method and costs little enough. Place your advertisement TODAY.

Telephone Tyler 1000 The Omaha Bee "Everybody Reads Bee Want Ads"