

WEATHER FORECAST.

Cloudy to-day, preceded by showers in the early morning; to-morrow fair.

Highest temperature yesterday, 58; lowest, 42.

Detailed weather reports will be found on editorial page.

VOL. LXXXVII.—NO. 69—DAILY.

NEW YORK, TUESDAY, NOVEMBER 7, 1922.

ENTERED AS SECOND CLASS MATTER.

PRICE TWO CENTS

THREE CENTS WITHIN 200 MILES FOUR CENTS ELSEWHERE

MINIMUM WAGE LAW IS DECLARED INVALID AS MENACE TO LABOR

Court of District of Columbia Assails All Legislation to Fix Pay.

WOMEN ARE AFFECTED Decision Says Enactment Strikes at Constitution's Safeguard.

IT'S RIGHT TO SELL LABOR

Feminine Organizations in Capital to Carry Fight to Supreme Court.

Special Dispatch to THE NEW YORK HERALD.

New York Herald Bureau, Washington, D. C., Nov. 6. The Court of Appeals of the District of Columbia dealt a blow to the theory and practice of wage fixing through legislative enactment to-day when it handed down a decision declaring that the District minimum wage law was unconstitutional.

Reversing a finding of the same court on June 6, 1921, the decision rendered that day by Justice Van Orsdel declared that the legislating of the pay envelope removed vital labor safeguards, would give enormous leeway to Congress not only in fixing minimum wages but maximum wages as well and added that "no greater calamity could befall the wage earners of this country than to have the legislative power to fix wages upheld."

Chief Justice Dissents.

The opinion was concurred in by Justice Robb, while Chief Justice Smyth filed a dissenting opinion. The decision of the District Court of Appeals, which has national significance, was in the case of the Children's Hospital, which sought to restrain perpetually the minimum wage board from enforcing an order requiring it to pay to its women employees not less than \$16.50 a week, or \$71.50 a month.

Declaring that it is no argument in favor of minimum wage legislation that the State courts have upheld similar statutes, the opinion of the Court of Appeals asserted that the minimum wage law passed by Congress for the District was null and void.

The District minimum wage board, of which Elizabeth Brandeis, daughter of Justice Brandeis, is secretary, issued a statement this afternoon declaring that the case would be brought before the Supreme Court.

A campaign to hurry Supreme Court action is being planned while the minimum wage board is mobilizing the 12,500 women workers in Washington who are faced with a wage reduction as a result of the decision.

Speaking of the effect that wage fixing by statute would have on the constitutional right of "free contract" for wage earners the opinion said in part: "It would deprive them of the most sacred safeguard which the Constitution affords to take from the citizen the right to freely contract and sell his labor for the highest wage which his individual ability and efficiency can command. The laborer would be reduced to an automaton—a mere creature of the state. It is a paternalism in the highest degree and the struggle of the century is to get rid of it."

Fundamental Principles. "We are here called upon to weigh the subject matter of certain legislation in the balance of the Constitution—the general power of Congress to fix wage contracts between private individuals and Congress may establish a minimum wage for women if it may establish a maximum wage or it may name a fixed wage.

"A fundamental principle is involved, and it does not lie in the courts to declare a law fixing the wages of women unconstitutional and a law fixing the wages of men unconstitutional. The moral stimulus in the one instance is no greater than in the other. Higher wages are essential to preserve the morals of women they are equally essential to preserve the morals of men."

Wilson's Appeal. "November 5, 1918. Yesterday we had an election. I had expected we would win because the President had made a personal appeal for a vote of confidence, and all other members of the Cabinet had followed suit except Baker, who said he wanted to keep the Army out of politics. The President thought it was necessary to make such an appeal, in an effort to nominate Burleson, and he has received a slap in the face, for both houses are in the balance. This is the culmination of the policy Burleson urged when he got the President to sign a telegram which he (Burleson) had written opposing Representative Slayden, his personal enemy, from San Antonio, and in effect nominating Burleson's brother-in-law for Congress. We heard of it by the President bringing it up at Cabinet. Burleson worked it through Tumulty. The President said that he did not know whether to write other letters of a similar nature as to Vardaman, Hardwick, et al. I advised against it, saying that all voters had sense enough to take care of these people. Burleson said, 'The people like a leader with guts.' The word struck the President's fancy, and although Lansing, Houston and Wilson also protested in as strong a manner as any one ever does protest, the letters were

GARY DECLARES WAGES CANNOT GO LOWER Steel Corporation's Head Says Living Cost Prevents.

WASHINGTON, Nov. 6.—Wages in the United States can go no lower, in the

Continued on Page Six.

Finchurst, N. C. Carolina Hotel now open. Great party every night. Thru Pullman, Penn., 2 05 P. M. daily.—Adv.

Theatrical and Hotel and Restaurant. Advertising will be found on Page 10.—Adv.

The Letters of Franklin K. Lane

SAYS WILSON ERRED IN HIS APPEAL TO VOTERS

Lane Letter Describes Democratic Defeat in 1918—Reveals Conditions Abroad When Armistice Was Planned—Tells of the Cabinet Debate on Austro-Hungarian Collapse.

THE NEW YORK HERALD publishes herewith another installment of the letters and diaries written by Franklin K. Lane while Secretary of the Interior in the Cabinet of President Wilson. These letters form a highly valuable contribution to history. They will appear in THE NEW YORK HERALD every day until the series is completed.

SIXTH INSTALLMENT. (Copyright, 1922, by Anne W. Lane.)

WASHINGTON, November 1, 1918.

At last week's Cabinet we talked of Austria—again we talked like a Cabinet. The President said he did not know to whom to reply, as things were breaking up so completely. There was no Austria-Hungary. Secretary Wilson suggested that, of course, their army was still under control of the Empire and that the answer would have to go to it.

Theoretically, the President said, German-Austria should go to Germany, as all were of one language and one race, but this would mean the establishment of a great central Roman Catholic nation which would be under control of the Papacy, and would be particularly objectionable to Italy. I said that such an arrangement would mean a Germany on two seas, and would leave the Germans victors after all. The President read dispatches from Europe on the situation in Germany—the first received in many months.

Nothing was said of politics—although things are at a white heat over the President's appeal to the country to elect a Democratic Congress. He made a mistake. . . . My notion was, and I told him so at a meeting three or four weeks ago, that the country would give him a vote of confidence because it wanted to strengthen his hand. But Burleson said that the party wanted a leader with guts—this was his word and it was a challenge to his (the President's) virility, that was at once manifest.

The country thinks that the President lowered himself by his letter calling for a partisan victory at this time. . . . But he likes the idea of a Cabinet. The President-Cabinet responsibility is still in his mind. Col. House's book, "Philip Dru," favors it, and all that book has said should be come about slowly, even woman suffrage. The President comes to "Philip Dru" in the end. And yet they say that House has no power. . . .

The Armistice Terms.

Electon Day, November 5, [1918]. At Cabinet some one asked if Germany would accept armistice terms. The President said he thought so. . . . The President spoke of the Bolsheviks having decided upon a revolution in Germany, Hungary and Switzerland, and that they had \$10,000,000 ready in Switzerland, besides the money in Swedish banks held by the Jews from Russia, ready for the campaign of propaganda. He read a dispatch from the French Minister in Bern to Jusserand, telling of this conspiracy. Houston suggested the advisability of stopping it by seizing the money and interning the agitators. After some discussion the President directed Lansing to ask the Government in Switzerland and Sweden to get the men and money, and hold them, and then to notify the Allies of what we had done and suggest that they do likewise. Lansing suggested a joint note, but the President vetoed this idea, wanting us to take the initiative. He spoke of always having been sympathetic with Japan in her war with Russia, and thought that the latter would have to work out her own salvation. But he was in favor of sending food to France, Belgium, Italy, Serbia, Rumania and Bulgaria just as soon as possible; and the need was great also in Austria.

He said that the terms had been agreed upon, but he did not say what they were—further than to say that the Council at Versailles had agreed to his fourteen points, with two reservations:—(1) as to the meaning of the freedom of the seas, (2) as to the meaning of the restoration of Belgium and France. This word he had directed Lansing to give to the Swiss Minister for Germany—and to notify Germany also that Foch would talk the terms of armistice. . . . He is certainly in splendid humor and in good trim—not worried a bit. And why should he be, for the world is at his feet, eating out of his hand! No Caesar ever had such a triumph! . . .

Wilson's Appeal.

November 5, 1918. Yesterday we had an election. I had expected we would win because the President had made a personal appeal for a vote of confidence, and all other members of the Cabinet had followed suit except Baker, who said he wanted to keep the Army out of politics. The President thought it was necessary to make such an appeal, in an effort to nominate Burleson, and he has received a slap in the face, for both houses are in the balance. This is the culmination of the policy Burleson urged when he got the President to sign a telegram which he (Burleson) had written opposing Representative Slayden, his personal enemy, from San Antonio, and in effect nominating Burleson's brother-in-law for Congress. We heard of it by the President bringing it up at Cabinet. Burleson worked it through Tumulty. The President said that he did not know whether to write other letters of a similar nature as to Vardaman, Hardwick, et al. I advised against it, saying that all voters had sense enough to take care of these people. Burleson said, 'The people like a leader with guts.' The word struck the President's fancy, and although Lansing, Houston and Wilson also protested in as strong a manner as any one ever does protest, the letters were

Continued on Page Six.

ASK MADAM MADONNA? at the "Permanent Radio Bar" HOTEL IMPERIAL, 2101 St. & E-way.—Adv.

LOOK FOR 60 DEAD IN MINE EXPLOSION WHICH KILLED 94

Rescuers Find 30 Alive 100 Feet Below Level at Spangler, Pa.

BLACK DAMP BLOWS UP Entombed Men Build Wall Against Fumes, Mark It With Flame.

GAS FILLS THE CHAMBER

Youth Leads Fellow Workers to Air in Terrible Dash for Life.

SPANGLER, Pa., Nov. 6 (Associated Press).—Thirty miners from the Rolly Coal Company's mine, most of them young men, lie in the Miners Hospital here to-night, the only known survivors of the ninety-four miners who went into the mine this morning a few minutes before a terrific explosion.

The exact number of dead has not been determined, although it was the opinion of trained rescue leaders that fifty or sixty had lost their lives. "There are dead miners strewn all along the entries down there," said J. J. Bourquin, leader of the United States Bureau of Mines rescue crew, as he came from the shaft of the mine to-night.

"We are doing nothing to bring out the dead," he continued. "We only stopped with them long enough to see that life had fled and then moved on in search of the living. Quite a bit of mine remains to be explored, but I can say that if there are any more living men in there it won't take us long to get to them."

Seven Trips Into Mine.

Bourquin and his men spent the greater part of the afternoon in the workings. They were equipped with oxygen helmets, and so eager were they to force their way through the gas that they made seven trips without pausing to have the oxygen tanks recharged.

Behind a brattice, hastily constructed by the entombed miners to shut out the deadly afterdamp from the heading where they had taken refuge, the rescuers found four men alive and one dead.

A little later they came across another brattice made of mine cars and bearing the legend, burned on with a miners' lamp. "There are twenty-nine men behind this." The air was so bad here that "sally," the bureau's pet canary used in testing the air, died.

No attempt was made to tear down the brattice, for the main entries were filled with gas. Buckwheat candles were used to test the air, and the rescuers were unable to locate any member of the missing brokery's family.

The warrant for Haven's arrest was turned over to Patrick J. Flanagan, Superintendent of Police, to-night, and Sergeant John Garrity was assigned to the case.

One of the first things done was to open the safe in Haven's office. It was empty. It was learned that Haven on Saturday caused many of his papers to be burned by the janitor in the building. There a first aid station had been established by Spangler physicians and the Spangler chapter of the American Red Cross. They were reinforced later in the day by ten Red Cross nurses from Johnstown.

State Police Take Charge.

The crowd which assembled almost immediately after the explosion continued to grow until nightfall when it was seen that almost the entire population of Spangler and of the surrounding mining villages had assembled there. During the day they had been kept in check by a strong force of coal and State police, under a Sergeant from the Greensburg barracks, took over the situation.

Lanmen and electricians began to string wires and place lights at advantageous points in order that the work might go on through the night.

The drizzling rain had no effect upon the crowd, which included the wives and bodies of the dead, and fathered reports that no less than twenty-five of the dead had been recovered.

Mingling in the crowd were the ministers from all the churches of Spangler and from nearby towns. Conspicuous were two priests, Father James Paulding and Father J. D. Cochran, who sought to comfort weeping women.

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A. A. HOUSMAN AGENT, YACHT AND \$122,000 STRANGELY MISSING

Embezzlement Warrant Issued in Bridgeport for J. H. Havens.

ALL PAPERS BURNED Hundred Clients Storm Office and Find His Safe Empty.

FAMILY ALSO IS GONE

Bankruptcy Petition Filed—Cotton Fluctuations Blamed for Broker's Failure.

Special Dispatch to THE NEW YORK HERALD.

BRIDGEPORT, Nov. 6.—Fluctuations in the cotton market within the last two weeks are believed to have been responsible for the failure of James H. Havens, local broker and yachtsman, missing since Saturday. A warrant was sworn out against him to-day charging embezzlement.

The amount involved is estimated at \$122,000. Havens was Bridgeport correspondent for A. A. Housman & Co., 20 Broad street, New York. Checks totaling \$19,000, which Havens made out to Housman & Co. to cover margins, were protested.

Housman & Co. it is estimated, will be a creditor to the extent of \$50,000, with collateral for that amount.

The warrant charging embezzlement was issued by Prosecutor Vincent L. Keating on the specific complaint of Frank E. Luley, creditor to the extent of \$25,000, and Frederick G. Luley, creditor to the extent of \$12,000. A creditors' meeting has been called for Wednesday afternoon in the office of George F. Mara, attorney, representing several of the creditors.

Hundred Storm Office.

Havens is vice-commander of the Posttack Yacht Club and owner of one of the finest power yachts in his port. His yacht disappeared from its mooring in the Housatonic River the latter part of the week.

The first hint his clients had that Havens was in financial difficulties came to-day, when they found his office in the Security Building deserted at the time the Stock Market opened. Havens and his entire office force were missing.

It was learned that Havens had dismissed his clerks and severed his connection with Housman and Company Saturday. The office furniture and fittings were placed under attachment immediately and a deputy sheriff stationed there.

Nearly 100 customers stormed the office this afternoon, seeking information as to this whereabouts and the condition of their accounts. The only light they received came in the form of news from New Haven that a petition in bankruptcy was filed in court to-day, giving Havens's liabilities as \$122,350 and his assets as \$500.

Frederick J. Lyden, representative of Housman & Co., arrived this afternoon to look after that firm's interest. Auditors will be brought in to-morrow to go over Haven's books to determine the exact amount of his alleged embezzlement. Authorities were unable to locate any member of the missing brokery's family.

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WOMEN'S CLUBS FRAME FEDERAL DIVORCE LAW

Would Make Marriage Harder—No Remarrying for Year.

WASHINGTON, Nov. 6.—Preparation of a bill establishing national marriage and divorce regulations for introduction in the next Congress was announced to-day by the General Federation of Women's Clubs.

Provisions of the bill would make marriage more difficult and would allow divorce on one of only five grounds, enumerated as follows: Infidelity, incurable insanity, abandonment for one year, cruel and inhuman treatment or relations between the parties, and the wife, but she grew angry when she was asked whether she would ever show a disposition to pay attention to her husband. She cried and let it be known that her feelings were hurt.

Mrs. Fraley was much wrought up by certain questions, and also at efforts of newspapermen to interview her. One more insistent reporter received a slap from Mrs. Fraley's glove as she hurried from the courtroom escorted by a detective. All efforts to see her at her home failed, as she had successfully barricaded her doors and placed a blockade across the road leading to her place.

Mason admitted that she had sided

MILLER CAUTIONS HYLAN; SMITH PREDICTS A SWEEP

Gov. Miller Will Stand for No "Strong Arm Methods" in New York City or any other part of the State in to-day's election.

Commenting on the letter of Mayor Hylan instructing the police not to permit investigators of A. S. Gilbert, Deputy Attorney-General, to interfere with the "sacred rights" of citizens Gov. Miller warned:

"If any strong arm acts should unfortunately be committed we shall know whom to hold responsible. The letter is obviously a covert bid to the police to resort to strong arm methods, which are not unknown in New York city, to assist lawlessness and to interfere with those rightfully at the polls to preserve the purity of the ballot and not to give persons rightfully at the polls lawful protection."

The Democratic candidate for Governor, Alfred E. Smith, said in New York city:

"On the night before election, with all the arguments in, all the points made and the record laid clear before the people of the State, I am satisfied that a Democratic sweep all the way from Buffalo to Montauk Point will elect a full Democratic ticket, giving us a Democratic majority in both houses of the Legislature, sending a Democratic United States Senator to Washington, as well as a greatly increased delegation of Democratic Congressmen."

WOMAN IN HALL CASE BACKS MRS. GIBSON

Mrs. A. C. Fraley, Who Lives Near Scene of Murder, Tells More of What She Knows.

Special Dispatch to THE NEW YORK HERALD.

New Brunswick, Nov. 6.—A woman and two men are likely to be indicted in connection with the murder of the Rev. Edward W. Hall and Mrs. Eleanor Mills, and the Grand Jury of Somerset county may get the case on Friday of this week. It was ascertained to-day.

James F. Mason, chief assistant to Wilbur A. Mott, Special Deputy Attorney-General, is authority for setting Friday as the day. When Mason was asked who the persons to be indicted might be, he answered with a smile:

"Oh, now you're asking too much." It may be said that no one has been eliminated from this case by Mason. It is possible that one indictment will charge as an accessory some one heretofore little heard of in connection with the case.

It may be that the driver of the automobile in which the two directly concerned in the killing rode will be the person named, or it may be that a man who saw the bodies and possibly saw the reactor's watch, but who failed to report the crime, may be implicated.

Woman Supports Mrs. Gibson. The authorities to-day questioned Mrs. A. C. Fraley, whose home is near the scene of the murder. Mrs. Fraley gave important information, and her evidence will support parts of the story told by Mrs. Jane Gibson.

The authorities did not call Signory Smith, who boards with Mrs. Fraley and has a room in the front of the house. Mrs. Fraley has at last admitted having heard something, but Smith, it appears, had a habit of walking to the trolley line in the morning by a route that would have taken him right past the place where the bodies lay on the morning of September 16. He has denied emphatically that before the bodies were found he ever told any one there had been a murder out his way.

Dr. William H. Long, coroner's physician, who made an autopsy, is to be questioned about his statements since the crime and his first report. Prosecutor Mott did not appear here to-day, but Detective Mason arrived in the morning and at once sent for Barbara Tough and Louise Gest, servants in the Hall home. Mrs. Fraley was called in later.

Hall Servants Questioned.

Barbara was not in the mood of two days ago, when she told newspaper men she would go to jail rather than testify before the authorities for the Grand Jury. She went to the court house meekly, and, according to her questioners, she answered anything and everything they asked her, but she was not in the mood of two days ago, when she told newspaper men she would go to jail rather than testify before the authorities for the Grand Jury.

Louise Gest was rather indignant over some of the questions asked. Both servants refused to make any statement which they had finished with Mason. The official dossier that Barbara especially knows more than she has told of conditions in the Hall home, of the relations between Hall and his wife and whether or not Mrs. Hall knew before the crime of the relations between Hall and Mrs. Mills.

Barbara has proved throughout her loyalty to Mrs. Hall. Louise, on the other hand, has an entirely different disposition and has had a lot of fun out of the notoriety. To-day she did not relish some of the questions put to her.

Louise told of a spat she had with Mrs. Mills when the choir singer sought to learn from her some of the inner workings of the Hall ménage and the relations between the reactor and his wife, but she grew angry when she was asked whether she would ever show a disposition to pay attention to her husband. She cried and let it be known that her feelings were hurt.

Mrs. Fraley was much wrought up by certain questions, and also at efforts of newspapermen to interview her. One more insistent reporter received a slap from Mrs. Fraley's glove as she hurried from the courtroom escorted by a detective. All efforts to see her at her home failed, as she had successfully barricaded her doors and placed a blockade across the road leading to her place.

Mason admitted that she had sided

Continued on Page Eight.

CLARK'S CRUISE ROUND THE WORLD. Personal management, experienced staff. 1st class only. 4 months. Jan. 1, 1923. \$1,200. The New York Herald, Nov. 6, 1922.

THE BEST IN ITS HISTORY. The New York Herald, with all that was best of The Sun intertwined with it, and the whole revitalized, is a bigger and better and sounder newspaper than ever before.

MILLER ANTICIPATES VICTORY OVER 'BUNK' WITH WOMEN'S HELP

Asserts at Syracuse That Cause of Better Government Will Prevail.

RELIES ON THE VOTERS

Smith Says Democrats Will 'Sweep State From Buffalo to Montauk.'

EVERY VOTE WILL COUNT

Calder Says Nothing About Own Contest, but Is Certain of Republican Success.

Tammany's final prediction is that Alfred E. Smith will carry New York city by 400,000 and defeat Gov. Miller by a plurality of 150,000 or more.

Gov. Miller returned to his home in Syracuse confident that he would be re-elected by a plurality of 100,000.

Alfred E. Smith said he was "satisfied that a Democratic sweep all the way from Buffalo to Montauk Point will elect a full Democratic ticket."

"Speaking at Syracuse last night as a 'welcome home' rally Gov. Miller declared 'there is no doubt of what the result is going to be' in to-day's State election.

"The thing that makes the result certain," he said, "is the votes of the women." There were many in the welcome demonstration.

"My judgment is that the Democrats are counting on more votes in the city of New York than they are going to get," the Governor continued.

"When I closed my campaign in New York two years ago a Miller man was a rarity. You seldom saw him. You never heard him. All the men on the street were for Smith. The audiences I spoke to were chilly. On the other hand, I have never talked to such enthusiastic audiences as during my recent campaign there. I am sure I could not mistake such genuineness of enthusiasm.

Sees the Big Change.

"The change has been brought about because for the last four years the people of New York have been fed up on political bunk. The evidences are that they have had all they can digest and are realizing the sort of thing they have been fed on.

"At best the up-State must overcome a New York city majority, and every man and woman must remember that every vote that goes into the ballot box for the cause of good government is going to help overcome the misrepresentation and flimsy pretenses offered as a bait to attract the unthinking. Every vote is going to count.

"The great mass of people are thinking. They have had brought to their attention the facts and have had an opportunity of studying them. Just as long as institutions of Co. republic are going to endure, the thing that appeals to the judgment of the people is going to win over bunk and misrepresentation, most important of which in this campaign is the home promise to give the people ram. The women of the State are going to answer that sort of an appeal. Intelligent people insulted by that appeal will answer it with their votes.

"I have the utmost confidence in the American people because they have the ability to distinguish between what is true and what does not ring true."

"There is nothing to worry about. We will win," said George K. Morris, chairman of the Republican State Committee, as his last word before leaving for Amsterdam to vote. "I have been in communication with the county leaders in all parts of the State. The situation has improved up State in the last few days."

Herbert C. Fell, chairman of the Democratic State Committee, countered with this:

"The whole Democratic ticket will win. We are going to get several additional Assemblymen and Senators up State. Smith will receive as big a plurality in New York as Hylan did last year (417,000), and Dr. Copeland will be elected United States Senator."

Those statements express fairly accurately the sentiments in the two political headquarters at night when the campaign ended and all that was left to do was to wait for the vote.

Confidence in Copeland.

The Democrats are absolutely convinced it is a landslide for Smith which will sweep the whole Democratic ticket into office and possibly even win control of one branch of the Legislature. They believe it will elect Copeland. That accounts for the sudden shortening of the odds on the Senate fight.

The inside figures as Tammany Hall has gathered them are so big the leaders are not putting them out. They seem incredible. They are based on the polls of districts and reports of captains, all made in the Tammany fashion followed for years. The total reached in Mr. Murphy's little inside room is close to 500,000 for Smith in this city. The 400,000 announced in the manifesto, not the maximum.

The Republican leaders were not overoptimistic, but they insisted that the Democratic claims and the big betting odds were part of a well arranged propaganda designed to stir a stampede for Smith at the window.