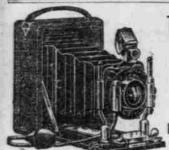
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Old Port of Portland Board Not to Retire.

# **UNLESS COURT REQUIRES IT**

Act Creating New Commission Alleged to Be Invalid.

PRESENT LAW NOT REPEALED

ttorneys for the Present Body Say Act of 1903 Is of No Force and and Effect-Members Outline Their Policy.

The present Port of Portland Comrission will pursue a policy of masterly inactivity about giving way to their successors on May 21. The rea-son is that in the opinion of the attorneys of the board the act of the last Legislature creating the new or sion is unconstitutional, because it is defective in several particulars. The new act, it is alleged, does not repeal the act of 1901, creating the present

There will be no struggle on the part of the Port of Portland Commission to retain office. If there is any contest, it will have to be instituted by the incoming oard. The old members believe they have the law on their side, and that the burden of proof rests with the other fellows. That was the opinion they reached yesterday after hearing the opinion of

their attorneys. According to the law passed by the last Legislature, the present commissioners will go out of office May 21. The last regular meeting was held yesterday with all the members present except Mr. Hughes. Everybody seemed to be in good spirits. me lawyers' opinion was read, and from the discussion that followed it was evident that the commissioners believed their term of office would not expire as oon as the Legislature intended. Messra. Williams, Wood & Linthleum gave the following opinion on the constitutionality the law creating the new commission

# What the Lawyers Say.

From an examination of the act of the last Legislature filed February 25, 1903 (H. b. 30), we are of the opinion that said act is unconstitutional and cannot operate to change the present personnel of the Board of Commissioners. The title of the act is as follows:

'An act to amend section 25 and section 28 of an act entitled 'an act to re vise and amend an act entitled "an act to establish and incorporate the Port of Portland, and to provide for the improvenent of the Willamette and Columbia Rivers in said port, and between said port and the sea," passed by the Legislative Assembly of the State of Oregon in the year 1881, and filed in the office of the Secretary of State February 18, 1891; and to repeal an act entitled 'an act to amend an act of the Legislative Assembly of the State of Oregon, filed in the office of the Secretary of State February 18, 1891, en-titled "an act to establish and incorporate the Port of Portland, and to provide for the improvement of the Willamette and Columbia Rivers in said port and between said port and the sea," and filed in the office of the Secretary of State February 16, 1883, and to repeal an act entitled 'an act to amend an act entitled 'an act to es-tablish and incorporate the Port of Port-land, and to provide for the improvement of the Willamette and Columbia Rivers said port, and between said port and e sea," filed in the office of the Secretary of State February 18, 1891'; and to amend act entitled 'an act of the Legislature of the State of Oregon filed in the office of the Secretary of State February 18. 1891, entitled "an act to establish and in-corporate the Port of Portland, and to corporate the Fort of Fortiand, and to provide for the improvement of the Willamette and Columbia Rivers in said port and between said port and the sea," filed in the office of the Secretary of State February 10, 1882, and approved February 19, 1892, and approved February

Section 2 of the act refers only to section 28 of said act. Neither in the title nor body of the act is the act of March 1. 1903, creating the present commission, al-luded to. The act which is referred to, and which bo... the title and body thereof purport to amend, is that of February 18, 1859. This act was, however, expressly repealed by the act of March 1, 1901; so that the act sought to be amended by the last Legislature was no longer in exist-ence, it having been by express terms re-pealed by that of 1961, which stood as a complete act upon the subject; nor can the new act be treated as an independent act the same being in violation of section. act, the same being in violation of section 20 of article 4 of the constitution of this state, which provides that every act shall embrace but one subject, and matters properly connected therewith, which subproperly connected therewith, which sub-ject shall be expressed in the fitle. The title of the act in question is expressed as "an act amending sections 25 and 28 of an act approved February 18, 1889," re-lates simply to the above supposed sec-tions of such act, and does not purport to legislate independent of such sections.

legislate independent of such sections.
Under constitutional provisions similar to these of our state, the Supreme Court of diama, in Draper vs. Palley (33 Indiama, 485), and Blackmore vs. Dolan (15 Indiama, 196), the Supreme Court of Nebraska, in State vs. Benton (51 N. W., 140), the Supreme Court of Colorado, in Wall vs. Garrison (19 Pacific Reporter), and the Supreme Court of Gaergia in Legalite.

Supreme Court of Georgia, in Lampkin vs. Pike (£ S. E., 213), have all decided that acts amendatory of statutes which have been repealed cannot stand as independent acts, and are unconstitutional For the reasons above indicated we are, therefore, of the opinion that the act in question is of no validity, and that the

Commissioners named in said act are not entitled to office." New Members Not There. After Clerk Stevens had read the opin

on, President Banfield asked the members for their views. board," said Mr. Adams. "We can either get additional advice on the matter, or

call the new men together and settle it amicably." "I invited them to come, but none of them seems to have accepted the invita-tion," said President Banfield, looking

about the room. Mr. Selling thought a great deal of reponsibility rested with the present board. "This is the proposition," he said. "We have borrowed money from our friends, and they look to us to have the mo returned. We have promised to pay \$250,do it. The expense was incurred by us, and it is only right that we should settle it, which we certainly can't do if we go

out of office next week." "We had better get hold of Driscoll, Spencer, Willis and the others," suggested Mr. Adams, "and see if we can't arrange

it with them." "The question in my mind," said the president, is whether we should not ask them to make the first move. I would be

glad to have them bring a friendly suit to settle the case." The others agreed to Mr. Banfield's pro posal, and with the understanding that the new board must prove its legality before the old one steps out, the matter was dropped, after a motion was made and secended to place the attorney's opinion on

With this subject out of the way, a lo of routine matter was disposed of. The first was the report of Robert H. Wilson, the expert accountant, who audited the books of the commission. His report, which was accepted and ordered placed

## Report of the Auditor.

"In compliance with a request made by rour board through its clerk, E. T. C. Stevens, I have examined its books and accounts of the commission from the date of my last report (March 31, 1902) to the end of March of the current year. I find that the books have been accurately kept and that all moneys received and expend-ed have been properly entered and ac-

"The act of the Legislature making ar appropriation for the construction of a new 20-inch dredge (Columbia), making it necessary that this fund should be kept eparate from the general fund; the neces-ity of keeping the drydock account sep-orate, added to the much larger sums ex-pended—the combined incomes amounting to four times and the expenditure to nearly five times that of last year-has loubled the labor of auditing.

"The total income of the general fund was \$129,538.20, and that of the dredge fund \$225,000, making a combined income of \$234.038.30, as against last year's (offi-cial) income of \$196,461.28; while the total

cial) income of \$106,461.28; while the total expenditure of the general fund during the current official year was \$220,179.81, and of the dredge fund was \$227,321.36, making a combined expenditure of \$457,501.37, as against \$56,354.17 last year.

"The above figures show that on March \$1, 1903, the general fund had overdrawn to the extent of \$19,281.67, while the dredge fund had a balantoe on hand of \$7678.64, or considering the two funds as one, that there was a net overdraft of \$3562.57, an inconsiderable amount when considering the magnitude of the transactions.

"I have examined all bills, seeing that "I have examined all bills, seeing that

they have been properly approved and re-ceipted, and have compared the same with the books, and I have also compared all succied warrants and coupons; and after hecking these with the journal entries ind that they agree therewith. "I have compared the amounts entered

on your journal as received from taxes with the books of the Treasurer, and find that the two agree.

"According to my usual custom I have bursements, finding the overdraft and bal-ance on hand as reported above to agree with both your ledger accounts and the

## statement of your treasurer." Progress on Drydock Site.

H. L. Powers, of Hartman, Thompson & Powers, who sold the drydock site at St. Johns, explained the progress his company had made toward securing a perfect title to the land. The only thing that remains to be done in this respect is the vacating of certain streets, to which there appears to be some opposition. The board takes the view that it is absolutely essential, if the site is to be occupied by the drydock, that the streets be vacated, and in view of the public necessity it will probably be

done at an early date.

The question of deferred payments for rubber sleeves used on the pipeline of the rabber sleeves used on the pipeline of the dredge Columbia was discussed with F. A. Nitchie, manager for the Crane Company. The amount held back is between \$400 and \$500, and was on account of certain defective sleeves furnished. The board agreed to pay a proper amount for these sleeves if it is proved that sleeves of other makes would do no better under the same

makes would do no better under the same circumstances.

The request of the O. R. & N. Co. for relief from shoaling at the boneyard resulted in a promise to use one of the dredges there as soon as it is available, provided the company will pay the usual price for the dredging.

A number of minor matters were then disposed of, and the beard adjourned to make its special session Monday, when bids

meet in special session Monday, when bids will be opened for supplying piles and other material for the drydock berth.

## CALVE POISONS HERSELF Famous Opera Singer Takes an Over-Done of Aconite.

PARIS, May 15.—The Petit Journal this morning says that Emma Calve, who is now singing in "The Damnation of Paust." at Sarah Bernhard's Theater here, accidentally poisoned herseif last night by taking an overdose of aconite as a preventive for la grippe, Prompt action saved her life, but she was unable to appear at last night's performance.

# VOLCANO STILL ACTIVE.

Colima Is Throwing Out Lava, and People Are Panic-Stricken.

TUXPAM, Mexico, May 1s.—There was a violent eruption of Colima volcano last night, accompanied by deafening subterranean noises, an abundant flow of lava and a heavy rain of ashes. The eruption continued all night. People in the neighborhood of the volcano are panic-stricken.

Oregon Woman Gets an Office. INDIANAPOLIS, May 14.—The Boyal Neighbors of America will finish their National convention tomorrow morning, Among the officers elected today were: Supreme oracle, Mrs. E. D. Watt, New Supreme oracie, Mrs. E. D. Watt, New York; supreme recorder, Mrs. Minnie Fielder, Illinois; supreme chancellor, Mrs. Blanche Walker, Montana; supreme mar-shal, Mrs. Ida Hambiem, Oregon; su-preme outer sentinel, Mrs. Ailce Hall, Idaho; supreme physician, Dr. Addie Kirkpatrick, Washington.

They Call for Full Report of Miles.

# LETTERADDRESSEDTOROOT

Information Wanted on Cruelties in Philippines.

WHIPPINGS" ARE SINGLED OUT

Corbin Gives Miles to Understand That Statements Given the Press Were Exact Copies of Documents Filed by Him.

# General Miles is now without a les

to stand upon in his latest fight with the War Department. The report he referred to in dealing with the Philippine situation and alleged crueities of soldiers, which his firends charge was suppressed, has been made public, and proves to be a great mass of correspondence regarding a rice deal which has been given out heretofore. Adjutant-Genral Corbin, in a letter to General Miles, proves to him that his reports given the press were in no wise

WASHINGTON, May 14. - Secretary Root and a number of other officials of the War Department today received a circular letter from Herbert Welsh, of Philadelphia, which has also been mailed to a umber of private individuals, in reference to the report of Lieutenant-General Miles. The letter desires that letters be addressed to the President, Secretary Root, Adjutant-General Corbin, Judge-Advocate-General Davis, Amistant Adjutant-General Hall and Assistant Adjutant-General En-nls, asking them to publish, for the information and guidance of the country, the full report of General Miles regarding affairs in the Philippines.

Mr. Weish suggests that they cially request that the report of Major Hunter into the facts of the whippings of Filipino prisoners of war for the pur pose of extracting information from them' be included in the publication. He says he has not seen General Miles' report, "having in vain tried to secure a copy of it from the War Department," but be lieves it contains information that enlightened citizens should have. Mr. Weish says 6000 souls have perished in those islands from war, famine and pestilence under our flag. In the letter he refers to the military record of General Miles in made my own independent abstract of all the Civil War, and in several Indian camsand letters sent to men he names, the object would be secured. He suggests that line for three miles. persons interest their Senators and Representatives in the matter. Secretary Root referred the circular letter he received to Judge Advocate-General Davis.

Corbin Replies to Miles. The War Department today made public

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uel Connell returns from St. Louis.

the letter of Adjutant-General Corbin to General Miles, answering one sent to the Secretary of War yesterday afternoon regarding the publication of General Miles' report. Following is the letter of Gen-

eral Corbin to General Miles:
"I am directed by the Secretary of War to inform you that he is in receipt of your communication of May 13, 1903, which reads as follows:

"I have the honor to request an exact copy of my reports as furnished by the War Department to the public press, and also desire to be informed as to who gave them out and who received them."

"Complying with your request, I have the honor to inform you that copies of your reports, as furnished by the War Department to the public press were co plete and exact copies of the entire re-ports, being your general report upon af-fairs in the Philipines dated February 19, 1903, and your special report on alleged cruelties in the Philippines, bearing the same date. For your convenience, dupil-cate copies of both documents, as given out, are transmitted herewith. I have the

honor, further, to inform you: "First-That your report to the Secre tary of War, dated February 19, 1963, was given to the prese in full by the then Acting Adjutant-General, Colonel W. P. Hall, to the authorized representatives of the press associations, and,

"Second-That your special report of the same date was given out with the approv al of the Secretary of War by the Judge-Advocate-General of the Army, the full text of which was furnished to the press representatives.

Charge of Suppression

In General Miles' report on the alleged uelties was also a criticism of the rice transaction in the reconcentrado camp in Batangas Province. General Miles, in discuesing this matter, refers to a report he had received from the commanding General in the Philippines, his report saying "copy herewith inclosed." This copy was not furnished with the report of General Miles, and it has been charged that it was

The War Department today made public the copy referred to. It is a report of Major-General Davis addressed to General Miles, and contains all the correondence, telegrams and all documents that refer to the purchase, distribution and sale of rice to the people in the reconcentrado camps. It is a very voluminous document, but the main features were covered in summaries which have been pub lefted heretofore.

## FIRES BREAK OUT ANEW lew York Forests Ablaze for Miles. and People Ask for Help.

PLATTSBURG, N. Y., May 14.-Forest ires which have been burning inter-tently for several days have broken with renewed vigor around Colby Pond, near Saranac Lake, Paulsmiths on St. Regis Lake, and Ayers' Hotel on Lake Duane in the Adirondacks. A telegram from Paulsmiths states that the woods for ten miles in every direction seem to be on fire. The fire has approached within three miles of the hotel and is spreading

At .. ake Duane, William J. Ayers, pro prietor of Ayers' Hotel, who has been fighting the flames with a large force of men for four days, has lost control of the flames and wired to Malone and Chasm Falls for help. The fires have reached within half a mile of the hotel. It is reported that great damage has been done by forest fires on William Rockefeller's

In many places in the Adlrondacks no rain or snow has fallen since April 15, almost unprecedented for this time of

Pennsylvania Fires Raging Again. GREENSBURG, Pa., May 14.—The breaking out anew of the forest fires on Chestnut Ridge has aroused the greatest consternation among the people.

Last night a mountain home owned by Booth and Flynn, near Blairsville inter-Company lost several thousand dollars worth of pit posts today. Booth and advantages of an open river. State Senator Rands was I the fire is raging in the vicinity of addressed the meeting upon Ridgeview Park. People of Milwood and Derry are now engaged in fighting the

Two Towns Threatened. CRESSON, Pa., May 14.—The towns of Lloydsville and Burns in Cambria County have been threatened with forest fires for several days. Today the fire was resands of dollars' worth of timber has al-

## SLEEPING-CAR ON FIRE. Twenty Pasengers Have to Flee in Their Night Clothing.

NEW HAVEN, Conn., May 14,-Twenty passengers, including 16 men and four woman, had to fee in their night clothing early today from a burning sleeping-car at the Union Station. The car was near the rear end of the New York, New Haven & Hartford train, which left New York at 11 o'clock last night for Boston. When the train reached here at 1 o'clock the sleep-ing-car was connected with a pipe which supplies the cars with gas and the gas supply was turned on. Immediately aftersupply was turned on. Immediately afterward a slight explosion was heard, flames burst out and the car filled with smoke. The passengers, dazed with sleep and half blinded by the smoke, made a rush for the doors. A woman was knocked down and suffered a slight injury to her back and

ght arm. The blaze was finally extinguished and a hunt was made for the passengers.

Among those who said they lost money was B. D. Kaplan, of New York, who said he left about \$30,000 in money and eccurities in the car. After a search the wallet containing the missing securities was found, and Mr. Kaplin then said he had

recovered everything except some money, which was burned up in his ciothes. The handbags and ciothing of most of the passengers were watersoaked. The women passengers were taken to a hotel and the men were provided with overalls

In Appreciation of Schwab's Gift, PITTSBURG, Pa., May 14.—Homestead

Vancouver Feels Sure of Deep Channel.

# **ENGINEERS VISIT THE CITY**

Hold Extended Conference With the Leading Citizens.

SEEM FAVORABLY IMPRESSED

Data Given Them Showing the Amount of Tonnage Handled During the Year by Rail and Water-Rands Makes Speech.

In working for a Port of Vancouv Commission, that city has demonstrated more effectively than in any other manfor a channel along its water from Two officers of the Corps of Engineers, United States Ar.oy, met with its citizens and discussed the matter.

Another conference will be had when

further data, now in course of prepara

tion, are ready for presentation

......

VANCOUVER, Wash., May 14.tal.)-Major, Burr and Captain McKinstry, of the Corps of Engineers of the United States Army, were in the city this morning and met with a number of members of the Commercial Club and prominent citizens in regard to the matter of deepening the channel and improving the Columbia River at and near this city. The meeting was a good one, and much

scussion was had on both sides. The citizens of this city have been trying for years to secure a suitable appro priation from the Government toward improving the river so that vessels might be able to come to this city. So far their efforts have been in vain. Last Winter an appropriation of \$2000 was made for surveys and expenses of the engineers in the work of preparing data. This has been expended, and the citizens are desirous of getting an appropriation large

nough to do the required work. The gentlemen comprising the Comme ment by Major Burr and Captain McKinstry, and assured that every effort would be made to do justice to the matter. Data was given to show the tonnage at this city and the amount of freight handled by rail and water in the course of a year. Additional data and statistics will

be furnished as soon as possible. The engineers are favorably impressed with the location of Vancouver and in-Between Merrillsville and Onchlota fire | timated that an appropriation would be destroyed the Postal Telegraph Company's had sufficient for requirements. The matter of the Port of Vancouver Commission was brought up, and the gentlemen said they were gratified to know that the people of this city had undertaken to as-

Captain Langfitt intended to meet with the Commercial Club, but was detained section, was destroyed. Telegraph and the Commercial Club, but was detained telephone poles crossing the ridge at on business matters. It is believed, how-Blairville intersection were burned and ever, that his report will be favorable tothe wires rendered useless. At Lake Hellow, near New Florence, the big mill for the manufacture of pins for poles was burned. The Evans Lumber Commence level and the Evans Lumber Willamette, thus giving Vancouver the Willamette, thus giving Vancouver the

State Senator Rands was present and addressed the meeting upon the matters under discussion. He thoroughly explained the new law just passed by the State Legislature regarding the forming of a Port of Vancouver Commission to levy taxes for the improvement on the river front, and gave much information along the line. As soon as more data is received, the engineers will have another meeting with the people here, and the matter again taken up. At any rate, the improvement of the river is assured. A deep channel will be had and this city given the attention it has so long asked

Captain McKinstry and Major Burr departed for Portland in the after favorably impressed with their visit.

## TO VANCOUVER'S BENEFIT. Sale of Shore Lands Is Postponed by

Land Commissioner. VANCOUVER, Wash., May 14.—(Special.)—State Senator E. M. Rands was in Olympia this week on business before the State Land Commissioner regarding the matter of the Port of Vancouver Commission and the tide and above along the river front at this city. The State Land Commissioner was advertising to sell the lands when Senator Rands called attention to the fact that an in-junction had been issued against such ac-tion, and that the law of the Legislature of 1891 was not being followed in regard

appraisements. The Land Commissioner held up the matter pending investigation, and it is possible that a new appraisement will be made, though the old figures may not be far out of the way. Senator Rands has worked hard on this proposition, and the sale of the tide and shore lands here will be the means of making much prosperity for the city. There will be a number of sales under the tide land law, and it is expected that within the next four months this matter would have been disposed of and the lands advertised. The work of Senstor Rands requited in

the Land Commissioner practically re-versing his decisions in the sale of these ands for the present, but the city will be benefited a good deal by the small delay.

FITTSBURG, Pa., May R.—Homestead has assumed gala day attire in preparation for the dedication of the Charles M. Schwab manual training-school, which is place Sunday. Mr. and Mrs. Schwab will be Homestead's guests of honor, and a large aumber of their friends from New York are to be with them to witness the building at the time. He said has assumed gala day attire in preparation for the dedication of the Charles M. KOSSUTH. May 14.—Postmaster Killed by Explosion. For the dedication of the Charles M. KOSSUTH. May 14.—Postmaster Hedges takes place Sunday. Mr. and Mrs. Schwab will be Homestead's guests of honor, and a large aumber of their friends from New York are to be with them to witness the building at the time. He said has assumed gala day attire in preparation for the dedication of the Charles M. KOSSUTH. May 14.—Postmaster Killed by Explosion.

For the dedication of the Charles M. KOSSUTH. May 14.—Postmaster Hedges tenight was killed by an explosion of gunylong to take place Sunday. Mr. and Mrs. Schwab will be Homestead's guests of honor, and a large aumber of their friends from New York are to be with them to witness the building at the time. He said to be held in which 15,000 men are expected to take part.