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PORTLAND, OREGON, TUESDAY, AUGUST 12, 1902.

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GRAY QUITS BENCH

Illness Causes Supreme Justice to Resign.

PRESIDENT NAMES SUCCESSOR

Oliver Wendell Holmes, Chief Justice of the Supreme Court of Massachusetts, and a Most Distinguished Jurist, is Chosen.

JUDGE GRAY'S LIFE EVENTS.

Born Boston, 1828.
Graduated Harvard University, 1848.
Graduated Harvard Law School, 1850.
Admitted to Massachusetts bar, 1851.
Reporter Massachusetts Supreme Court, 1854-1861.
Associate Justice Massachusetts Supreme Court, 1864-1873.
Chief Justice Massachusetts Supreme Court, 1873-1892.
Associate Justice United States Supreme Court, 1891-1902.

OYSTER BAY, Aug. 11.—President Roosevelt late this afternoon announced that he had appointed Oliver Wendell Holmes, Chief Justice of the Supreme Court of Massachusetts, to be an Associate Justice of the Supreme Court of the United States, vice Justice Gray, resigned.

The resignation of Justice Gray was due to ill health. Several months ago he suffered a stroke of apoplexy, which some time later was followed by another. He has not appeared on the bench since he was stricken the first time. His advanced age, 74 years, told against his recovery with serious force. Realizing that he probably never would be able again to assume the place which he so long had filled with distinguished ability and honor, he decided a short time ago to tender his resignation to the President. With the exception of Justice Harlan, he had served upon the bench of the United States Supreme Court longer than any of his present colleagues. He was appointed an Associate Justice by President Arthur on December 19, 1891, his service extending, therefore, through a period of nearly 11 years.

Justice Gray's resignation was not altogether unexpected. It was recognized that he would be unable to resume his duties on the bench, and the general impression was that he would resign at or before the beginning of the next term of court, in October. His successor, it is said, will not take his place on the bench until after his confirmation by the Senate. This is the unwritten practice in the case of appointments to the Supreme Court.

Judge Holmes, whom the President has selected as Justice Gray's successor, is one of the most distinguished lawyers and jurists of Massachusetts. His career on the bench, particularly as Chief Justice of the Massachusetts Supreme Court, has attracted wide attention. Like Justice Gray, he is a native of Massachusetts. He is a son and namesake of the late Dr. Holmes, the poet.

THE RETIRING JUDGE.

He Held Same Position as His Successor at Time of Appointment.
WASHINGTON, Aug. 11.—Justice Gray has been at Nahant, Mass., his Summer home, for some time. During his long career on the bench of the Supreme Court he has delivered a number of important opinions. He was remarkably exact and deliberate, and frequently spent considerable time in the preparation of his decisions. His specialty was will cases, although he participated in the consideration of many of the important issues which came before the court. Justice Gray was with the majority of the court in the decisions on the income tax cases and the insular cases. Another important case of recent date was that growing out of the Spanish-American War, in which Justice Gray decided against the right of the Government to seize fishing smacks, the property of Cubans, which the United States authorities believed were giving aid and assistance to the enemy. Justice Gray was always an ardent Republican. Another important office, he was Chief Justice of the Supreme Court of Massachusetts before his appointment to the United States Supreme Court.

SKETCH OF NEW JUSTICE.

Recognized as One of the Ablest Lawyers in the United States.
Oliver Wendell Holmes was born in Boston, March 8, 1829. He is a son of Dr. Oliver Wendell Holmes, the poet and essayist. He graduated from Harvard in 1848 and entered the Northern Army where he served for three years in the Massachusetts Volunteers. He was three times wounded: in the breast at Ball's Bluff, Oct. 21, 1861; in the neck at Antietam, September 17, 1862; in the foot at Marye's Hill, Fredericksburg, May 3, 1863. After leaving the army he entered Harvard Law School and graduated in 1866. He was admitted to the bar and engaged in the practice of law in Boston. From 1870 to 1873 he was editor of the American Law Review. From 1873 to 1882 he was a member of the law firm of Shattuck, Holmes & Munroe. He was appointed to a chair in the Harvard Law School in 1882, and in the same year was made Associate Justice of the Supreme Court of Massachusetts. In 1890 on the death of Chief Justice Walbridge A. Field, he was made Chief Justice. Justice Holmes is especially renowned for his writings. These are not voluminous but have attracted the attention of the English bar and of historical students more than the work of any other American lawyer. Before he was on the bench he edited the 12th edition of Kent's Commentaries. His notes to this show a vast amount of scholarship. His "History of Common Law" (lectures at Lowell Institute), attracted more attention abroad than any other work of its kind. Sir Frederick Pollock, the great English authority, refers to this book with the highest compliments. He has written constantly for the Harvard Law Review which Sir Frederick Pollock has pronounced the best review in America and one compared favorably with the German reviews. His address on John Marshall's centennial is considered a

classic, and all his written opinions are models of style in English. In labor troubles it is safe to say that he has gone farther than any other American Judge in upholding the side of the employees. Though most of these are dissenting opinions they are coming to be more and more recognized as authoritative. He has also written one or two articles in the Harvard Law Review supporting these views. Justice Holmes is the fourth man from Massachusetts to sit on the Supreme Bench of the United States. His predecessors from the same state were William Cushing, Joseph Story and Horace Gray. It is a remarkable fact that ex-Justice Gray and Justice Holmes have held the same offices in the same order.

NO EVIDENCE OF FRAUD.

Show on Story That Valuations on Imports Are Too Low.
WASHINGTON, Aug. 11.—Referring to the published statement to the effect that the Treasury Department had in its possession evidence tending to show that the Government had lost many millions of dollars through undervaluations on pottery imported, Secretary Shaw today said that this question was not a new one. Charges of undervaluation on pottery had been made from time to time, covering a number of years, and when made by responsible parties they always had been investigated. At present, the department has agents at work on the other side looking into the market price of pottery and it is possible that an increase in prices of certain kinds and qualities may be necessary. At present there is no evidence in the possession of the Government showing that it had been defrauded out of large sums by pottery undervaluations.

Government Will Be Stricter.
WASHINGTON, Aug. 11.—The Navy Department, through Acting Secretary Darling, has made a ruling that contractors for ships, armor, supplies, etc., are to be held to strict accountability in the enforcement of penalties for non-performance of work according to contract. The case on which the ruling was made was not made public, but the ruling itself, which has a general application, says: "This is a request for the waiver of penalties in default of contract. The applicants allege that they were unable to fulfill the provisions of the contract, and argue that the Government was not injured, and the execution of the penalties would be a hardship. The default is not denied, and there is no evidence that the Government expected more than the contract called for. If the penalty worked a hardship, the answer is that it was introduced into the contract for that purpose. If the contractors would escape the penalty, they must avoid the default."

Does Not Pension ex-Confederates.

WASHINGTON, Aug. 11.—The Commissioner of Pensions today gave out the statement that an erroneous impression seems to exist among many ex-Confederate soldiers regarding the interpretation to be put on the recent act of Congress relieving Union soldiers of disabilities for having previously served in the Confederate Army. The idea seems to prevail that under this act the Government is authorized to pension ex-Confederate soldiers, and the result is that the Pension Office is being deluged with applications from former wearers of the gray. The Commissioner explained that the law in question does not contemplate the pensioning of ex-Confederate soldiers, but that it was designed solely to remove the disability which so long has been a bar to men who were impressed into the Confederate service and later joined the Union Army.

Not Within Shaw's Jurisdiction.

WASHINGTON, Aug. 11.—Secretary Shaw has today given out the statement of the proposed Cuban loan of \$5,000,000, and has reached the conclusion that the questions involved are not such that come within the jurisdiction of the Treasury Department. It is probable that the Secretary will so inform the Secretary of State.

THE DEATH ROLL.

Prominent Oklahoma Indian.
GUTHRIE, O. T., Aug. 11.—Isaac Goodell, one of the most prominent members of the Saponi tribe, died at his home near Parnell. He was a graduate of the Carlisle Government School, and had the distinction of being the first Indian who ever sat on a United States grand jury.

Veteran Flouring-Mill Man.

PEORIA, Ill., Aug. 11.—Horace Clark, Sr., aged 73, who started the first flour mill in Central Illinois, and who was the first president of the Peoria Board of Trade, died today of apoplexy.

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LOSS IN THE REVENUE

Effect Cuban Tariff Will Have on New Republic.

PLATT AMENDMENT IGNORED

Whole Measure Supposed to Be Due to Coterie of Islanders Who Are, From Their Personal Interests, Hostile to United States.

OREGONIAN NEWS BUREAU, Washington, Aug. 11.—Much surprise is manifested by Government officials here who have been interested in securing reciprocity with Cuba, at the action of that government in raising tariff duties, especially as the increases apply almost wholly to articles manufactured and

dependent feeling in the new republic and in the distance may be seen as great a failure in self-government as in the revolutionary Spanish-American republics.

WARM FIGHT IN MICHIGAN.

Death of McMillan Will Cause an Interesting Senatorial Contest.
OREGONIAN NEWS BUREAU, Washington, Aug. 11.—The death of Senator McMillan makes the election of a Legislature in Michigan extremely interesting, as the contest will be between the Oxnard Beet Sugar interests on one side and the friends of President Roosevelt's reciprocity plan on the other. McMillan stood by the President, while Burrows was a beet-sugar leader. The latter will try to have a Legislature chosen which will send a man who will support him. Besides the defeat of four of the 13 Michigan men for renomination the indications are that Cornick will be defeated by a Democrat. The policy of the President has been so warmly endorsed and his determination to carry out the promises made by McKinley to the Cuban delegates no matter what certain ill-advised Cubans may do, is so popular that every contest involving this controversy is exciting great interest. Michigan gave greater support to the

UNIONS CAN'T AGREE

Cement Workers Ask Admission to Building Trades.

QUESTION CAUSES HOT DEBATE

N. F. Puggart Champions Cause of His Union—Admission Is Refused Unless Constitution Is Changed.

A lively debate took place at the regular meeting of the Building Trades Council last night, when the Cement and Artificial Stoneworkers' Union applied for admission to the council. The request was refused, on the ground that the union's constitution interfered with the constitution of other unions. This aroused the indignation of the applicants, and they were not slow to express their opinion of the situation. They have received their charter from the American Federation of Labor, and claim that their constitution sets forth the principles of unionism, and that there is no ground upon which to refuse them admittance. N. F. Puggart, president of the union, appeared in behalf of the Cementworkers and made a vigorous appeal in their behalf. The history of the trouble dates back to the organization of the union. The cementworkers were asked to join the Hodcarriers' Union, but refused and applied for a charter of their own. After they had received it the following communication was sent to the Building Trades Council:

To the Building and Trades Council, Portland, Or.—Gentlemen—The Cement and Artificial Stoneworkers' Union, of Portland, Or., most respectfully requests admission to your body. Sold union was organized by Mr. Horace A. Duke, district organizer, June 18, 1902. We herewith tender to the fee to affiliate with your organization, a copy of the constitution and by-laws and working rules, and also exhibit our charter from the American Federation of Labor. By order of the Cement and Artificial Stoneworkers' Union, F. E. NELSON, Secretary. Action was postponed until last night, and the men had counted upon being admitted. When Mr. Puggart was ushered into the hall and told that his union had been refused admission, he was very indignant and asked to have the floor so that he could state his case. He mentioned the history of the union and made an appeal which did not seem to win his hearers.

"Your constitution interferes with that of the plasterers," they said, "and we cannot admit you unless you change it." "Then you will never admit us," said he emphatically, and commenced to make his statements a little stronger. "Do you know that we have a charter from the American Federation, and that you are waging a war against this organization when you oppose us?" he said. "We will bring the matter before them and see if you won't admit us. You have no grounds for complaint; you are simply discriminating against our union because we are getting some of your members."

Still the Building Trades delegates were firm, and told President Puggart that he would have to have the constitution changed before his union could be admitted. "We are not ruled by the Federation," they said; "we are a separate organization, and do not have to admit you unless we wish to."

"I will make you sorry for this," said he. "How would you like to see this all printed in the papers and have the public know that you make discriminations against unions that are good advocates of union principles?" "Give it all of the publicity that you want," they said. "No; to hear you talk you must be supreme. No one has any jurisdiction over you. No one can hurt you."

Here the president took a hand, and said: "You have said that you have the floor to state your case, and not to make threats and abuse us. If that is all you have to say, we will excuse you and continue our business. A number of the other members were on the point of making answer to the speaker, but they were called to order, and he was allowed to continue. The strongest appeals were of no avail, and no admission was allowed. True to his threat, the president made the following statement to a reporter:

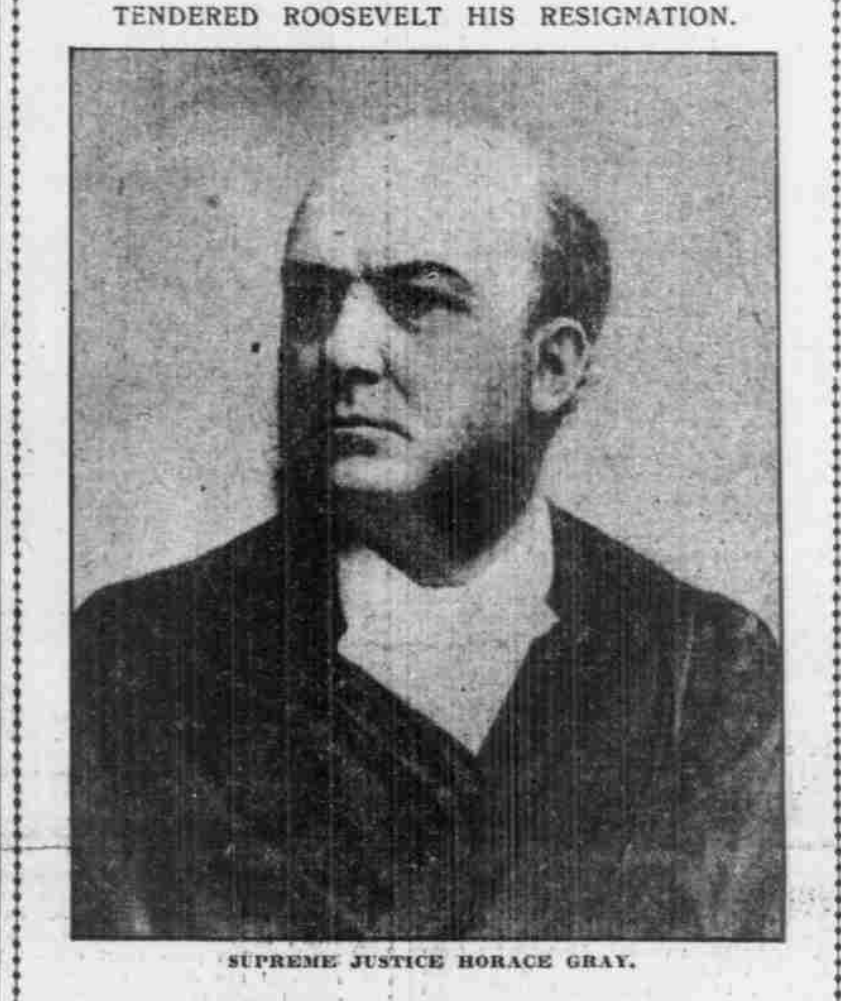
"I want you to make the head, 'Building Trades Council fighting the American Federation,'" said he. "For that is what they are doing, and they are up against the worst of it. I don't ask you to give me any of the best of it. I only want the public to know that they are fighting the Federation, and then they will know who is in the right. There is our constitution—read it, and see if there is anything in it that you can object to."

"They say that they will not admit us because we are foreigners. Read that. It says that every one that is a member of our union must have made application for his naturalization papers. The other unions do not put me on my guard. We are laboring men the same as the rest of them, and we are deserving of the same rights. They wanted us to join the hodcarriers' union. I can't carry a hod, but give me a trowel and put me on a sidewalk and let's see who can do more work than I can. They didn't want us to organize a union, but we did, and have about 55 members, and most of them we have taken from their ranks, and they are mad at us. That is what is the matter. They are discriminating against us. I want you to make that plain, too."

"What are you going to do now?" he was asked. "Change your constitution to suit the requirements." "No," said he. "The constitution is all right and we won't change it. There will be a meeting tomorrow night, and we will decide. You can come, too, and be at the meeting and see for yourself what the men have to say about the way they are being treated." The Council members told a different story, and say they are glad to admit new unions, but there are objectionable features about the constitution in question. "My! but I was mad when that man was talking," said one. "He was pretty mad himself," suggested the reporter. "Yes, and there is just enough Irish in me that he could not have said much more until there would have been something done." It is a good thing that the president stopped him when he did. "What is the objectionable part of their constitution?" the men were asked. "It seems to read all right."

"Yes, one; it reads all right to one who is not acquainted with the circumstances, but the plasterers do the same kind of work that they do, and their union offers to do for \$4 per day of nine hours what the plasterers have established a price of \$5 for a day of eight hours. Do

(Continued on Second Page.)



SUPREME JUSTICE HORACE GRAY.