

FIGHT TO A FINISH

Foster and Cushman Have Locked Horns.

POSTOFFICE IS THE CAUSE

Lecrone and Votaw Rival Candidates at Tacoma.

WHY FOSTER DELAYED ACTION

Held Back Lecrone's Appointment to Insure Vote for Senator—Cushman and Ankeny Clash About Crowley.

OREGONIAN NEWS BUREAU, Washington, Feb. 3.—Senator Foster and Representative Cushman are lining up for a fight to a finish over the Tacoma Postmaster's office. Foster is ready to recommend the appointment of Dr. Lecrone, who voted for him in both his contests for the Senate, but Cushman will not stand for Lecrone, and is understood to prefer the appointment of Henry L. Votaw, who in turn is equally unacceptable to Foster.

According to the present plans, Foster and Cushman will both call on the President at an early date to present their recommendations. At a brief and chilly conference which they had today they were unable to come to a satisfactory understanding. In fact, they agreed to disagree. Cushman's one hope of winning out is in being able to induce the President to decline to appoint Lecrone. He will point out that Postmaster Cromwell has served a year beyond his appointed term, and in all that time Foster never asked for the appointment of his successor. He declares that Foster, now about to retire from the Senate, has forfeited his right to control the appointment. He will probably go further and present reasons why Lecrone in his opinion, is not suited for Postmaster.

Foster will combat Cushman and will demand the absolute right to name the Postmaster. He will deny that Cushman is entitled to any consideration in this matter, and will insist that he forfeited none of his rights by delaying action. If Lecrone is once nominated, it will probably be impossible to prevent his confirmation, unless Cushman can work upon Senator Ankeny to hold up the nomination, which seems unlikely.

There is excellent authority for the statement that Foster would have recommended Lecrone a year ago but for the fact that he feared Lecrone might go back on him in the Senatorial contest if Lecrone is once nominated. By holding up the appointment, Foster held Lecrone's vote until the deal was made which assured Piles' election.

It is probable that Cushman and Ankeny will clash over the confirmation of Dan Crowley as Postmaster of Vancouver. Crowley was appointed on Cushman's recommendation and in spite of the protest of Senators Foster and Ankeny. Since the nomination was made it is rumored to hold up by Ankeny, and it is rumored on good authority that there will be no confirmation this session. Foster was interested with Ankeny in securing the appointment of C. G. Shaw, and by preventing Crowley's confirmation they hope to win out. Cushman, however, is confident Crowley will be confirmed, or if not confirmed, that he will be reappointed by the President when Congress adjourns.

THESE ICE BETWEEN THEM

Foster Tries to Conciliate Ankeny, Needing His Help.

OREGONIAN NEWS BUREAU, Washington, Feb. 3.—A very pronounced coolness was displayed today between Senator Foster and Senator Ankeny, as a result of the former's telegram which nearly discredited his colleague at the White House last week. The Senators met today for the first time since the Seattle postmaster's episode. Senator Foster avoided his colleague before the Senate convened, though their committee-rooms are adjoining. When he entered the Senate, he went direct to his seat, and did not leave it while the Swayne case was pending. At its conclusion, Senator Ankeny approached Senator Foster and conversed with him briefly.

During that conversation Foster made every endeavor to square himself with his fellow-Senator. He gave the profound assurance that his telegram to Representative Humphreys had not been intended to place him (Ankeny) in a bad light before the President; that nothing was further from his purpose. He expressed regret that it should have had that effect. These and other overtures Senator Foster made, and he was partially forgiven, though relations between the Senators are far from cordial.

Foster made himself in a position where he must have Ankeny's support or he will be unable to carry out the programme which he has outlined for his final month in Congress. He wants Ankeny's aid in his fight to name the Tacoma Postmaster, in preventing the confirmation of Postmaster Crowley at Vancouver, and also in getting various bills through the Senate. While he himself does not intend to demand the removal of Marshal Hopkins, Foster is anxious that this should be done, and wants Ankeny's support at any step that may be taken in that direction. Altogether he needs to square himself with Ankeny, if he hopes to close his career in a blaze of glory, and his efforts today were distinctly in that direction.

DEEPENING OF UPPER HARBOR

Provision Will Be Made by Special Act of Congress.

WASHINGTON, Feb. 3.—The river and harbor committee today voted to strike out the provision in the bill giving the Secretary of War jurisdiction over the Willamette River above the Madison-street bridge, at Portland. There was no objection to transferring this authority, but it is new legislation, and does not properly belong to the river and harbor bill. Representative Williamson today intro-

duced a special bill giving the Secretary of War authority to compel the city to lower its water mains under the river to any depth deemed necessary in the interest of navigation, and imposing a penalty of \$10,000 for failure of the city to lower its pipes if requested to do so. Mr. Williamson will press the special bill so that the Upper Willamette may be dredged by private enterprise.

To Open Colville South Half. OREGONIAN NEWS BUREAU, Washington, Feb. 3.—Senator Foster today introduced an amendment to the Indian appropriation bill authorizing the opening of the south half of the Colville Indian reservation to entry.

Oregon Rural Carriers Named. OREGONIAN NEWS BUREAU, Washington, Feb. 3.—David P. McKay has been appointed regular, Albert H. Ottinger substitute, rural free-delivery carrier, Route 1, at Wilbur, Or.

DELUGE IN ARIZONA.

Passenger Train Narrowly Escapes, and Stage Goes into Torrent.

KINGMAN, Ariz., Feb. 3.—A broken rail near Yampai, 60 miles east of here, derailed several coaches on the westbound Santa Fe flyers early this morning. When the derailed coaches stopped they were within a few feet of a deep ravine. Several people were thrown from their berths and were seriously hurt. Railroad Canyon, where so much trouble occurred last Summer from washouts, is again washed out and it will be several days before trains are running there. Rain has been falling here since early evening, and today there was a heavy downpour. Freight and stage trains at a standstill. Two inches of rain fell. This afternoon the Gold Road stage, in crossing the canyon below here, was overturned by the rush of water, two horses were drowned and the driver escaped only after being carried far down by the torrent. The stage has not yet been found.

BOGIE HAS LIFE.

(Continued From First Page.)

ter in charge, nearly all of the members of the subcommittee leaving Olympia on the morning train. The strong commission men, however, are still discussing the matter with a seriousness that assures a lively time when the measure comes up for final passage. Something more than a provision which the railroad property can be confiscated and the railroad men "drawn, quartered and hung" may be acceptable to some of the East Side districts here represented, but if a milder measure is permitted it must still be sufficiently strong to prohibit the roads from having much to say about their own business.

The men who are opposing the drastic provisions demanded by the most rabid commission men nearly all give the same reason for their opposition, and that is that the conferring of so much power on one man is dangerous from a political standpoint. This dangerous feature of the Kennedy bill was quite clearly set forth by Charles M. Sevey, of the Northern Pacific, in his speech before the joint committee a few days ago.

Too Much Power Demanded.

Touching on this point Mr. Sevey said: "It is too great a power to place in the hands of one man, or one board, and under the terms of these bills the power is vested in the Governor to remove, without cause, the commissioners. It follows from this that the Governor would have absolute control. He has already been given the power to terminate any and all contracts which they could be removed and a commission payable to his will substituted. It has always been one of the arguments in favor of a railroad commission that it would take railroad interests out of politics. The taking of railroads out of politics is greatly to be desired. We do not wish to be in politics, but the bills pending before this committee are such as to create the great danger of political action, and the result might be that a political scheme in the Governor's chair would use vast business machinery to gratify his ambitions; or, on the other hand, the transportation companies might be compelled to do business in a manner that would be to their own protection. We will assume, and do assume, that the present Governor would be entirely fair, but you are making a law for the future which has no guarantee which ought to be so framed that no particular interest would have an incentive for going into politics. Any one of these bills, if enacted into a law, would be the greatest instrumentality for opposition possible to the hands of a designing politician, or set of designing politicians. Such a law could not subvert the interests of the whole people, and the party which enacted it would certainly reap the consequences in the end. We do not seriously object to a fair commission, clothed with power to receive complaints and prevent real abuses, but we do object to a commission which will give the Governor a dictatorial power, not only over our business, but the business of all the people who are our patrons. The bill has already been introduced, and so that they will have an incentive to study their business and study the business conditions of the state, and in that way become an effective instrumentality for adjusting differences between the railroads and their patrons. Impediment by the Legislature, or other officers, should be impeded, should be the only method of removal. Where Portland Might Suffer.

Regarding the feature in which Portland is particularly interested, the fixing of joint rates, Mr. Sevey said:

The bill provides that the commission may fix joint rates on the lines of the transfer of cars from one road to another. This would enable the commission to favor one road, or system of roads, at the expense of another, even though the lines might reach the point of destination. To illustrate: The commission could make a joint rate from Colfax to Puget Sound, by way of Spokane, thereby depriving the Oregon Railroad & Navigation Company of its own rates, and by way of Portland. The branches of the Oregon Railroad & Navigation Company might be favored, if such a law were in force there might not be any incentive to build competitive lines.

This bill gives to the commission the authority, in case of joint rates, to divide the joint rates among the lines of the joint service. It would be an instrumentality, in the hands of the Governor appointing a commission, and of the commission itself, to favor the system or road which could give the greatest political influence.

These are a few of the high places that the commission-bill drafts will hit on its voyage to the statute-books, and unless it is lightened of some of the load of injustice which it is now carrying, it may remain stranded on those high places. Unless there is a more compromising disposition shown than is now in evidence, the railroad commission bill as passed will be satisfactory to neither the roads nor the people. E. W. W.

Suicide of Chicago Business Man.

(CHICAGO, Feb. 3.—John B. Scully, secretary of the Scully Steel & Iron Works, and a well-known business man, committed suicide today by shooting himself through the head. Fatigue and lack of sleep consequent on constant attendance at the bedside of his wife, who is critically ill, are believed to have caused temporary insanity.

Residence Worth \$400,000 Burned.

NEW YORK, Feb. 3.—Fire tonight destroyed Cedar Court, the country house of Otto Kuhn, a member of the banking-house of Kuhn, Loeb & Co., of New York, situated near Morristown, N. J., containing a loss of about \$400,000. In the house was a rug for which Mr. Kuhn had paid \$100,000.

NOT PUBLIC FUNDS

Why Money Is Paid to Indian Sectarian Schools.

ATTORNEY-GENERAL'S OPINION

Father Ketchum Denies That Public Funds Are Diverted, and Quotes Money to Show Diversion of Trust Funds Is Legal.

WASHINGTON, Feb. 3.—President Roosevelt's connection with the diversion of Indian trust funds to the support of Catholic sectarian schools is explained and justified in a communication addressed to the President by Attorney-General Moody, which was filed today with the Senate committee on Indian affairs by William H. Ketchum, director of the Bureau of Catholic Indian Missions. Father Ketchum appeared before the committee to defend his bureau against the charges that it has been using undue and political influences to secure the use of trust funds for Catholic schools. Mr. Moody's communication, dated February 2, 1905, sets forth the record of a cabinet meeting on January 11, 1904, when the question of the use of Indian funds for sectarian schools was discussed and the President asked for an opinion as to a standstill. Two inches of rain fell. This afternoon the Gold Road stage, in crossing the canyon below here, was overturned by the rush of water, two horses were drowned and the driver escaped only after being carried far down by the torrent. The stage has not yet been found.

Moody's Opinion of Law.

By your direction, I submit a statement of what occurred in January, 1904, concerning your decision to permit the use of the interest upon certain Indian moneys in trust in the United States for the purpose of sectarian schools.

The question was raised whether a certain declaration of Congress in appropriating for Indian day and industrial schools precluded the use of the funds in question in that way, and whether the Secretary of the Interior, who had received a note from Secretary Hitchcock, dated January 19, 1904, saying: "The President has requested me to inform you that there will be a meeting at the executive office of the White House at 3 P. M. on Friday next (22d), to confer with the Secretary of the Interior, the Secretary of the Treasury, the Attorney-General, and Mr. Russell, who had been considering the question, proceeded to the meeting, at which were present Secretaries Hitchcock, Cordero, and Wilson, and Postmaster-General Payne. On behalf of the Attorney-General, a memorandum was submitted in favor of the legality of the use of such funds for sectarian schools. Secretary Hitchcock submitted a letter from the Commissioner of Indian Affairs. Thereupon the question was taken up at length and left for your determination.

Besides the memorandum referred to there was a long discussion of the propriety for the conclusion reported by the Attorney-General, the substance of which Mr. Russell stated:

The brief memorandum which was left with you was as follows, as appears by a copy retained at the Department of Justice:

Indian Funds for Education.

"Partial list of Indian funds in the Treasury in trust for particular tribes, a portion of the interest of which funds may be used for educational purposes by the Secretary of the Interior, without appropriation, since the act of April 1, 1880, and other acts, without appropriation by Congress. These funds are held in trust for the benefit of the Indians, but it would be well to do that otherwise than under contract. "Memorandum fund; interest, \$763,315 per annum. "Memorandum log fund; interest, \$763,315 per annum. "Oxage fund; interest, \$416,271 per annum. "Soux, \$3,000,000; interest, \$150,000 per annum."

No Public Money to Be Given.

It showed the beginning of the general annual appropriation for Indian schools in 1876 for the support of industrial schools and other educational purposes for the Indian tribes that the appropriation, gradually increasing in amount, has practically continued until the present time; it is set forth in the language of current appropriations of public money as "current appropriations for industrial schools, and the declaration of Congress following adds a provision to that language: "That it is the policy of the Government to hereafter make no appropriation whatever for education in any sectarian school; and a subsequent act for 1893, which was the final appropriation for 1893, viz: "This being the final appropriation for sectarian schools, and a subsequent act for 1894, which was the final appropriation for sectarian schools, and a subsequent act for 1895, which was the final appropriation for sectarian schools, and a subsequent act for 1896, which was the final appropriation for 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