

The Oregonian

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Portland, Friday, February 8, 1907.

REPEAL ALL PERPETUAL FRANCHISES

All perpetual franchises should be repealed. They are bad in law and bad in policy. There should be no such thing. The Oregonian has said this repeatedly and now reiterates it. The Oregonian has also said that it is sound logic and proper procedure for the power granting the franchise to revoke it. This is not revocable, but it is to be revoked, and we will not split hairs with any one about procedure, if it bids fair to be effective and correct. A part of the Multnomah delegation at Salem insists that there should be passed by the Legislature a measure revoking all perpetual franchises. Any genuine measure of that kind will have the unqualified approval of the Oregonian. The people of the state want them repealed and demand that they shall be repealed. The Oregonian only voices their sentiments and desires, and represents their interests when it declares that any effort made in good faith in that direction, and to that end merits commendation.

The franchise of the Portland Gas Company, however, stands in a class by itself. An attempt to treat it upon the same basis as other perpetual franchises which are held by various corporations is a mistake. All other franchises have been granted since Oregon became a state. They fall under the constitutional provision that all franchises may be "altered, repealed or amended." The Gas Company's charter, or one of its charters, and the principal one, was obtained before Oregon became a state. It was conferred by the Territorial Legislature and there is a question whether or not the above constitutional provision applies to it. The contention of the company is that it does not, and that this franchise cannot be repealed by the Legislature. No such contention is made for any other franchise. The oldest of them, that of the railroad on Fourth street, dates only from 1852. Oregon had then been a state, and the constitution in force for ten years. This franchise, if it is a franchise, ought undoubtedly be revoked. The franchise on Fourth street is a common nuisance, but the revocation should not be attempted in the same bill that deals with the franchise of the Gas Company. Under the repeal of the Fourth-street franchise, by the general act, and of all others granted under the constitution, there can be no litigation unless confiscation should be attempted. Over the repeal of the gas franchise granted in 1852 litigation is certain. The company will maintain in court that its privilege is not only perpetual, but also irrevocable; that it is above, not only the laws of the state, but the constitution also. The purpose and the necessity of the special bill, affecting only the Gas Company, ought to be perfectly clear to every legislator, and there should be no objection to it from any one who desires repeal of any perpetual franchise.

TRADE AND THE FLAG

The "far-flung empire" of Great Britain, on whose possessions the sun never sets, is the Columbia of the world. It is not only the largest, but the most powerful of all other maritime nations, and as a shining example of what our own merchant marine should be, the subsidy-hunters make copious allusions to that of England. Great Britain's over-sea possessions are of such great proportions and are kept in such close touch with the mother country that a vast merchant marine is maintained. The British flag alone, but, contrary to the assertions of our own subsidy-grafters, not one-twentieth of the tonnage engaged in foreign trade under the British flag receives a penny in subsidy. There is no more reason why the United States should engage in the ocean carrying business as large as Great Britain herself, and other cheap-labor, cheap-ship countries engage in it than there would be in an American citizen keeping a delivery wagon when he could have his delivery work handled at a smaller cost by some one who made a specialty of this work.

THE AFFRONT TO JAPAN

We have heard a great deal in connection with the Japanese school embargo in San Francisco about the objection to the attendance of full-grown Japanese men along with American children of 10 and 12 years of age. In point of fact, as stated by William H. Hays, the business of moving troops, officials and government mail and supplies alone is sufficient to furnish revenue for a large number of steamers in all parts of the world. This forms the nucleus of the trade on routes where the United States is not maintaining a regular service under the American flag. The British shipowners carrying our traffic at rates much lower than those which our own shipowners see fit to make. It has been argued that by not owning the ocean carriers we have been placed at a disadvantage in the foreign trade. The fallacy of this argument is quite forcibly shown by the official figures previously mentioned. These show that the British Empire outside of the United Kingdom reached a total value of 641,700,000 pounds sterling, of which only 257,200,000 pounds were done with the United Kingdom. In other words, Great Britain, with all of its enormous prestige and power, is not given her by her unequalled merchant marine, was unable to secure one-half of the trade with her own possessions. But while she was unable to sell them as many goods as were sold to her by the United States and other countries, she was still so much lower than the rest of the world with her freight rates that she actually sold transportation to the Americans and other merchants who supplied the goods.

The citizen of Japan, says Mr. Ingalls, is not only proud, but sensitive, he is like Sir Walter Scott's Highlander, who walked abroad with his nostrils quivering and searching the air for an affront. To throw him in pell-mell among Chinamen and Koreans, whom he despises, was the crowning act of humiliation.

The School Board acted hastily and without tact. The incident is to be regretted, first because of the hostile feeling against the United States to which it gave rise in Japan, and again because it gives every blatherskite in the country, in Congress and out of it, a chance to air his opinions upon race antagonisms. Denis Kearney, of anti-Chinese sandlot memory, has come out of his retirement of a score of years to exclaim: "The Japanese are the yellow peril!" adding:

"They're establishing tailor shops, shoemaker shops, cigar restaurants and everything else. They're gardeners, they're doing all kinds of work which our own citizens and our own people ought to be compelled to do. They're competing with our state and raising produce on it to compete with our own farmers at a cheaper rate. They're wanting their way into every work."

By and by there'll be a million of them here, because this is the finest place in the known world to live. Now one million Japanese would be a menagerie of the most states. They'll fight. We know that. The Russo-Japanese War shows it. They are a fighting nation, and they are fighters by nature. They mean to win by hook or by crook.

This is Denis Kearney, but the sentiments are not confined to him or his class. It is said that they are shared by ninety-five Californians out of every one hundred. It is against the expression of such sentiments that Secretary Taft warns men in the Nation's high places. This warning is well timed.

OREGON APPROPRIATIONS SAFE

The House yesterday agreed to all of the items in the rivers and harbors bill, the aggregate being more than \$2,200,000, of which nearly one-half is immediately available, the remainder being for continuing contract work. This action of the House, while almost a foregone conclusion, removes the last vestige of doubt regarding the ultimate success of the appropriation bill, as passed by the Government. It also assures some important work on the upper river obstructions. As has been previously stated, a great deal of credit for these liberal appropriations is due the delegation from our neighboring state.

Senator Fulton has been Oregon's only effectively working member, and the responsibilities upon him have been very heavy. He not only got the rivers and harbors bill through the Senate, but his labors before the House committee were unceasing and were most potent. It ought to be said for him that he worked wherever work was needed for every part of Oregon, and it is only proper acknowledgment to remark that the efforts he put forth for Oregon's appropriations, combined with the friendly attitude of Representative Jones, of Washington, a member of the rivers and harbors committee, resulted in most generous consideration by the House committee and later by the Senate.

The project for a fourteen-foot channel from Chicago to the Gulf of Mexico suffered defeat in the House, not perhaps because it lacked merit, but on account of the large amount involved and the pressure for funds which had badly needed on other work which had already been commenced, and which might suffer by any "paring" of the necessary in order to take care of the new project.

The rivers and harbors appropriation bill, on the whole, has been a good one, and its special value lies in the increasing interest in river and harbor work which is reflected by such approval in that direction, and to that end merits commendation.

The franchise of the Portland Gas Company, however, stands in a class by itself. An attempt to treat it upon the same basis as other perpetual franchises which are held by various corporations is a mistake. All other franchises have been granted since Oregon became a state. They fall under the constitutional provision that all franchises may be "altered, repealed or amended." The Gas Company's charter, or one of its charters, and the principal one, was obtained before Oregon became a state. It was conferred by the Territorial Legislature and there is a question whether or not the above constitutional provision applies to it. The contention of the company is that it does not, and that this franchise cannot be repealed by the Legislature. No such contention is made for any other franchise. The oldest of them, that of the railroad on Fourth street, dates only from 1852. Oregon had then been a state, and the constitution in force for ten years. This franchise, if it is a franchise, ought undoubtedly be revoked. The franchise on Fourth street is a common nuisance, but the revocation should not be attempted in the same bill that deals with the franchise of the Gas Company. Under the repeal of the Fourth-street franchise, by the general act, and of all others granted under the constitution, there can be no litigation unless confiscation should be attempted. Over the repeal of the gas franchise granted in 1852 litigation is certain. The company will maintain in court that its privilege is not only perpetual, but also irrevocable; that it is above, not only the laws of the state, but the constitution also. The purpose and the necessity of the special bill, affecting only the Gas Company, ought to be perfectly clear to every legislator, and there should be no objection to it from any one who desires repeal of any perpetual franchise.

When Stanford White was shot by Thaw the newspapers of the day almost unanimously decided that he had deserved his fate. Few, of course, approved the violent manner of his punishment. It was regretted that the law provides no adequate methods for bringing such characters to justice, and hence the clamor for a more severe penalty. Of course we know that the legitimate prey of any man who can accomplish his ruin. Once fallen she is forever fallen. There is no pardon for her sin. While the man who has led her astray is not only forgiven, but, in some quarters at least, his deed is already being forgotten. He is at full liberty to look upon the world as his own, and to live as he pleases. Should she endeavor to climb from the gulf of ruin where he has plunged her, he is permitted to thwart her efforts by every means that his depraved imagination may suggest. He may pry her with soliloquy; he may blacken her name; he may slander and deceive her. No matter how vile the methods which he chooses to force his victim to follow in a life of perpetual shame, a certain section of society condones and perhaps approves them. Among the members of the social set to which White belonged the chief of young girls who were the variety of sport. They class it as vastly more amusing than grouse shooting and not more immoral than stalking the moose.

The common and statute law governing wrongs committed by men against women represents the opinions of this social class, which includes many of the wealthy, all of the idle and some of the intellectually gifted. It has been contrived to protect rather than hinder them in the pursuit of their favorite sport. Thus, under the law of New York, "knowledge on the part of a man that his wife was being pursued or annoyed by another man, or that such provocation as to reduce a homicide to manslaughter." It would permit him to shoot a burglar who was attempting to steal his silver, but not a "gentleman" like White, who had first assaulted his wife in her innocent girlhood and afterward sought to drag her back into renewed infamy. No do the courts of New York recognize any "higher law" pertaining to these matters. The privilege of a "gentleman" to pursue a woman who has once been his prey, to blight her life by his wiles and entrap her again if he can, is sacred and inviolable. The father, the husband or the brother is forbidden to invoke against him the laws of the law itself to right his own injured and unable wrong. The plea of insanity was his sole recourse. To make this plea good under the law of New York he need only prove that at the time when he shot White his mind was so affected that he did not know "the nature and quality of his act, or did not know that his act was wrong."

Thaw's defense, therefore, could not be placed on the broad basis that his deed was intrinsically just and that he had been compelled by the defects of the law itself to right his own injured and unable wrong. The plea of insanity was his sole recourse. To make this plea good under the law of New York he need only prove that at the time when he shot White his mind was so affected that he did not know "the nature and quality of his act, or did not know that his act was wrong."

Good judges predict a yield of a million dollars from the placers in the neighborhood of Rogue River. If Rogue River cannot beat Hood River on apples, she can dig up the dust all right.

The virtuous Councilman Sharkey doesn't propose to be "used" by the Oregonian. Probably not, since the Oregonian has not suggested or tried to arrange it. There is no other reason.

Councilman Annap, we observe, is a candidate for Mayor. He has started well with the support of the Portland Gas Company.

Given adequate transportation, the copper mines tributary to Baker City will rival the world's best. Its day is in sight.

For the proposed State of Lincoln, Baker City could hardly furnish the gubernatorial candidates.

HARDSHIP TO POOR SETTLERS

Fulton Confers With Roosevelt on Suspension of Patents.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—Senator Fulton had a long conference with the President today in regard to the latter's order suspending all public land entries until they can be examined on the ground by a special agent of the Land Office. The Senator said this order was bound to work hardship on poor settlers, and was to his mind conducive to more harm than good.

The President admitted that he had never looked on the matter as Mr. Fulton did, and said he could see advantages that he knew nothing of when the order was issued. While he made no promises, he rather gave the impression that the order would be modified, particularly as it applies to homestead entries.

Where Fraud Comes In.

Mr. Fulton told the President that the greatest amount of fraud in the past had been committed under the timber and stone act, but he showed that under the timber and stone act such fraud could be discovered by a special agent visiting the entry. The fraud was usually in the form of an agreement between the entryman and a prospective purchaser of the land, and such agreements would be no more apparent to a special agent examining the timber than to the department in Washington. For all special agents believed examination of the timber entries by a special agent would fail to accomplish the President's purpose.

As applied to homesteads the Senator said it would be a hardship to withhold patents from settlers who had complied with the law, mostly because their entries had not been personally inspected by a special agent. Many times settlers are anxious to obtain title so they can mortgage their land and obtain money for improvement. Sometimes they might want to sell. The long delays incident to examination would defeat these purposes.

Might Bribe Special Agents.

On the other hand, he told the President that out of hundreds of special agents at salaries of \$1 a year the Government would be bound to give many men who would not be above accepting bribes, and such special agents, instead of protecting honest settlers and expelling crooks, would accept money from men who were breaking the law to sustain their records, but would report adversely on honest entries. For all the entries would refuse to bribe them. He believed that more fraud would be consummated under this system than is perpetrated now.

The President seemed much impressed and admitted that these arguments placed the matter in an entirely new light, and he would go deeper into the situation by himself, as he stated, that he would modify his order, at least in so far as it applies to homestead entries.

SEATTLE CANAL IS REVIVED

Dimensions of Moore's Ditch Altered. Government to Build Lock.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—All Oregon and Washington items in the river and harbor bill as reported by the committee were agreed to by the House today. In addition, the committee amended the bill to permit James A. Moore of Seattle, or King County, to construct a canal 55 feet deep and 75 feet wide connecting Puget Sound with Lewis and Clark river, and a lock which is to be used as a fresh-water harbor back of Seattle. The committee also authorized a survey of the Snohomish River from its mouth to Lowell.

NEW POSTMASTER AT BAKER

Moomaw Ousted for Incompetency After Second Trial.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—Senator Fulton today settled the postoffice fight at Baker City by appointing the postoffice of William H. Packard, Sr. to succeed David L. Moomaw, who has been removed for incompetency and neglect of duty. Moomaw was second in the second term, having been originally appointed by Representative Moody.

The department was unfavorable to his reappointment, but the people of Baker City desired that he have another term, and the department yielded. His conduct of the office lately has been so lax that it was decided to oust him. Moomaw or fraud is charged against him, however.

LOOKS BRIGHT FOR SEATTLE

Senate Committee Reports Appropriation for Fair Exhibits.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—The Senate committee on appropriations today favorably reported Senator Ankeny's bill making an appropriation for Government exhibits at the Seattle Exposition. The total appropriation was \$1,250,000 to \$1,000,000, the items being as follows:

Alaska exhibit, \$50,000; Hawaiian exhibit, \$50,000; Philippine exhibit, \$50,000; three buildings to house these exhibits, \$325,000. Mr. Ankeny expects to call up the bill for consideration at an early day. The entire Washington delegation appeared in its behalf at the committee meeting this morning.

Bourne Dines Western Senators.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—Senator Bourne gave an informal dinner today at the Shoreham to the Senators from the extreme West—states. The Senators present were Fulton and Mulkey, Oregon; Ankeny and Piles, Washington; Heyburn, Idaho; Sutherland and Smoot, Utah; Newlands and Nixon, Nevada; Carter, Dixon, Montana; Warren and Clark, Wyoming. The California Senators and Senator Clark, of Montana, declined because of previous engagements. The dinner was entirely unofficial and merely for the purpose of encouraging good fellowship.

All Oregon Items Included.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—The House today agreed to all the Oregon items in the rivers and harbors bill, aggregating \$3,212,240, of which \$1,700,000 is a continuing appropriation, the balance being immediately available.

More Money for Pacific Light.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—The Senate commerce committee reported the House omnibus lighthouse bill with amendments added giving \$20,000 for rebuilding the lighthouse at Cape Arago and \$120,000 for a lighthouse vessel at Oxford Reefs.

Right of Way Across Fort Columbia.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—The Senate today passed the bill authorizing the Ilwaco Railroad to build across the Fort Columbia reservation and quarantine station grounds on its way from Ilwaco to Knappton.

SCHOOL QUESTION SEPARATE

Japanese Press Denounces Proposed Labor Treaty as Farce.

TOKIO, Feb. 8.—(Non.)—While ignoring the anti-Japanese feeling in a portion of the American press, the Japanese public is almost unanimous in demanding that the solution of the San Francisco school question must not involve the labor question.

A mutual treaty restricting the emigration of laborers is condemned here as a farce and a one-sided concession, sacrificing Japan's honor without any recompense whatever. It is felt that, even with the United States, nothing derogatory to national honor, however slight, must be admitted in the diplomatic relations of both nations.

DID NOT DISCUSS AMERICA

Japanese Privy Council Rumor False—War Talk Ridiculed.

TOKIO, Feb. 7.—A report reaching here from America to the effect that the Privy Council had met Tuesday last to consider a dispatch from Washington is repudiated with great surprise and some indignation. It is thought here by some that the report has been put into circulation by some careless or irresponsible source. Others see a sinister motive aiming to injure the relations between Japan and the United States by the deliberate falsehood and exaggeration.

It is generally felt by the well meaning that no care is too great at this moment to prevent misunderstanding when alarmists are busy in America. The Associated Press is informed on the best of authority that the matter submitted to the deliberation of the Privy Council was entirely of an internal nature and had no relation to diplomatic matters. Even a slight knowledge of the constitution of the Privy Council would be sufficient to save misapprehension on occasions like the present. Should American relations assume a gravity warranting a special meeting of the Privy Council, the fact would not escape attention by the press correspondents.

As has previously been noted, quiet reigns, regardless of alarmist reports in America. The idea that Japan would go to war with the United States is considered generally to be simply ridiculous.

There is no doubt that among the emigrants to Hawaii there are several who served in the Russian war, but it is pointed out that nothing was more absurd than the report of an elaborate organization prepared to act in an emergency.

The report is regarded as simply demonstrating sheer ignorance, if not a malignant move.

OPPOSED TO DISCRIMINATION

Los Angeles Chamber on Separate Schools for Japanese.

WASHINGTON, Feb. 7.—The President today received a telegraphic copy of a resolution adopted yesterday by the Los Angeles Chamber of Commerce upon the Japanese school question, which expresses the belief that the public sentiment of California, especially of the southern part, upon the question of the exclusion of the Japanese from the general public school system of the state has been to some extent misrepresented and is largely misunderstood. The sentiment is expressed that on the main question, whatever may be the diversity of opinion upon the construction and legal phases, the board is assured that "the general trend of public opinion in Southern California is decidedly adverse to any discrimination against the Japanese as a people in the matter of public school privileges, and the belief that this opinion is based upon consideration of equity and justice and is not altogether independent of any attitude which the Japanese government has assumed or may assume in regard to the question."

More Time for Klamath Contract.

OREGONIAN NEWS BUREAU, Washington, Feb. 7.—The Secretary of the Interior has granted an extension to April 20 to the Mason-Davis Company of Portland, for the completion of their contracts on schedules 2 and 3 of the main canal of the Klamath irrigation project. The work consists of nine miles of canal, which, under the terms of the contract, should be completed by February 15.

Bars Monopoly in Coal Lands.

WASHINGTON, Feb. 7.—Representative Lacey, of Iowa, chairman of the House committee on public lands, introduced a bill today, the purpose of which is to prevent monopolies in coal lands. The measure provides that patents to coal lands shall contain a clause stipulating that they are to become invalid in case they are transferred to persons or corporations holding more than 5000 acres of coal lands.

Harbor Bill in the Senate.

WASHINGTON, Feb. 7.—The Senate committee on commerce today decided to begin consideration of the rivers and harbors bill next Monday. The committee will sit every day next week to hear the representations of Senators in support of amendments, but no other persons will be heard.

Famous War Correspondent Ill.

LONDON, Feb. 7.—Sir William Howard Russell, the war correspondent who described the battle of Bull Run for the London Times, is critically ill.

Troops Close French Seminary.

NICE, France, Feb. 7.—Troops and gendarmes today participated in the expulsion of the students from a local seminary. There was much shouting at the soldiers, but there was no violence.

Avalanche Kills Fifteen Men.

BUCHAREST, Roumania, Feb. 7.—Fifteen woodcutters were overwhelmed by an avalanche yesterday in the Muscel district of the Transylvania Mountains. All the men were dead when dug out of the snow.

Speed Test for Dreadnaught.

LONDON, Feb. 7.—The battleship Dreadnaught is to be given a severe speed test, according to official reports, during the trip from Gibraltar to the island of Trinidad. The big ship is to endeavor to maintain a speed of 17 knots over the entire course.

Rain Aggravates Kingston Woes.

KINGSTON, Feb. 7.—Rain is falling, and is increasing the discomfort of the earthquake sufferers who are camped in the market place in the palace. The work of building homes for the needy is being hurried. A heavy earthquake shock occurred Tuesday night. It lasted nearly ten minutes.

VENUEZA PREPARES FOR REVOLT

BAN JUAN, Porto Rico, Feb. 7.—According to passengers who arrived here from Venezuela by the steamer Philadelphia, troops are beginning to move in Venezuela. Last Monday a trainload of soldiers and 400 tons of cartridges were sent out of Caracas.

A decree prohibiting masking and painting the face during the carnival has been issued in Caracas because of the fear of violence.

Vice-President Gomez, who is directing affairs in the absence of President Castro, who is ill, is said to be practically a prisoner at his residence.

SENTENCE ON NEBOGATOFF

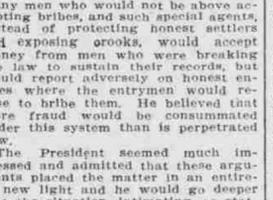
Admiral Prisoner for Ten Years for Surrendering.

ST. PETERSBURG, Feb. 7.—The Emperor has confirmed the sentences passed by the court-martial on Vice-Admiral Neboogatoff and other naval officers tried. Neboogatoff will be kept in a fortress for ten years and others for varying periods.

JAPAN FORCES CHINA TO SELL

NIJCHWANG, Feb. 7.—Land' has been bought from the Chinese here under military compulsion by the Japanese administration and handed over to the South Manchurian Railway, extending its concessions. This road will be under military rule, with ten councillors to be selected by the Governor. The Liaoning Railway is extending its concessions at all stations which will injure foreign interests.

EVICTED



From the New York World.