JAPANESE SEIZE

FINE NAVAL BASE

Pratas Island at Gate

of Philippines.

GOOD ANCHORAGE FOR FLEET

ican Territory.

LAST LAND FROM FORMOSA

Explorers Hoist Flag on Sandy Isle

Only Visited by Fishermen and

Useless Except as a Base for

Naval Operations.

WASHINGTON, Sept. 3 .- (Special.) -

"explorers" had occupied and hoisted

the national flag over the island of

much attention here because by this

the Philippines, which would furnish

an admirable naval base, Japanese pos-

sessions are brought almost within the

archipelago, because Pratas Island is

less than 60 miles north of the twentieth parallel, which was the in-

ternational boundry of the former

Spanish dominions as defined in the

Pratas Island, in connection with the

cellent anchorage afforded by Pratas

as been added to Japanese terri-

News from Yokohama that Japanese

COLUMBIA PORT ACT IS INVALID

Not Constitutional Says Supreme Court

VIOLATES 1906 AMENDMENT

Corporations Shall Not Be Created by Special Laws.

OPINION BY JUSTICE BEAN

Decision Rendered by Circuit Court in Multnomah County Reversed. Distinction Between General and Special Legislative Acts.

PORT OF COLUMBIA CASE.

By act of the Legislature of 1907 the counties of Multnomah, Clatsop and Columbia were created a separate district and declared to be a corporation by the name of 'The Port of

The object was to promote the commercial interest of the port, maintain towage service, license pilots,

issue bonds and levy taxes.

This is held to be a special act and therefore void, because in conflict with section 2 of article II of the conwhich declares that corporations shall not be created by special laws

SALEM, Or., Sept. 3 .- (Special.) -The Supreme Court today held the Port of Columbia act unconstitutional, because passed in violation of section 2 of article 11 of the Constitution, as amended by the people in 1906, which declares that corporations may be formed under general laws, but shall not be created by the Legislative Assembly by special

The opinion of the Supreme Court was written by Chief Justice Bean, and it reverses a decision rendered in Multnomah County by Judge John B. Cleland, in the case of Sylvester Farrell vs. Port of Columbia Commission. The case involved the question whether the act creating the Port of Columbia is general or special. The opinion lays down the distinction thus;

equally and uniformly upon all persons, places or things, brought within the relation and circumstances for which it is provided. But when it is applicable only to a particular branch or des ignated portion of such persons, places or things, or is limited in the object to which it applies it is special.

persons or localities complying with its provisions may be entitled to exercise the powers and enjoy the rights and privileges conferred. A special law is one conferring upon certain individuals or citizens of a certain locality rights and powers or liabilities not granted to, or imposed upon, others similarly situated.

"The act creating the Port of Co lumbia is clearly a special law as so defined, and cannot be upheld without doing violence to the expressed and plain language of the Constitution."

Text of Court's Decision. Herewith is given the full text of

the decision of the Supreme Cou - in the Port of Columbia case: This suit involves the constitutionality

of an act of the legislative assembly of 1907, to establish and incorporate The Port of Columbia: (Laws of 1907, 182). By this act the counties of Mulisomab, Cirisop and Columbia are created a separate district, and the inhabitants thereof are constituted and declared to be a corporation by the name and style of "The Port of Columbia," and as such to have perpetual succession; to hold, receive and dispose of real and personal property; to sue and be sued, plead and be impleaded in all suits of proceedings brought by or against it. The declared obnercial interest of The Port of Columbia. For that purpose it is given power and made its duty to own, operate and main-tain a towage service from the open sea, at the entrance of the Columbia River, all points upon the river extending as r inland as Tongue Point, near Astoria; purchase, own, lease, control and oper-e tugs and pilot beats; to appoint and license pilots; to fix and collect charge for age; to acquire, own and dispose of and personal property; to make any contracts, the making of which is not in this act expressly prohibited, and to do all other acts and things, which may be requisite, necessary or convenient in carrying out the powers conferred. For the one of acquiring tug and pilot boats, providing the same with necessary approved in the corporation is given power to use the corporation in the corporation in the corporation is given by the corporation in the corporation in the corporation in the corporation is given by the corporation in the corporation is given power to use the corporation in the corporation in the corporation is given power to use the corporation in the corporation in the corporation is given power to use the corporation in the co issue, sell and dispose of bonds not exceeding the aggregate sum of \$400,000; and
power and authority to assens, levy and
collect each year a tax upon all property,
real or personal, within its boundaries,
which is by law taxable for state and
county purposes, not to exceed a rate
therein specified, to retire such bonds at
maturity and the payment of interest thereon. The power and authority given to the
corporation is to be exercised by a board thee to be appointed as in this act pro-

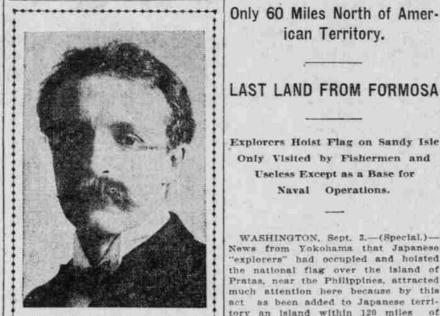
Can't Be Formed by Special Law.

This law was evidently modeled after that creating the Port of Portland (sees. L. 1801, 1791); and if the constitution had not been amended since the enactment of the latter-statute it could possibly be sustained, if etherwise valid, on the ground that it is a

provided that "corporations may be formed under general laws, but shall not be created by special taws, except for municipal purposes," and it was held that the Port of Portland was a corporation formed for municipal purposes within the meaning of this provision; Cook vs. Pert of Portland, 20 Or. 580. In June, 1906, the section referred to was amended to read:

"Corporations may be formed under general laws, but shall not be created by the Legislative Azsembly by special laws. The Legislative Azsembly by special laws. The Legislative Azsembly by

laws, but shall not be created by the Legislative Assembly by special laws. The Legislative Assembly shall not enact, amend or
repeal any charter or act of incorporation
for any municipality, city or town. The legal
voters of every city and town are hereby
granted power to enact and amend their
municipal charter, subject to the constitution
and criminal laws of the State of Oregon."
By this amendment the power to create corporations for municipal purposes by special
act was not only eliminated, but the creation
of a corporation by such an act is expressly act was not only eliminated, but the creation of a corporation by such an act is express; prohibited, and it is no longer in the powe of the legislative authority to create a corporation, public or private, by a special law it would seem, therefore, that the act incorporating the Port of Columbia is in violation of this section, as amended, and void. But



Gifford Pinchot, Chier Forester of United States, Who Favors Free

y the constitution. It is not easy to define treaty of Paris. expedient to leave the matter, to a erable extent, open to be determined

reef, would be very serviceable to the Japanese, should their havy operate in the waters adjacent to the Philip-pines. The reef, the northeast point upon the special circumstances of each case."
(Ferguson vs. Ross et al., 126 N. Y. 459.)
Statutes are often classified as public or general and private or special, a public statute heing one of which the courts will take of which is about eleven miles from the island, is a wind barier of circular form, inclosing a lagoon with water of from five to ten fathoms. The reef nte heing one of which the courts will take judicial notice, while a private statute must be pleaded: I Kent 460; I Blackstone 85. That this is a public law must be conceded, not only because it is one of which the courts will take judicial notice, but because the constitution provides that every statute shall be a public law unless otherwise declared by the giantite itself. (Art. IV. Sec. 27.) is about 40 miles in circumference, and between one and two miles in breadth. There are two channels leading into the lagoon, one on either side of Pratas island. There are several good an-chorages in from ten to twenty fathoms of water, the position abreast of the south channel being well adapted for

Every Public Law Not General. south channel being well adapted for naval purposes.

The War and Navy Department of-ficials say that they have no official information about this new acquist-It does not follow, however, that be-cause it is a public law it is a general one. Public and general as applied to statutes are sometimes synonymous, depending upon the contex, but they are not so in all cases. Every general law is necessarily a public one, but every public law is not a general tion of the Japanese nation.

Pratas island is composed of sand.

It has been generally visited by Chione. Thus an act incorporating a city is a nesse fishermen in the early part of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the public law, but it is not a general one, be-production of the law Islands. pose of erecting a schoolhouse, and pur-

offile St. 18. When used as opposite to private, and having reference to the subpect matter of a statute, the term general is equivalent to public. When, however, it is used in reference to the territory em-

oraced within a law, and in opposition to local, it means operating over the whole jurisdiction of the law-making power, in-

It is used in contra-distinction to special, it signifies relating to the whole community or all of a class instead of to a particular

locality or a part of a class. In this latter sense a law is general, when it operates equally and uniformly upon all persons.

places or things, brought within the rela-

tion and circumstances for which it pro-vided. But when it is applicable only to a particular branch or designated portion of

such persons, places or things, or is limited in the object to which it applies, it is special: Lippman vs. The People, 175 III. 101; Wheeler vs. Pennsylvania, 77 Pa. St. 338; 26 Am. & Eng. Ency. of Law (2 ed.)

532; 1 Lewis Southerland Stat. Con. section 195. It is in this sense that the terms general and special are used in the provision

of the constitution now under consideration.

or the constitution now under consideration. The object of the amendment was to deprive the law-making power of the right to create particular corporations, either public or private, and to require that all corporations be formed under a law, the

provisions of which shall be applicable alike

of the constitution, is one by which all per-

sons or localities complying with its pro-visions may be entitled to exercise the

powers and enjoy the rights and privileges conferred. A special law, on the other

hand, is one conferring upon certain indi-viduals or citizens of a certain locality

rights and powers or liabilities not granted to, or imposed upon, others similarly sit-uated. The act creating The Port of Co-

lumbla is clearly a special law as so defined, and cannot be upheld without doing violence to the expressed and plain language of the constitution. The provision of article IV, section 23, prohibiting the

between general and special laws must be understood as applying to the construction of that provision of the constitution and has only a general bearing upon the pres-

University Case Not Similar,

The cases of Dunn vs. State University, B Or. 357, and Liggett vs. Ladd, 23 Or. 26-45, are cited as authorities supporting defendants' position. It is argued that the Regents of the University and of the Agricultural College

the University and of the Agrandiana College are not corporations for municipal purposes, and since at the time of the passage of the laws providing for their appointment and de-fining their duties the Legislature was in-hibited from creating corporations by special

providing for their appointment was a gen-eral one. Dunn vs. University (which was

ent case

A general law, within this section

tead of a particular locality.

In no way could the island be of Army, Nav chasing a site therefor, is a special law and in violation of a constitutional provision that "the Legislature shall pass no special act conferring corporate power." Clegg vs. School District, 8 Neb. 179; School District vs. Insurance Co., 103 U. S. ports on the Chinese coast. And again, laws amending a city charier in respect to making local improve-ments, or extending the limits of a par-ticular city, are special acts, and held un-constitutional under a provision that, "the SAVED BY TREE'S FOLIAGE Legislature shall pass no special act conferring corporate power." Atchison va. Bartholow, 4 Kan. 124; City of Wyandotte vs. Wood, 5 Kan. 603; State ex rei. The Attorney-General vs. City of Cincinnati, 20

Female Aeronaut Falls 300 Feet but Escapes Injury.

MIDDLETOWN, N. Y., Sept. 3.—Mrs. Myrtle Rysdike, a 17-year-old aeronaut, narrowly escaped death in mak- partment of the road.

NEWS SERVICE NEARLY RE-

NEW YORK, Sept. 3 .- Melville El.

Stone, general manager of the Asso ciated Press, sent the following bul letin to Associated Press papers

sippi River, with the exception of four or five cities in the interior of Peni sylvania and three or four cities ! state. The cities in Pennsylvania re ferred to are Scranton, Wilkesbarr Altoons, Harrisburg and Williamsport and those in the South are Chatta-noogs, Nashville, Knoxville, Savan nah and Louisville. In Texas three o four operators who struck have been mployed, and the places of a nu ber of others have been filled with equally efficient substitutes. There are still three or four points receiving

an abbreviated service.
"Montana and the interior of Washington and Oregon are receiving reduced reports, as are Leadville and Pueblo, Colo., and Albuquerque, N. M., and El Paso, Texas. Otherwise the leased wire service has been resumed in a reasonable state of ef-

today at Portland, Seattle, Tacoma and Spokane, Stockton, Cal., is the only point on the leased wire circuit of that state which is not receiving a leased wire report. It is being served

"The telegraph companies have been ited number of places west of the Missouri River, but the other pony re ports are being forwarded as usual. "The total number of operators who have struck and have been re-

employed is about 75. Over 180 re-fused to strike. The total number employed was 370. During the strike I have been unwilling to transfer me who were faithfully doing their duty at their home positions to take the places of men who had struck, believ ing it to be unfair to punish them for their loyalty.

'The men who stuck to their keys throughout the stirring time are deserving of all lasting gratitude of members of the association. They re fused to take part in a most dishonorable and unwarranted outbreak, and have been subjected to abuse and intimidation in such measure as only ciples could withstand."

ing a balloon ascension at Midway Park here., When 300 feet in the air the balloon caught fire, and the hot air escaping, it fell rapidly toward the earth.

·····

earth.

Several thousand persons in the park expected to see the young woman dashed to death, but she luckily fell into the thick foliage of a tree. She escaped with a few scratches.

YOUNG MAN MAKES RECORD Shoots Better Than Best Shots in

Army and Navy.

OREMONIAN NEWS BUREAU, Washington, Sept. 3.—The individual military championship of the United States has been won by Harold Travis Smith, an 18-year-old Washington boy, new midshipyear. It is said to be the last tsland between the chain running down to Formosa and beyond the Philippine match and National individual match. thus outranking the best shots in the Army, Navy, Marine Corps and Naval Academy. The department considers it purposes. It is barren, except for remarkable that so young a man should bushy growth. But as a coaling and refitting base it might be of great value during a blockade of Manila or ports on the Chinese coast.

> Joel W. Dewees, Lawyer and Veteran LINCOLN, Neb., Sept. 3.-Joel W. Dewees, solicitor of the Gurlington Rail oad Company for the lines west of the Missouri River, died at his home in Lincoln today after a brief illness, aged 61 years. He was a veteran of the Civil War. Mr. Dewees' service as attorney for the Burlington probably had antedated that of any other man in the legal de-

PUZZLE-WHO'S ABOUT DUE?

NOTES OF DISCORD IN WET CONGRESS

Pinchot Forced to Declare for Free Lumber.

ROOSEVELT UNDER CRITICISM

Yuma Valley Men Say Interests Are Ignored.

TIMBER SUPPLY VANISHING

Chief Forester Would Husband It by Free Imports-Pardee Tells of When Roosevelt Damned the Lumbermen

SACRAMENTO, Cal., Sept. 2.-Discordant notes ran through the proceedings of the National Irrigation Congress today and the name of President Roosevelt also figured prominently, on one occasion the country's chief executive being referred to in a manner that meant criticism of his policy in connection with the Owens Valley water project. There was also criticism of policies pursued by other

Government officials. The sessions were in marked contrast to that of yesterday, when words of welcome and the beautiful notes of the Ogden Tabernacle choir fell upon the ears of the thousands gathered within the canvas Irrigation Palace. With warm weather prevailing, the diversion helped to stimulate the interest of the large

Motion for Free Lumber.

The first break in the reign of harmony ame shortly before the noon hour. Afte Gifford Pinchot, Government Forester and personal representative of Mr. Roosevelt, had delivered an address on "Conservation of Resources," Judge E. Rakerf, of California, moved that it be sense of the convention that all duties on timber be repealed, in view of the statement of Mr. Pinchot that the supply of lumber in this country would be exhausted within 20 years if nothing was done to protect them. The motion was seconded. It was then moved that the resolution be referred to the commitadopted earlier in the day, when the motion of Matthew Dougherty, of Utah, as amended by Judge Raker, was carried.

Delegate White Smith, of Invo County, California, one of the prominent figures in the movement that means the airing of the alleged grievances of the so-called "kickers" from Owens Valley, Yuma and He realized that the adoption of the resolution meant the shutting off of debate. Mr. Kiesel, of Utah, also arose to

Mr. Smith continued to speak and urg the right of debate, when he was ruled out of order by Congressman John Henry Smith, of Utah, who was acting as tem porary chairman. The Inyo representative did not subside for some minutes, but finally Mr. Kiesel asked Mr. Pincho what is being done in the way of reform

egislation. The answer was satisfactory. out Mr. Fairweather, of Fresno, brought matters to an issue by asking Mr. "Are you in favor of admitting lumber free into this country?"

Pinchot Smoked Out.

In reply Mr. Pinchot said: "You have smoked me out." He said ne declined to take a public stand on the question for the reason that if the Forest Service had declared itself in favor of the admission of lumber free into the United States, it would have secured the united opposition of the lumber intersts instead of what it has now, the united support of these interests, which own four-fifths of the forests of the

It was this latter remark that was used t the afternoon session by White Smith, when he made an impassioned talk expressing alleged grievances. When the



A. Williams, of Oregon, Who gation Congress

close of the programme was reached it was announced that George Otis Smith, of the Geologacii Survey, had not arrived in time to speak, and that any delegate who desired to be heard might address the congress. White Smith arose and said he did not think any delegate was opposed to clamation and forestry, but that it was not a question of what, but of how. He said the congress had heard from only one side

"Let some man be called," said Mr smith, 'who may present hte other side, All we ask is fair play and that no cutand'-dried programme be forced down our throats. I as one delegate demand some voice in the proceedings."

Yama Valley Kicker Heard.

Associate Justice Nave, of Arizona, suggested that Mr. Smith be allowed threequarters of an hour to address the conand accordingly he took the platform He said the people could not be properly represented in the Irrigation Congress if men of practical experience could not have more voice. Referring to the remark of Mr. Pinchot, the Inyo County man said the Government officials are evidently afraid to stand forth in the interests of the poorer classes, as shown by the statement that they do not want to gain the opposition of interests like those controlling four-fifths of the timber in the United States. Mr. Smith then turned his attention to Mr.

(Concluded on Page 3.)

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TAFT ACCEPTED AS BEST CHOICE

Worthyto Be Successor to Roosevelt.

STANDS BY POPULAR RIGHTS

Would Govern for People and Not for Interests.

PROVED BY GOOD SERVICE

Roosevelt's Decision to Retire Taken as Final and Reliance Placed in His Judgment as to Best Successor.

OREGONIAN NEWS BUREAU, Washtion of President Roosevelt has completely subsided in the East. Newspapers that once speculated on the third term, or so-called "second elective term," no longer devote space to the subject, and politicians who once discussed the possibility of Mr. Roosevelt's

nation, no longer mention the President

in connection with the next convention. This change is apparently due to two things: People are beginning to realize that the Fresident was in carnest when he said he did not want and would not accept another nomination, and Republicans who heartly approve the course of Mr. Roosevelt are awakening to the fact that Secretary Taft is well equipped to take up the reins of office when Mr Roosevelt lays them down. In Mr. Taft the party seems to have a candidate who in every way fills the bill; indeed, Mr. Taft appeals to certain Republicans who look upon Mr. Roosevelt as too radical

No Wall-Street Taint.

Before Mr. Taft started on his tour around the world, enemies of his declared that he would be unsafe; that he would be subject to dictation from Wall street, and that he would be less vigorous than Mr. Roosevelt in the prosecution of the law, breaking trusts. But the Secretary has spoken on these issues, and his words apparently carried conviction to those who heard or read them. Moreover, it is not to be presumed that the President would show such confidence in Mr. Taft if he believed Mr. Taft would turn out a weakling and permit himself to be swayed by the money interests. The President has had a better opportunity than any one else to study Mr. Taft and find out what is in him, and it is his opinion, after years of association and collaboration, that Mr. Taft is big enough and strong enough and honest to fill the Presidential office with more satisfaction to the country than any other one of the men who are aspirants for the place.

Carry Out Roosevelt Policy.

No one questions the desire of the President that his policies shall be carried out after he retires from the White House. More than any other man he is anxious that the prosecution of the lawbreaking corporations should be pushed until the last one of them shall be brought to bar. Likewise he wants to see a man in the White House who will keep after the railroads until they show a universal respect for the law and until they deal with the public squarely and fairly. What is equally important, Mr. Roosevelt wants a man in the White House who will be close to the people and who will work for the people and not for the special interests. Mr. Roosevelt knows well Mr. Fairbanks, Mr. Knox, Mr. Cannon and all the other aspirants for the Republican nomination, and it is his opinion that Mr. Taft is the one among them who comes nearest his ideal. If the President, knowing personally and intimately all the various candidates, picks Mr. Taft, and if the President is extremely anxious that Mr. Taft should be nominated, and if he still adheres to his statement that he himself will not be a candidate. Is the most natural thing in the world that thousands of Republicans, with unbounded confidence in Mr. Roosevelt,

should begin to look with favor on Mr. Taft as a possible nominee in 1908. Captions Critics Silenced.

Mr. Roosevelt would not favor Mr. Taft as against other candidates if he selleved any of the others better equipped than the War Secretary. There is nothing selfish in the selection of Mr. Taft; it is an honest choice of an honest man. Mr. Roosevelt has no fear that his successor will outshine, him chances are that he will not; that none of the various men named would attain fame greater than that of Mr. Roosevelt, but whatever the future may develop, that condition is not a factor in the President's choice. He has picked Mr. Taft because he believed in him and because he believed that Mr. Taft could be elected if nominated.

elected if nominated.

It is strange to note that there is no more criticism of Mr. Taft because he is Mr. Roosevelt's choice. When the Taft boom first had the endorsement of the President, there was a great deal of talk about Mr. Roosevelt undertaking to dictate to the party what it should do, and stories were sent broadcast that no man could be nominated if it became known that he was "Roosevelt's favorite." These reports stated that no man who wore "the Roosevelt yoke" could hope to secure the nomination reference always being made to Mr. Taft. It has since been discovered that all such reports emanated from the Foraker amp, and since the exposure there has been no more talk of Mr. Taft's unavail-ability "because he is Roosevelt's choice." The fact that Mr. Taft is Mr. Roosevelt's hoice will help him immensely; it will not create adverse sentiment.