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## BULLER BROUGHT TO STANDSTILL

His Dispatches Amount to An Explanation and Apology.

### BOER FIRE CAN'T BE FORCED

The Positions Occupied by the Enemy Will Have to Be Carried by Night Attacks—London Uneasy.

LONDON, Jan. 24, 4 a. m.—General Buller's great turning movement, of which so much was expected, has come to a standstill. His carefully-worded messages to the war office telling this, after a silence of two days, reads much like an apology and an explanation.

General Warren still holds the ridges but the enemy's positions are higher. British artillery is playing on the Boer positions and the Boers are replying. The British infantry is separated by only 1400 yards from the enemy but the approach to the steep slopes across the bare and open space would expose the British to a fatal rifle fire.

General Buller's plans have reached their development. He declines to send his infantry across this zone against formidable positions by daylight and disclosed his purpose to assault Spionkop heights during the night. This appears to be a key to the Boer defenses. If he takes it and thus commands the adjacent country, an important and possibly, decisive step, will have been accomplished.

It seems that General Buller's dispatch reached the war office rather early in the night and that it was decided not to give out the message till morning. But at 2 a. m. copies were sent to the newspapers.

The Post and Standard touch lightly upon the unpleasant features of the dispatch and take hope from the projected night attack. But, all in all, the dispatch looks like a preparation for worse news.

Apparently, Lord Roberts has nothing whatever to do with Buller's operations, Buller communicating with the war office direct. The fact that the judgment of Lord Roberts has not been sought does not add to public confidence.

Special dispatches heliographed from Ladysmith Monday say the garrison has ceased to speculate regarding the precise date of its probable deliverance.

### LONDON, Jan. 24, 2:50 A. M.

Contrary to the announcement made shortly before midnight by the war office that nothing further would be issued before Wednesday forenoon, the following dispatch from General Buller, dated at Spearman's January 23, at 6:50 p. m., has just been posted:

"Warren holds the position he gained two days ago. In front of

him at about 1400 yards, is the enemy's position, west of Spionkop. It is on higher ground than Warren's position, so it is impossible to see into it properly.

"It can be approached only over bare, open slopes and ridges which are held by Warren and which are so steep that guns cannot be placed on them. But we are shelling the enemy's position with Howitzers and field artillery placed on lower ground behind the infantry.

"The enemy is replying with creosote and other artillery. In this dual the advantage rests with us, as we appear to be searching his trenches, and his artillery fire is not causing us much loss.

"An attempt will be made to seize Spionkop, the salient point of which forms the enemy's position facing Trichard's, and which divides it from the position facing Potgieter's drift. It has considerable command over the enemy's entrenchments."

### THE BATTLE RAGES.

Boers Making Desperate Efforts to Make an End at Ladysmith.

BOER HEAD LAAGEL, Ladysmith, Monday, Jan. 23.—Battle has been raging along Oliver's Hook since Saturday between the Boers and 6,000 British. The fighting is in full swing at Spionkop. The Boers under two generals have been sent thither. The British, elsewhere are only making a reconnaissance of the Boer positions. President Steyn, was under fire at the foremost position of the Free Staters.

### NO WORD FROM BULLER.

The British Now Conceded to Outmatch the Boers in Artillery.

LONDON, Jan. 23.—The war expert of the Leader writes in today's issue: "Not a word came from Buller yesterday, good or bad. We do not think he would have refrained from reporting his night had he any good news. "One thing only we know—the enemy at length is outmatched in artillery, but his supremacy in rifle fire seems to remain.

"It is unnecessary to make any remarks upon the composition of the staff of the Eighth division (the latest division organized) save that another guardsman is pushed up two steps by the vicious old system. This rule commands itself to a secretary of state for war, most of whose relatives are in the household troops.

"Lord Methuen got his command because he is a guardsman."

### THOMAS DUE TOMORROW.

Transport Bearing Bodies of Lawton and Logan Nearing San Francisco.

SAN FRANCISCO, Jan. 23.—The transport Thomas, which has on board the bodies of Major-General Lawton and Major John A. Logan, Jr., is expected to arrive from the Philippines on next Thursday or Friday. Mrs. Lawton is accompanying the remains of her husband, which are to be buried with honors in Arlington cemetery.

Major Logan's body is to be buried at Youngstown, Ohio, the home of his wife and her family.

Under orders from the secretary of war, Major-General Shafter and a squad of soldiers will escort General Lawton's remains East.

### MONEY FOR TROOPS.

Transport Pennsylvania to Take Out Gold to Pay Men and Officers.

SAN FRANCISCO, Jan. 23.—The Pennsylvania, which is under orders to sail from this port on January 25, will carry funds for paying off the United States troops now in the Philippines. Major William Comegys, paymaster, U. S. A., is assigned the duty of acting as custodian of this fund, which will amount to about \$1,250,000.

## QUAY WILL BE TURNED DOWN

Majority Report of the Committee Against His Admission.

### MANY PRECEDENTS CITED.

Same Reasons Which Impelled the Senate's Action in the Corbett Case Apply to Quay's.

WASHINGTON, D. C., Jan. 23.—The reports of the committee on privileges and elections in the case of M. S. Quay, who claims a seat in the United States senate on the strength of an appointment by the governor of Pennsylvania, were presented in the senate today.

The majority report opposing the seating of Mr Quay was signed by Senators Caffery, Pettus, Turley, Harris and Burrows, the last named the only republican signing it. The minority report bears the signatures of Senators Hoar, Chandler, Fritchard and McComas, all republicans, and advocated giving the seat to Mr. Quay. The majority report first reviews the circumstances under which Mr. Quay's appointment was made, including the failure of the Pennsylvania legislature to elect a senator. It then says:

"After a vacancy in the office of United States senator occurs or comes to pass, if the next legislature does not fill it, it continues to exist. It is the same vacancy, not a new one. Now the state executive is given power to make a temporary appointment in case of a vacancy, not as long as it continues or exists, but only until the next meeting of the legislature, which is then required to fill the vacancy.

"This clearly means that the paramount intent to have the legislature choose the senators is to prevail and that, whenever the legislature has had the opportunity to fill the vacancy either before or after it occurs, the executive has no power to appoint. And when we take the phrase if vacancies happen by resignation or otherwise during the recess of the legislature of any state, if we concede that the general word 'otherwise' is not qualified nor limited by the specific word 'resignation' and that it includes vacancies which are caused by efflux of time and which can be foreseen as well as vacancies which are caused by a casualty or the happenings of an unexpected event and which cannot be foreseen, still it must be construed and defined with reference to the balance of the phrase so as to give effect to all its parts; and it thus results that the vacancy, no matter how it is produced, must happen, take place or begin during a recess of the legislature; and this of itself would be decisive against Mr. Quay's claim."

Continuing, the report says:

"Thus construed, this clause of the constitution affords every facility for always keeping the senate filled with senators who are real representatives of their respective states. A senator who is chosen by the legislature of his state is likely to be the choice of the majority of the citizens of his state. A senator who is appointed by an executive is frequently only the personal or political favorite of the executive.

"The legislature, as we construe the clause, chooses the senator in the first instance. If he declines to serve or dies before he is inducted into office, or if after qualifying, he dies, resigns or is expelled, the executive may make a temporary appointment until the legislature meets again; or, if, owing to changes in state constitutions, the legislature which is authorized to fill the term at its commencement cannot meet until after the term commences, the executive can also make a temporary appointment.

"Every contingency is thus provided for except the sole contingency that the legislature will fail to perform its sworn duty. Against a contingency of this kind the framers of the constitution did not intend to provide."

After discussing at length the circumstances under which the constitution was framed, the majority announces its conclusions as follows:

"We think that the framers of the constitution never contemplated nor

intended to provide for a case where a state, by its own deliberate act, should deprive its legislature of the power to fill an entire term at its beginning. In our opinion they never intended to give the executive of a state the power to fill an entire term by original appointment unless possibly, in a case where the legislature had chosen and the person elected had refused to accept or died, before qualification. In other words we conclude that the power of appointment was not to be exercised unless the vacancy occurred in the recess of the legislature and was occasioned by some casualty like death or resignation.

The report then quotes numerous precedents beginning with that of Keny Johns of Delaware, in 1791, and closing with the case of Henry W. Corbett of Oregon, in 1898. It then ends as follows:

"The statement of these cases and precedents shows that from the beginning of the government to the present time the senate has never recognized the right of a state executive to make a temporary appointment, where the vacancy happened or occurred during a session of the legislature. It shows that for 75 years the senate has refused to recognize the right of a state executive to make a temporary appointment, even where the vacancy happened or occurred during a recess of the legislature if the legislature, either before or after it occurred and prior to the date of the appointment, had had an opportunity to fill it.

"The fundamental principle thus established is that if the legislature either before or after the happening of a vacancy has had an opportunity to fill it, then there is no power in the state executive to appoint. The result is fatal to the claims of Mr. Quay. No danger or evil has resulted to the government from the enforcement of this principle.

"We therefore submit that the senate for its own honor and dignity should stand by its previous solemn and deliberate decisions."

The minority report takes the opposite view. Quoting section three, article one, of the constitution, the minority says that the failure of the governor to call the legislature together to elect a senator does not act to deprive the governor of the power of appointment. Referring to the constitutional provision the question is asked:

"Does the language of the constitution of the United States mean just what the constitution of the Commonwealth of Pennsylvania says, in case of a vacancy in the office of United States senator in a recess between sessions or does it mean that the vacancy must be one which comes by chance, or that it does not apply at all to the case of a vacancy at the

(Continued on Page Two.)

## STANDARD OIL IN A BLAZE

Warehouse Burned Out Yesterday in Portland.

### THE LARGE TANKS SAY

An All-Day Fire Which Required Hard Work to Subdue.—Loss Estimated at \$20,000.

PORTLAND, Jan. 23.—The one-story brick warehouse of the Standard Oil Company, located on East Water street, was totally destroyed by fire this afternoon, entailing a loss estimated at \$20,000. The fire started in the basement, under the storeroom, where a large amount of oil in cases was kept. The entire fire department of the city was called out, and their efforts were directed toward saving the oil tanks where 1,500,000 gallons of oil was stored. Every few minutes a case of oil would explode and sheets of flame leaped hundreds of feet into the air. For a time a high wind prevailed, which spread the burning oil over several acres and it was with great difficulty that the firemen saved the other warehouses in the vicinity.

The fire burned fiercely all day and it was late tonight before the lake of oil had burned out. Several engines will be kept throwing water on the ruins all night to prevent the fire from spreading. Had the flames reached the huge tanks of oil on the premises the loss would have been much heavier.

There was no insurance on any of the property.

Wm. Goldman, the well-known life insurance man of Portland, was in the city yesterday. Mr. Goldman states that the 31st of December closed the most prosperous year in the history of his business. He states further that the outlook for the new year is even more promising.

## Suggestions to Astorians

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