

# OLCOTT'S STATUS STILL PERPLEXING IN STATE CIRCLES

## Five Judges Out of Seven Opine That He Can Resign as Secretary and Name Successor.

### DIFFERENT OPINIONS GIVEN

## Others Declare That When Elected to Former Office He Was Also Elected as Governor.

(Continued From Page One)

aplenty for support of their contention. For, they say—and Attorney General Brown, himself, has so remarked on several occasions since preparing his opinion for the guidance of Mr. Olcott—until the constitution is changed or the supreme court reverses itself in the Chadwick v. Earhart case, the attorney general is bound to follow the holding of the court in that case.

Attorney General Brown's opinion, prepared for Governor Olcott was based upon the state constitution and the decision of the Oregon supreme court in Chadwick v. Earhart and the annotation of Judge Lord to section 5, article V of the constitution, which annotation reads: "Under this provision, when the governor resigns, the duties of the governor's office devolve upon the secretary of state, who continues to perform them for the remainder of the term of the outgoing governor."

### PERFORMED BY OMISSION

Failure of the court to "get together" in a predominant opinion, it is contended, means that they have failed to nullify the effect of this opinion by which the attorney general—and in turn the governor—must be guided. Thus they point out, the court has performed by its omission what it failed to perform by commission.

Further satisfaction is found by those who support Attorney General Brown's view of the case in a summary of the five opinions. For the majority of the issues raised by popular clamor, if not by the case made, the court has said in effect:

That Ben W. Olcott is governor of Oregon in fact to serve out the unexpired term of the late Governor Withycombe.

That Ben W. Olcott can resign as secretary of state and appoint a successor without in any way impairing his right to the governorship.

### MCBRIDE AGREED WITH

Three judges—McBride, Bean and Johns—it is pointed out, have declared unqualifiedly that Olcott is governor in fact to serve out the unexpired term of Governor Withycombe. Justice Bennett, although refusing to express any opinion on this phase of the question, because he claimed that he properly before the court, did say that if he should don his official robe and attempt to give utterance to his "half baked street opinions" he would agree with Mr. Chief Justice McBride as to the result. Thus, it is contended, in effect if not in actuality, four members of the supreme court have expressed it as their opinion that Governor Olcott shall serve out the unexpired term of Governor Withycombe.

Three judges—McBride, Harris and Benson—it is again pointed out, have said, unqualifiedly, that Olcott can resign as secretary of state and continue to hold the office of governor. At the same time Justice Johns, while declaring that Olcott is governor in fact for the unexpired term of the late Governor Withycombe, refuses to express an opinion as to his right to resign as secretary of state and appoint a successor on the ground that this matter "is less a public and more a personal question to Mr. Olcott." Thus leaving a very plain implication that as governor in fact, he can do as he pleases with reference to the other office without affecting his status as governor. This opinion of Justice Johns is concurred in by Justice Bean.

### FIVE UNANIMOUS

Thus, it is contended, five judges of the seven, have in effect if not in actuality, declared that Olcott can resign as secretary of state and appoint a successor.

All five of the opinions handed down in this case are based upon the law as construed by the supreme court in the Chadwick v. Earhart case in October, 1918. The difference of opinions arises from a difference of interpretation of the result of that case as applied to the

present case. In this connection two widely divergent views expressed in the opinions of Justice Harris and Justice Johns are highly interesting.

Although inclined to question the wisdom of the construction placed upon the constitution by the court in the Chadwick case, Justice Harris accepts that construction as law and declares that for reasons of this interpretation Olcott is merely filling a vacancy in the office of governor, occasioned by the death of James Withycombe, being "appointed" to that office by reason of his incumbency in the office of secretary of state, and for that reason can hold the office of governor only until the people shall have had an opportunity of electing Withycombe's successor at the next general election in November, 1920.

### JOHNS TAKES EXCEPTION

Justice Johns, on the other hand, contends that no vacancy has ever existed in the office of governor; that immediately upon the death of Withycombe, by reason of the fact that Olcott, then secretary of state, he automatically became governor, and when he took the oath as such the office of governor and the title to that office were transferred to him. "I am of the opinion," he says, "that he became and is now governor in fact and is entitled to hold that office, perform all of its duties and receive its emoluments for the full period of the unexpired term to which the late Governor Withycombe was elected."

Justice Harris contends that Olcott was not elected to the vacancy in the office of governor.

Justice Johns contends that a vacancy never existed in the office of governor, but that the office automatically devolved upon Olcott as secretary of state immediately upon the death of Withycombe.

"When the people elected Mr. Olcott secretary of state," he declares, "by the very terms of the constitution they elected him to become governor upon the death of Governor Withycombe. There was no vacancy in that office as the people, speaking through the constitution, have made their own selection."

And thus do the literal provisions of the constitution lend themselves to the conclusion of both the "pros" and "cons" in state house circles. However, this conclusion is by no means complete. The court, it is frequently pointed out, should have gone the whole length in the case and determined definitely Olcott's status as governor rather than leave it "up in the air" subject to the none too accurate speculation of the lay mind. These, and they are in the overwhelming majority, are inclined to lay considerable stress upon that part of the opinion of Chief Justice McBride, in which he declared that:

"With the question undecided and perhaps a large majority of the voters under the impression that Mr. Olcott's term will not expire at the next general election, the primary election for that office will be clouded with uncertainty and not conducive to intelligent selection."

"It is true that each of these questions could be presented later by two or more additional lawsuits; that, to use a homely simile, we could 'cut the dog's tail off by inches' instead of making one slash and finishing the business once and for all."

While the question of the propriety of the court's action upon that part of the opinion of Chief Justice McBride, in which he declared that:

"It is true the progress by inches would finish business for attorneys and capital for petty politicians, but it would not protect the interests of the public, which, as before shown, is to have these questions settled now."

Interest in statehouse circles divides itself into two general groups. In the one group are those who believe that Governor Olcott will seek a definite opinion from the court through another case. Two avenues are open to this end, it is pointed out: one by means of another mandamus suit in which the "moot" questions would be brought directly before the court; the other by means of the intervention of some outside party who might be induced to file a nominating petition for the office of governor and thus force a definite decision as to the length of Olcott's term.

In the other group are those who incline to the view that no further action is necessary, that Governor Olcott will be inclined to let well enough alone and continue in the administration of the affairs of the governor's office until the end of the term for which Withycombe was elected, unless the court should in the meantime, rule adversely on that phase of the question on the initiative of some other party.

However, in the absence of any statement from either Governor Olcott or Attorney General Brown, the anxious public must needs hold its curiosity in check until time shall have brought out further developments. The governor has been too busy since the court spoke to give time to the digestion of the voluminous documents bearing on his status as the state's executive, and Attorney General Brown, with the usual wariness of a lawyer, refuses to express any views until he shall have had time to thoroughly study the five separate opinions and get his opinion on paper.

However, on one point state house

circles are fairly well agreed. That Governor Olcott, as governor in fact—so declared by five members of the supreme court—will resign as secretary of state and appoint a successor in order that the state board of control shall have three members and that highly important state business now pending shall not be endangered by reason of any shortcomings in that direction.

# Robbers Overpower Storekeeper on His Way Home at Night

While on his way home from his store at 15 East Twenty-eighth street Thursday night about 10:30 o'clock, W. G. Wilson of 959 East Burnside street was overpowered and robbed by two men at East Thirty-first and Burnside streets. The men walked up behind Mr. Wilson. One of them jumped on his neck and held him, while the other ransacked his pockets. As they held his head high in the air, Wilson was unable to get a good description of the men. The highwaymen secured about \$2.50 in cash, a gold watch and valuable papers, but overlooked a cigar box full of money which he was carrying under his arm.

Motorcycle officers searched the surroundings but failed to locate any suspects. This morning Captain Circle assigned inspectors Snow and Tackaberry to the case. Several months ago Mr. Wilson was held up by two men. From the sound of their voices he believes the same men robbed him both times.

# Destruction of Mill By Fire Entailed a Loss of \$215,000

Loss of approximately \$215,000 resulted from the fire at the lumber mill of the Standard Box & Lumber company at Scofield, two and a half miles from Buxton, which was destroyed Wednesday afternoon, according to S. B. Cobb, secretary of the company. Insurance amounts to \$120,000, said Mr. Cobb.

The mill employed 200 men and was cutting 100,000 feet of lumber daily. The fire is presumed to have started from a hot box in the resaw department at about noon Wednesday and gained such rapid headway that efforts to extinguish it were unavailing.

Mr. Cobb stated this morning that his company has no yet determined whether the mill will be rebuilt. Four years ago the company's box factory in Portland was destroyed by fire and has not been rebuilt.

# Government Fears Bomb Outrages on Independence Day

Washington, June 13.—(I. N. S.)—Department of justice agents throughout the country have been instructed to take every precaution against possible bomb outrages on July 4, it was learned today.

While officials of the department that plans have been made by radicals to renew their campaign of terrorism which, as before shown, is to have these questions settled now. Interest in statehouse circles divides itself into two general groups. In the one group are those who believe that Governor Olcott will seek a definite opinion from the court through another case. Two avenues are open to this end, it is pointed out: one by means of another mandamus suit in which the "moot" questions would be brought directly before the court; the other by means of the intervention of some outside party who might be induced to file a nominating petition for the office of governor and thus force a definite decision as to the length of Olcott's term.

# GRAYS HARBOR TO SEND OUT 10 SHIPS

## San Francisco Firm Charters Vessels for Lumber Trade to United Kingdom.

Aberdeen, Wash., June 13.—That 10 Emergency Fleet steamers, under charter to Christenson, Hanify & Weatherwax, San Francisco, will come to Grays Harbor to load lumber cargoes for the United Kingdom was the announcement made by C. M. Weatherwax, of that firm, who is here for a visit. Each vessel will carry 1,400,000 feet of lumber, taking in all 14,000,000 feet from Grays Harbor mills, most of which will go to England. The firm of Christenson, Hanify & Weatherwax has charters for 25 ships to load lumber for England. The cargoes will consist entirely of ties and dimension lumber.

The outlook in the lumber market for the next year or two is especially promising. Mr. Weatherwax said he believes the Pacific coast will get more offshore and European business than it has ever before enjoyed. The fact that ships will be available will make possible the filling of many orders which it was impracticable to take heretofore owing to the lack of means of transportation. The emergency fleet steamers, Mr. Weatherwax says, are most suitable to the lumber business, not being adapted especially for dry cargoes. Besides European trade growth, Mr. Weatherwax expects to witness a revival of South American business.

# HELLO GIRLS OF COAST TO QUIT WORK MONDAY

Electrical workers will be held tomorrow night here. The Western Union reports but one employe on strike.

# KONENKAMP SAYS COMPLETE TIEUP TO BE IN EFFECT MONDAY

Chicago, June 13.—(I. N. S.)—Complete paralysis of the telephone as well as the telegraph systems of the country will be a reality by Monday, according to a statement made by S. J. Koenekamp, president of the Commercial Telegraphers' union, today. Koenekamp declared that telephone operators throughout the United States are preparing to join in the electrical workers' strike already fixed for Monday.

The strike of the electrical workers and the telephone operators, Koenekamp declared, will deal all forms of wire service a staggering blow and make victory certain in the strike of operators which began three days ago.

Koenekamp estimated the number of Western Union and Postal employes on strike today at 22,000.

J. G. Luhrs, president of the American Train Dispatchers' association, said today that 5000 members of that organization will support the telegraphers' strike in every way. Means of aiding the strike will be discussed at a convention which meets in Chicago Tuesday.

Canadian railway operators. It was announced today, have followed the action of the railway operators in the United States in refusing to handle commercial messages from this country.

Koenekamp also declared that the broker operators in New York, Chicago, San Francisco and other large cities undoubtedly would be called out if it was deemed necessary to win the strike.

The contemplated action of the broker men and the almost certain prospect of a strike of the International Brotherhood of Electrical Workers on Monday are factors counted on strongly by the telegraphers in their fight against the telegraph companies.

Meanwhile reports sent out by officials of the Western Union and Postal companies declare that many men who went out when the strike began three days ago are returning and that few additional employes have gone out since the beginning of the strike. Both companies claim to be operating very nearly on a normal basis.

# KEYMEN'S STRIKE INDORSED BY CENTRAL LABOR COUNCIL

The Central Labor council at its meeting last night gave its unanimous and hearty indorsement to the telegraphers in their strike for better wages and for recognition of their organization by the Western Union and Postal Telegraph companies.

With this support the striking keymen enter upon the third day of their contest with renewed hope of success. Reports from outside points are extremely encouraging, according to Vice President Preston of the national union of telegraphers. Mr. Preston stated this morning that two more Western Union operators, Miss Wheeler, formerly at the Benson tel., and A. H. Nelson an operator in the central office, have joined the strikers.

"These two are in addition to the list of three already acknowledged by Mr. Robb as having struck," said Mr. Preston, "and we have information from operators working in the Western Union office that the men are decidedly blue and about ready to walk out in a body."

# POSTAL SITUATION UNCHANGED

The situation at the Postal Telegraph company is unchanged. The messengers are still out and only one operator, a girl clerk in the central office, has been secured to take the place of the strikers.

Manager John Annand and the two chief operators are handling whatever business passes through the Postal office and its branches in Portland.

According to W. A. Robb, manager of the Western Union, trouble is expected in handling telegraph business with small towns in Oregon and other Northwestern states. The operators at Pendleton, Boise and other points are

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out and railroad telegraphers refuse to handle commercial messages from the Western Union and Postal companies.

# W. U. OPERATORS WEAKEN

With the prospect of a strike of telephone operators and electrical workers beginning Monday and the refusal of railroad keymen to handle commercial messages, telegraphers in the Western Union office are beginning to weaken, according to Mr. Preston.

"From reliable sources I am informed that dissatisfaction is general in the operating room of the Western Union office," declares Mr. Preston. "My informant is an operator for the Western Union and he states that plain clothes detectives are stationed in the operating room and at the entrance to the company's offices. The men are restless and dissatisfied and I have reason to believe that they will all be out by Monday morning."

# Indiana Willing to Call Extra Session

Indianapolis, June 13.—(U. P.)—Governor Goodrich announced today he would call a special session of the legislature to vote on the proposed woman suffrage amendment to the federal constitution provided enough states indicate they will take similar action.



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