ISSUED SEMI-WEEKLY TUESDAY AND FRIDAY

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INVOLVES QUESTION OF HIGH SCHOOL FOR SALEM

School Board Members and Examining Board Clash

EXAMINATION OF THE TEACHERS

Is Insisted Upon by the Former But the Latter Say "Never"

There is more and more serious trouble—or rather difference of opinion—between some of the members of the Salem school board and there is a strong likelihood of a clash at the next meeting of the board if things are not straightened out amicably in the meantime. The new dimculty has arisen over the establishment of a high school course in the Salem school system, in preparation for which a course of study for the higher grades has been outlined and adopted and a corps of teachers selected to carry on the work, and now Chairman Condit has raised the contention that Salem has no legal right to establish a high school course, under the election of 1904, and the row has been started through the action of the district board of examiners, notwithstanding the action of the school board at the last meeting to the contrary, in ordering the teachers elected to each the high school courses, without previous notice, to appear before them and take written examination as to their respective qualification to fill the position to which they were elected.

The principal point of dissention on the part of several members of the board hinges on the question of the jurisdiction of the examining board, which is composed of County Superintendent E. T. Moores, City Superintendent Powers and Director Condit, over the high school courses and the board's authority to compel teachers to take the examination before permits to teach are issued to them. Nevertheless the four instructors have been notified to appear before the board to take the examination this morning and it remains to be seen whether or not they will comply with the request or stand upon their rights and refuse to submit to the examination according to the action of the school board Monday evening, in instructing the examining board to issue them permits without the examination.

Important developments in the case are expected to come up today when decisive action is taken, either by the teachers in refusing to submit to the examintaion or that of the examining board when such a condition arises. If the examining board insists in carrying out the program now mapped out and declares the teachers' places vacant, in case they decline to take the examination, the matter is likely to get into the courts in order that their rights may be definitely determined. According to an opinion rendered by Attorney General Crawford, through his assistant, I. H. Van Winkle, by special request last night, the examining board has no jurisdiction over the teachers of the grades above the eighth and the matter of granting or refusing them permits to teach is left to the discretion of the school board, which has the sole power to elect as to their qualifications in a district of the first class, such as Portland and Salem.

The whole questions revolves around the point of whether or not the district examining board of a district of the first class has the right to require teachers teaching in the high school or in grades above the eighth in such districts to appear and pass an examination before said board, despite the action of the school board of that district, and the effect of the attorney general's opinion is that it has not and that teachers elected to teach in any grade above the eighth, in such district, may be granted permission to teach without examination if they be graduates of a college or university, recognized by the school board as sufficient, or if they possess a state certificate or diploma. All of the teachers elected to teach in the Salem high school are graduates of colleges and universities of high standing and one of them, the principal, has a state diploma, and at least two of the members of the school board, Lee and Epley, contend that they do not have to submit to an examination and they felt constrained to notify the teachers to that effect this morning. Such action on their part, aowever, will probably not be taken as they will leave it to the choice of the teachers themselves.

There are five teachers, elected for the high school course, who will be effected by this proceeding, including E. T. Marlatte, who is principal of the high school, a graduate of an eastern college and holder of a state diploma; Alice M. Richards, a graduate of Stanford university; Lila Swafford, a graduate of Willamette; Erma Clarke, a graduate of Willamette and the Ohio Wesleyan, and Sofia Townsend, who holds a state certificate and is exempt from examination as the attorney general's opinion is correct. If it should be decided that they are not qualified to teach unless they take the examination and they should refuse to submit to it, the whole high school system, as planned will have been disrupted on account of the near approach of the opening of the schools.

The question of the issuance of permits to the high school teachers came up for consideration at the special meeting of the school board Monday night, when Director Lee moved, and the motion was carried, though Chairman Condit was inclined to the belief that it was out of order, requesting the board of examiners to act upon the qualifications of the teachers in the high school and grant permits according to the action of the school board in electing as to which college and university diplomas would be recognized. Chairman Condit was present and it was not thought there would be any further need for action in the matter. The board of examiners, however, held an informal meeting later and decided according to the dictation of the majority, to summon the teachers up for examination. When informed of this action Director Lee looked the question up and found that Attorney-General Crawford had rendered an opinion upon this very point last year to Superintendent Ackerman. He called the attention of Chairman Condit to this fact when Mr. Condit, at a subsequent conference of the examination board, raised the question of the authority for the establisnment of a high school upon the ground that the question voted on at the election of 1904, when Director Lee was elected, was not upon the establishment of a high school but grades "above the ninth." An examination of the records proves this latter to be true, but according to the opinion of the attorney-general, the point isn't well taken in this case as the jurisdiction of the board is confined to the grades below the ninth.

Director Epley, desiring to make certain of their position, called upon the attorney-general last evening and secured a special opinion touching upon this case in particular, and the full text of this opinion is printed herewith.

Theory Is Exploded.

"Dr. H. C. Epley, Member Board of Directors District No. 24 of Marion County, Salem, Oregon.

Dear Sir:

Replying to your inquiry as to whether the special examining board of a school district of first class has the right to require teachers teaching in a high school or in a grade above the eighth in such district to appear and pass an examination before said board, I have the honor to reply that in my opinion it has not.

Such a special examining board is created by the board of directors of any district of the first class and the county school superintendent of the county in which such district is located is ex-officio chairman of such board examiners, and the city superintendent is also a member. This board of examiners is appointed to examine such applicants for teachers' certificates to teach within the district who are not holders of county or state certificates or diplomas, but have no jurisdiction over teachers teaching in the grades above the eighth.

The qualifications of teachers in the high schools in this state are prescribed by law and are as follows: "Teachers employed in high schools, organized under the provisions of this act, shall be graduates of the state normal schools of the state, graduates of some institution of collegiate or university grade, or shall be the holder of a state certificate or diplomt." You will notice that the above enumerated qualifications do not include a certificate or diploma from a special examining board of a district of first class.

Grades above the eighth grade in this state constitue a high school and can only be established by authority of a majority vote of the legal voters of any district at an election called for that purpose as provided by the statute. Subdivision 26 of section 3389 of Bellinger & Cotton's Annotated Codes and Statutes of Oregon provides the manner in which such an election shall be called, and also provides that the legal voters shall vote whether or not grades above the eighth shall be established. Section 3429 of the above mentioned code also provides for the establishment of high schools by any district. The manner of taking the vote provided in both sections is the same and under the well known rule of statutory construction that statutes are to be construed in pari materia and that both shall stand unless there is an unreconcilable conflict, I am of the opinion that both of these sections mean the same thing; that is, the establishment of a high school which ever method is pursued, if the vote is to establish grades above the eighth, or to establish a high school, the result is the same.

Very Respectfully Yours,
A. M. Crawford, Atty. Gen.

Directors Are Determined.

An effort was made last evening to obtain a statement of their respective positions upon the question from the members of the district examining board, but none of them could be conveniently reached. It is understood, however, that they are set in their purpose, at least the majority of the board is, and that they will insist upon the teachers taking an examination today. Director Epley looks upon the matter as an attempt to block the progressive work in the public schools and is determined to fight the move to a standstill, although he preferred not to be interviewed upon the subject. Director Lee, however, when seen late last evening, although averse to talking for publication, admitted the existence of the dissention among the members and consented to make the following brief statement, setting forth his position:

"There was never any question in my mind about having a high school. I supposed the matter was definitely and properly settled at the time I was elected director and the vote of the people taken on the subject of high school, and I think the people in general are of the same opinion.

"The board of directors adopted a course of study for the full four years' work of a high school without a dissenting vote, and I do not see what we lack of having a high school even though the ballot may read, grades above the ninth, and according to the decision of Attorney General Crawford of February 25, 1904, to Professor Ackerman, I can see no good reason for compelling these teachers to take this examination at the last minute."

Future developments in this dispute will doubtless be watched with interest, and they are expected to arise very soon.

LOOMIS FAMILY REUNION.

HARTFORD, Conn., Sept. 27.—The annual reunion of the Loomis family took place here today at the Wadsworth Athenæum annex. Those who attended the meeting this morning were invited to be the guests of the Loomis institute for luncheon. This institute was formed by members of the family in 1874, bequests being made for the purpose of building a school on the site of the old Loomis homestead in Windsor, where boys and girls between the ages of 12 and 20 can be taught various branches of learning.

ARE GUILTY AS CHARGED

JURY BRINGS IN VERDICT IN LAND FRAUD CASE.

DELIBERATED ONLY SIX HOURS.

Congressman Williamson, Dr. Van Gesner and Marion R. Biggs the Three Defendants.

Conspiracy to Suborn Perjury in Manner of Securing Government Land In Charge—Another Big Victory for Heney—Motion for New Trial.

PORTLAND, Sept. 27.—After being out less than six hours, the third jury which heard the testimony of the government against Congressman Williamson, Dr. Gesner, Williamson's partner in the livestock business, and Marion R. Biggs, a Prineville attorney, at one time register of the federal land office at that place, tonight found all three defendants guilty of having entered a conspiracy to suborn perjury by inducing locators to fraudulently file on government land, providing them with the money so to do, under agreement that these persons convey title to Williamson and Gessner when the patent was secured from the government.

Shortly before 11 o'clock notice was sent Marshal Reed an agreement had been reached, and Judge Hunt, District Attorney Heney, the defendants and attorneys were summoned to the federal court room.

It was five minutes after 11 when Judge Hunt ascended the bench; Williamson, Gesner and Biggs previously arrived with their attorneys. Heney did not arrive in court before the verdict was read.

Judge Hunt immediately ordered the jury brought into the court and received the verdict from the foreman. He opened it, handed it to the clerk of the court, who read:

"In the case of the United States against John N. Williamson, Van Gesner and Marion R. Biggs.

"We, the jury, find the defendants guilty as charged."

Judge Hunt addressed a few words to the jury, thanking them for their patience and attention during the three weeks which it has taken to try the case, and discharged them.

Save for the silence of the solemnity attending the occasion there was nothing dramatic in the event. Even less so than at the two previous trials, when disagreements were returned. Williamson sat slightly apart from the other defendants, rocking his chair back and forth, apparently less concerned than the flushed and embarrassed jury during the reading of the verdict. Gesner and Biggs, with several friends, sat in the front of the rail at the rear of the bar, and rivalled Williamson in immutability of countenance.

Judge Bennett, attorney for the defendants, moved the defendants be given a new trial. Judge Hunt put the matter of hearing the motion off and the court adjourned.

The case, of which this is the third trial, commenced September 5. Little testimony was introduced differing from that of the two previous trials, and in the main the arguments of the attorneys were the same. Heney finished his argument in rebuttal late today and Judge Hunt delivered the charge to the jury, after which it retired to deliberate.

The verdict, in view of the two previous disagreements, was a surprise except to Heney, who maintained throughout the case it became stronger at every presentment to the jury.

GRADUALLY DYING OUT.

NEW ORLEANS, Sept. 27.—The report upon the fever situation to 6 p. m.: New cases, 19; total, 2918; deaths, 5 total, 380; new foci, 5; cases under treatment, 272; discharged, 2266. Encouraging to a high degree was the report today on the number of new yellow fever cases.

Fumigating gangs were put to work in the various public school buildings. The remarkable feature of the report today is the small number of new cases, the smallest report of any day since the early days of August. News from the country showed steady improvement.

OLNY SEES DANGER IN IT

DECLARES OPPOSITION TO RAILROAD RATE LEGISLATION.

WOULD PROVIDE NO RELIEF

Would Mix up Rights of State with Those of the Government.

Mr. Olney's Letter Is Brought Out by Bryans Communication to President Roosevelt—First Public Utterance for Years.

NEW YORK, Sept. 28.—The reply of the conservative wing of the Democratic party to W. J. Bryan's recent open letter to the president on railroad rate legislation is contained in an article by Richard Olney in the October number of the North American Review published today. in what is practically his first public utterance in two years, Cleveland's former secretary of state presents his final judgment against the proposed legislation, in the form of a brief, covering not only law, but the public policy involved in the agitation. The following are some of the salient features of Mr. Olney's argument:

"The importance of the rate making power is not to be considered simply in its relation to the carrier. The most important bearing of the power is upon the public interests the carrier serves. It is a matter of common knowledge—of which the courts take cognizance without proof—that the great carriers of the present day are the railroads. It is equally a matter of common knowledge that the rates charged by the railroads affect all classes of the community, that they determine very largely the outcome of all private enterprises, and upon them hinges only too often the material well being if not the very existence of towns and cities and seaports and large sections of country. Surely a power, the exercise of which is fraught with such consequences is not to be classed legany or practically with the power of determining the 'cup quality' of teas. The latter may well be delegated to an executive officer, or board, but to delegate the former, the ultimate rate making power for railroads, to such an officer or board would be a surrender by the legislature of one of its most important functions."

In discussing the effects of government regulation upon railroads, Mr. Olney says:

"The situation to be anticipated then is that railroads—private properties and representing private investments aggregating billions of dollars—will find themselves controlled in the vital matter of their charges; not by their private owners, but by two public boards—one representative of local interests and the other of national interests, and both antagonistic to the interests of the private owners concerned. The two boards will aim at the lowest possible rates, each in behalf of the particular business under its charge, and will therefore be in constant rivalry with each other in the endeavor to extort from the carrier the best service at the smallest cost. Under these conditions anything like skillful, just, reasonable or stable rate-making becomes impossible. A situation is created intolerable alike to the carriers and to the public and the sure outcome—unless the whole scheme of government rate making be abandoned—is government ownership.

"Government ownership of all railroads is obviously the goal toward which some of the government rate makers are striving, while others, it not welcoming it and not working for it, profess not to fear it and claim that it would at all events be an improvement upon the present status. But point to existing instances of government ownership of railroads—the on claiming that the results to the public are distinctly, the other that they are at least not as detrimental as is sometimes declared. But when government ownership of the railroads of the country is seriously considered our dual political system is at once seen to present problems of the gravest character. The few and comparatively unimportant railroads that are wholly inter-state may be properly ignored. Every railroad of consequence is engaged in both kinds of transportation—in transportation that passes beyond state lines. Hence, if government ownership of railroads be regarded as the inevitable sequence of government rate making—the first question is, which government is it that is to own the railroads—the state or the United States.

"The significance and importance of the inquiry," continues Mr. Olney, "are apparent if we remember that the railroad is only one species of highway, and that what is true of railroads must be true of ordinary highways. The jurisdiction of the national government must be the same in both cases. If it is competent for the national government under the commerce clause to own and operate all the great railroads of the country it must be also competent for it to own or control and operate all the great highways of the country.

"Is it by any possibility true the national government has granted any such powers—that as respects every road or street in the country which is a link in inter-state communication, the the national government may at its option, take complete possession and control, may direct the mode of its construction, its grades, the sort of vehicles by which it may be used—may, in short, assume its entire management and operation in all the most minute details—nothing could be more revolutionary in practice—nothing more contradictory of the views customarily held. It is necessary to consider most carefully, therefore, whether the powers in question are actually conferred on the national government—it being conceded, as it must be, that the power can be deduced if at all, only from the commerce clause of the constitution."

In summing the opposition to the proposed legislatoin Mr. Olney reached the following conclusions:

"Ours is a government in both state and nation by political parties and to political rate making for railroads—rate making by politicians aniamted by partisan motives and working for partisan ends—the objections of economic and business character—and on the score of public policy generally are unbusiness like as they should prove insuperable.

"The purpose of the present paper is to point out that, beside such objections railroad rate making by the national government presents legal and constitutional difficulties of the most serious character. It raises issues which concern the division of power between the several states and the United States—which have not been fully and finally passed upon by the national supreme court, and which, if submitted to that tribunal, half or even a quarter of a century ago would in all human probability have been determined adversely to the jurisdiction of the general government."

NO ORDINARY PETTY THIEF

CLEVER FORGER VICTIMIZES BIG NEW YORK BANK.

OBTAINS VALUABLE SECURITIES

Upon Forged Check upon Stock Brokers to the Abount of About $360,000.

Detectives Employed in Case Think They Have Clew to Identity of the Forger—Transfer of Securities Stopped—Peculiarities of Case.

NEW YORK, Sept. 28.—The details of a scheme whereby a national bank of this city was recently victimized by a clever forger came out today. The forger presented a bogus check bearing the name of a well known stock exchange firm and received in return securities valued at about $360,000.

Pearl & Company, stock brokers, at 27 William street, recently negotiated in one day the loan of $300,000 with this unnamed institution. On Wednesday a check for the amount of the loan, plus $37.50 for one day's interest, was presented at this bank by a stranger, who received the securities deposited by Pearl & Co. for their loan. The bank on which the broker's check was drawn was one with which Pearl & Co. never had an account, so the forgery was not discovered until the check passed through the clearing house when it was promptly branded as fictitious.

A private detective agency was at once called in and the transfer of the securities was immediately stopped. The detectives intimate they have a clew to the identity of the forger, who is believed to have had one or more accomplices. It is believed the forger had intimate knowledge of Pearl & Co.'s affairs. E. A. Slayback, jr., a member of Pearl & Co., said: "I have been asked not to divulge the name of the bank concerned. I can only say it is rich and if the forgery will involve any loss, the bank will be amply able to stand it.

"The odd amount of the forged check," added Slayback, "represents a day's interest at 4½ per cent. As a matter of fact, the loan is recorded on our books at 4¼ per cent. Clearly somebody must have had knowledge of the loan. Yet had it been some one in our employ the interest would have been computed at 4¼ per cent."

The securities offered by Pearl & Co. for their loan and surrendered by the bank for a piece of worthless paper include 1000 shares of United States Steel common, 1000 shares of Rock Island common, 1000 shares of the Metropolitan Street Railway, 700 shares of Missouri Pacific, 200 shares of North American Company, forty-seven American Tobacco Company bonds and some Wabash bonds.

MAY DECIDE TODAY.

Judge Humphrey Hears Closing Argument in Packers Abatement Plea.

CHICAGO, Sept. 28.—Judge Humphrey today heard the closing arguments in the plea in abatement filed by the packers against the indictment charging them with illegal methods of conducting their business. The court declared while it was possible he would hand down a decision tomorrow, it was not certain he would do so.

The grounds on which the abatement of the indictment is sought by the packers are that the grand jury in returning the indictment was illegal because it was not publicly drawn as required by law; that the defendants were deprived of the right to challenge the jurors; that Judge Bethea, sitting in the eastern division of the northern district of Illinois had no right to receive or return an indictment returned from the northern district of the same division; that a member of the jury was not legally made a member of that body and that the government officials had on right to reproduce before the grand jury a transcript of the evidence previously heard by them unsworn and unverified, but presented as an abstract of evidence.

TRANQUILITY NOW ASSURED

AT LEAST FOR A LONG TIME TO COME IN FAR EAST.

ANGLO-JAPAN TREATY SIGNED

Makes Both Nations Great Powers in Regions of East Asia and India.

When Trouble Arises for One, Under New Alliance, Other Comes to Defense—Terms of Treaty Are Matter of Satisfaction to England.

LONDON, Wednesday, Sept. 27—The text of the new agreement between Great Britain and Japan, signed by Lord Lansdowne, the British foreign secretary, and Baron Hayashi, the Japanese minister to Great Britain August 12, was issued by the foreign office late last evening. The momentous document is a brief one, comprising less than 800 words, including eight articles and a preamble.

The main features of the new agreement have already been forecasted in the Associated Press dispatches from London and Paris. The articles of the official text, however, bring out forcefully the tremendous importance to both countries of this alliance, which practically makes Great Britain Japan, and Japan Great Britain for the purpose of defense "in regions east of Asia and India."

This inclusion of India specifically as the point at which any aggression by a foreign power will call for assistance from Japan finds much favor with the press of London. Baron Hayashi, who was interviewed by the Associated Press after the publication of the agreement said: "The new treaty forms an effective safeguard against renewal of the disturbances in the far east. That is its object. We cannot say that permanent peace has been secured, but we can aver that tranquility has been assured for a long time to come."

While there is some criticism of the treaty in the radical newspapers, it is only half-hearted, and, as a whole, London greets with great satisfaction the positive assurance of the future assistance of a powerful Oriental ally in all matters pertaining to far eastern politics.

CAN COMPANY CANS.

Enormous Output of Tin Cans in the United States Every Year.

WASHINGTON, Sept. 28.—(Special.)—The American Can Company is manufacturing cans at the rate of 100,000,000 a month or 1,200,000,000 a year, an increase in eight years of 500,000,000 cans in the annual output. At the beginning of the Spanish-American war there were 2000 canneries in the United States, which put up annually $72,000,000 worth of canned goods, while most of the canned goods were consumed at home, the year before the war we sent abroad fruits to the value of $1,346,281 and canned meats to the value of $2,000,000. Since 1892 we have been manufacturing our own tin plate. The production of tin and terne plates increased from 42,119,000 pounds in 1892, to 894,411,000 pounds in 1901. This home manufacture of tin plates gave great impetus to the manufacture of cans, the bulk of the tin plate product going to the can manufacturers. The tin can has contributed more to the comfort and convenience at home and abroad than abroad than almost any one other article, and has revolutionized vegetable raising. Great plantations are now devoted to raising corn, peas, beans, tomatoes and other products to be canned green, where before the progress made in can making, small truck patches were the only source of revenue for the gardener.

THE LOSS RUNS HIGH.

BUTTE, Sept. 26.—Fire today broke out in the ruins of the library building of one of the structures swept by Sunday's conflagration, and before the blaze was extinguished numerous volumes were ruined by water. Revised estimates of the fire loss place the loss of Sunday's fire at $800,000, with $700,000 insurance.

OBLIGED TO SHOW BOOKS

VICE-PRESIDENT OF NEW YORK LIFE IS STUBBORN.

HE OPPOSES THE COMMITTEE.

Submits Copy of Entry, but Finally Promises to Produce the Records.

Vice-President Thomas of New York Life Explains System of Making Advances to Agents—Sensational Incidents in Investigation.

NEW YORK, Sept. 28.—Several sensational incidents developed at the session of the legislative committee on the life insurance investigation today. The first was when George W. Perkins, vice-president of the New York Life Insurance Company and a member of the firm of J. P. Morgan & Co. objected to producing the books of his firm showing a certain transaction of that firm with the New York Life. Perkins offered to present a copy of the entry in question from the books, but Hughes demanded the books, and after several refusals on the part of Perkins, the books will be produced later.

In the course of his testimony, Perkins, when asked concerning the difference in the statement of "profits from securities," in the Massachusetts report of the committee and "no profits from securities" in the New York report, said: "When we get national supervision we won't have these conflicts between the different states."

Perkins testified to the number of transactions in which he represented Morgan & Co. as seller and the New York Life Insurance Company as purchaser.

Another sensation was sprung later in the day when Vice-President Thomas A. Buckner of the New York Life detailed the advances made the agents and which were carried in the report to the state superintendent of insurance as "computing renewal premiums." It was brought out as a matter of fact these advances were loans, but not carried as such. Buckner testified the advances were made to the agents sometimes as inducements to leave other companies and enter the employ of the New York Life.

Perkins and Hughes Clash.

While Perkins was on the stand during the afternoon there was somewhat of a clash between the witness and Mr. Hughes, the first of anything of this nature that has occurred since the committee began its sessions. It was when Perkins was testifying as to the moneys in the "Nylic" fund of which he is trustee. Perkins did not want it to appear on the records that the agents put a part of their salaries into the fund undeg contract, unless the words "and bonuses" appeared. He said to Hughes that he (Hughes) was trying to get away from something and the counsel hotly returned he was not and that if Perkins would answer his questions much better progress would be made with the investigation.

Later in the day Henry Winthrop of the Equitable, while on the stand, presented a statement of the transfers of stock of the Equitable at the time of its change of management and directorate. Most of the transfers Winthrop was able to explain, but some he was not. At the time of these transfers Winthrop was a holder of twenty-five shares. He thought the actual owner was James H. Hyde, as he turned the checks for the dividends over to Hyde.

LIFE IS CRUSHED OUT.

Thomas Taylor, Hale Farmer, Stood in Path of Great Rock.

EUGENE, Or., Sept. 27.—Thomas Taylor, a farmer residing near Hale, twenty miles west of Eugene, was killed yesterday afternoon by a huge boulder, which rolled over him and broke almost every bone in his body.

Taylor was working with the county rock crusher, and his assistants were rolling down boulders for the crusher to work on. An immense rock was started and Taylor stood directly in its path. The men shouted to him, but it was too late. He was almost unrecognizable.

The unfortunate man was aged about 55 years, single and lived with his brothers, Chris and Dilwood Taylor.