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The thirty-seventh annual session opens on Wednesday, October 3, 1906, at 6:30 p.m., in the Law School Building, 506 and 508 E street northwest, at which time announcements will be made for the ensuing term. All interested are cordially invited to be present.
TUITION..... $100.00.
The Secretary will be at his office in the Law building during the day and evenings from 6 to 8 for information, enrollment, payment of fees, etc. Students proposing to connect themselves with the school are earnestly requested to enroll before the opening night.
se8,tf R. J. WATKINS, Secretary.

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Primary, Academic, College Preparatory. Fully equipped Athletic Court with instructor. se4-tf-3

Automobiles as common carriers have been placed under the official ban in Hagerstown, Md. The city council has passed a prohibitive ordinance requiring persons desiring to run autos on the streets for the purpose of hauling passengers to pay from $50 to $100 license for the privilege, according to the size of the car.

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Not the cheapest, but the best, still within reach of the most modest purse. Write for winter rates and booklet. J. PAUL KILPATRICK.
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Distinctive for its elegance, exclusiveness, high-class patronage and liberal management. Sea water in all baths. Orchestra of soloists. Booklet, rates, reservations, etc., apply to Washington representative, H. RALPH BURTON, Bond building. 'Phone Main 2700. NEWLIN HAINES.
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jy17-tf,6 CHAS. B. MYERS, Owner.

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se30-Su.w,sa,5t M. L. C. McCOMAS.

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HILL TOP HOUSE,
HARPER'S FERRY, W. VA.
jy30-tf,6 T. S. LOVETT.

NEARING COMPLETION.
New Building to Contain Steamboat Company's Offices.
The new building which is being erected at the foot of 8th street for the offices of the Washington and Potomac Steamboat Company is nearing completion, only the painting of the interior remaining to be done before it can be occupied. The building is a handsome two-story frame structure and occupies ground on which a big ice-storage house formerly stood. Within the next week or ten days the offices of the steamboat company, and of the Colonial Beach and River View excursion resorts, will be transferred to the new building. The latter has eight rooms. It will be heated by steam, the boiler house being located on the wharf in the rear of the building.
On the ground floor is a wide hall in the center of the building, running through it, which is to be used as a passenger entrance. The office of the general agent, the freight office, a waiting room and a store room are also on the first floor. The office of the general manager and of the clerks and bookkeepers, a meeting room for the board of directors and a store room are located on the second floor.
The work of removing the heavy machinery from the old side-wheel steamer Samuel J. Pentz is progressing slowly, as she lies on the south side of the Eastern branch near old Buena Vista wharf. The hull of the ferry steamer Columbia, which was burned at her slip here about three years ago, has been brought up from Alexandria and is lying alongside the Pentz and will be used to receive the walking beam, shaft and boiler when they are taken out of the boat. It is said that Mr. Joe Heath, who now owns the Pentz, has had numerous applications for small parts of the old boat by persons in this city who want them as mementoes of the many pleasant days they spent aboard the old boat when she was employed in the excursion business on the river, from this city.
Arrived: Schooner J. R. Dixon, canned goods from Nomini creek for dealers; schooner Silver Star, cord wood from Aquia creek; J. D. Bell, cord wood from a river point; tug William H. Yerkes, towing tank barge No. 77, laden with oil in bulk for Georgetown; schooner Wentz Roberts, cord wood from a Potomac point; schooners Minnie Estelle, Kirby, E. P. Evans and Fannie Shepherd, oysters from Potomac beds; schooner Oakland, cord wood from Occoquan creek; scow Sea King, lumber from Piscataway creek, Md.
Sailed: Schooner R. Mason, for a point on the lower river to load cord wood back to this city; schooner C. C. Wheeler, street sweepings for Norfolk; tug Wm. H. Yerkes, towing barges Roundout, Saugerties and No. 77 light for Baltimore; schooner Grace G. Bennett, broken stone from Georgetown for Portsmouth, Va.; W. H. French, light for Norfolk to load a cargo of lumber; Mary Eldridge, for a river point to load.
Memoranda: Schooner C. C. Wheeler has been chartered to load shingles at Norfolk for this city; schooner F. R. McNamara has sailed from Norfolk for this city with a cargo of shingles; schooner John E. Devlin has been chartered to load phosphate rock at Port Tampa for Baltimore or Alexandria; tug Bohemia has sailed from Baltimore towing the barges Roanoke, Minerva and E. A. Souder, laden with hard coal for Georgetown; schooner Richard Linthcome has gone to Baltimore to load for a bay port.
The little fishing schooner George W. Kibble, Capt. Watson, which has been employed in summer fishing on the James river and about the capes of the Chesapeake, came into port yesterday to overhaul and refit in preparation for winter hunting and fishing on Chesapeake bay. Capt. Watson reports having had a very successful season.
The power schooner Sea Bird, which has been lying at this port for several days having her engine overhauled and being made ready for a fishing trip to the Carolina sounds, is now ready for that service, and is expected to leave here for the fishing grounds tomorrow morning. Capt. Dave Faunce of this city will have command of the vessel on the cruise.

Visit of Marquise de Wentworth.

The Marquise de Wentworth, an American painter, is a guest of the Sisters of Mercy at St. Catherine's, 101 North Carolina avenue southeast. She possesses the distinction of having been at the bedside of Pope Leo XIII when he died, and has since made a painting of the scene. This painting has just arrived in New York, where it will be exhibited in the Catholic Club.

Decree Granting Divorce.

Pauline Holmes has been granted a divorce from James Holmes in the District Supreme Court. The decree was signed by Chief Justice Clabaugh

OPINION BY McNAMARA

Action of Board of Education is Held to Be Legal.

DISMISSALS OF TEACHERS

Right to Discharge an Employe Without a Trial.

SUPREME GOVERNING POWER

Control of the Schools—Dissatisfaction With Procedure — Must Guard Welfare of Students.

Mrs. A. J. Cooper, John L. Love and James B. Clark, the three colored school employes who were dismissed summarily by the board of education recently, intend, it is understood, to test their claims for reinstatement in the courts if the possibility is offered. Therefore, the opinion of Attorney McNamara on the question of their dismissals is regarded as of only passing interest. The opinion, however, as it upholds the action of the board, is considered as adding much to the feeling on the part of the members of the board that they were within their legal rights.

The full text of Mr. McNamara's opinion as follows:

"You have referred to me the petitions of Mrs. A. J. Cooper and Messrs. John L. Love and James B. Clark, wherein the petitioners protest against their dismissals from the schools of the District, of which they acknowledge notice, by orders of your board dated the 14th ult. The notification is set out in the petitions that 'at a recent meeting of the board, upon the recommendation of the superintendent, you are dismissed from the public schools of the District of Columbia for the good of the service.'

Teachers' Statements.

"Mrs. Cooper avers that at the date aforesaid she was principal of the M Street High School, and had been such since 1901, and contends that she 'now holds the position by legal right, and that the board is without power to thus summarily eject her from it,' and that the action of the board is a great legal wrong. Mr. Clark and Mr. Love represent that at the time of the action of the board they were, respectively, supervising principal of the tenth division, and a teacher in the M Street High School, and charge that they cannot be thus removed from the service of the public schools without 'charge or trial' other than the vague statement, 'for good of the service,' but are protected in the enjoyment of their positions, or some other positions, by some sort of existing law analogous to the principles of the 'merit system' or civil service law. What peculiar branch of law this is the petitions omit to cite. All three petitions state that no charges had been made to their knowledge or, if made, could not be sustained. The board is urged to rescind its action in the premises which the petitioners thus conceive to be without warrant of law.

Grounds for Dismissals.

"Nothing in this reference indicates that any technical charges were preferred against these petitioners, and it is admitted that no trial was had. The only statement made by the board is that the dismissals were ordered pursuant to the recommendation of the superintendent because deemed necessary for the good of the service. The only question raised for me to consider is the power of the board in this behalf. Has, then, the board, when acting upon the recommendation of the superintendent, and when actuated by its and his joint conception of the highest interests and good of the school system, the power, express or implied, to dismiss an employe without first affording him a trial and opportunity to be heard?

"The board of education is the supreme governing power of the schools. All intermediary authority is pyramidal to this apex of command. Section 2 of the act of June 20, 1906, vests the control of the public schools in the board, and by the same section it is further provided that the board 'shall determine all questions of general policy relating to the schools.' It is granted the power to appoint the directors, supervising principals, principals, heads of departments, teachers and other employes, and all such are in its employ. Has it the power to dismiss those whom it thus employs? Although no express power should be given, it would enjoy the implied power to dismiss any of those whom it had the authority to employ.

Powers Defined.

"Where there is no reference to the subject, the power to dismiss is commensurate with the power to appoint. As said by the Supreme Court of the United States, 'in the absence of specific provision to the contrary, the power of removal from office is incident to the power of appointment.' (Keim v. U. S., 177 U. S., 290; in re Hennen, 13 Pet., 230; Parsons v. U. S., 167 U. S., 324; People v. Robb, 126 N. Y., 180).

"In the act of June 20, 1906, creating your board and conferring upon it its powers and duties, the only reference to the subject of dismissal is to be found in section two. It is provided therein that: 'No appointment, promotion, transfer or dismissal of any director, etc., or any other subordinate to the superintendent of schools, shall be made by the board of education except upon the written recommendation of the superintendent of schools.'

"Further on the same section announces the methods in which the appointments shall be made by these two agencies. A similar direction is also contained in section 6 as to the mode to be followed by the superintendent and board in the matter of promotions. But with regard to dismissals the section is silent as to procedure, and has no utterance other than that the board shall not dismiss except upon the written recommendation of the superintendent.

May Be Removed for Cause.

"The superintendent himself, the act provides in section 3, may be removed by the board at any time for adequate cause affecting his character and efficiency as superintendent, but when any one under him is concerned the law requires his concurrence before the board may order a dismissal. It will thus be seen that the act has expressly prescribed the written recommendation of the superintendent as a condition both precedent and sufficient to dismissals by the board. The board is not compelled to accept his recommendation and act upon it, but it cannot act without it. Under the act of June 6, 1900, under which the former board was organized, power was granted to the board to dismiss on its own motion. The present act obviously curtails such previous power by requiring the concurrence of the superintendent. But when this concurrence is present the power to dismiss becomes complete. The law as such has been affirmed elsewhere under similar states of facts. (People agt. Hyde, 80 N. Y., 11; in re Gleese, 50 Super, Ct. N. Y., 473).

Provisions of Section 10.

"In section 10 the act provides: 'When a teacher is on trial or being investigated, he or she shall have the right to be attended by counsel and by at least one friend of his or her selection.'

"Does this section operate a limitation upon the power of dismissal conferred by section 2? In other words, admitting the existence of the power to dismiss, is the exercise of that power a valid one if the party dismissed be not first put upon trial and be given the benefit of attendance of friend and counsel? As an ordinary rule of construction, a power previously given is not to be diminished by a subsequent provision unless such provision explicitly, or by reasonable intendment, relates to and curtails such previous power. In its terms section 10 refers to the pendency of a trial or investigation. It is silent, as is the act elsewhere, as to when such a trial shall be had, as to whether such a trial shall precede action by the board adverse to the party concerned, or whether it is guaranteed to the employes as a matter of right. The power of dismissal, as we have seen, is conferred upon the board when the superintendent makes his written recommendation to that effect.

"Section 10 becomes influential only when a teacher has been put 'on trial or is being investigated.' The naked issue now presented is the power of the board, with its superintendent concurring, of its own initiative to discontinue, by dismissal, the employment of a principal or teacher because, in their united judgments, such act promotes the good of the service. Of that power the act in its present shape presents no doubt. As I have stated above, the control of the schools resides in the board, and its powers are proportionately ample. Its decisions shape the policy of the government of the schools.

Duty of the Board.

"When the board surveys a certain condition or situation in the schools from the viewpoint of the school's proper policy and finds that the judgment of the superintendent reinforces its own judgment that the connection of a certain teacher with the schools no longer aids or is required, but contravenes the best interests of the service, it is not alone its right, but it becomes its immediate duty to discontinue his employment and remove such teacher. Such removal, under the present act, must be made by an order of dismissal. This is a harsh term as understood in its ordinary sense; but its present use does not necessarily indicate more than a mere discontinuance of employment.

"What construction compels a denial of this power? Section 10 does not state that a trial must be had before a dismissal may be made. That section relates to the procedure at a trial or investigation. Nothing can be implied from it to enforce the view that a trial must pre-exist before the power to dismiss is exercised. Under the old board, trial and investigation were not provided for by law; nor, indeed, in the history of the schools has there been a definite provision requiring this procedure to be followed before the board could remove an employe. The power to ordr a trial or investigation for the purpose of sifting charges which may be preferred against a teacher, whether from outside or within the school service, and to establish and carry out proper discipline in the schools, is undoubtedly inherent in the board, and regulations governing such trials and investigations should be found in your by-laws. If such regulation existed under the old board, as I am informed is a fact, an appropriate by-law should be enacted at once that this important subject may be defined.

Result of Dissatisfaction.

"The former board authorized a trial and investigation in certain cases last spring. Section 10 was inserted in the act as a result of those proceedings, owing to the dissatisfaction of certain teachers with the procedure adopted by the board at these trials and investigations. The reason of its origin, then, as the scope of its effect to regulate the procedure at trials and investigations in the future. It goes no further. It does not precede dismissals. As to this requirement, it leaves the law in the same state as heretofore.

"The petitioners charge that they hold their positions by a legal right, and that this right has been invaded by the board's action in terminating their employment. It is plain, however, that this is not the case. To a large extent, a teacher is a public officer, or at least is one serving the public, and being remunerated therefore out of the public funds. Such public employment does not carry with it the muniment of contract right which obtains in private affairs. A teacher's employment is merely the state of being employed by a board of education, which, in the last analysis, is a governmental agency. Obviously, a person in the employ of such agency, has no contract which that agency is unable to avoid. (Crenshaw vs. United States, 104 U. S., 99; Butler vs. Pennsylvania, 10 How., 402.)

Merely Cessation of Employment.

"It is, therefore, held that the dismissal is not a judicial determination of guilt, but a cessation of the employment by the employer. Of course, a dismissal may be made by the board when a teacher has been tried or investigated and found guilty of charges which render him unfit to remain a teacher. When such a trial or investigation is being had section 10 would apply. In that case the board would base its action upon the result of the trial or investigation; but that is not the case at bar. We have here the question of the initiative and power itself of the board to discontinue, by dismissal, the services of those in its employ. The provisions of section 10 do not reduce this power. From aught that appears in the act, the abrogation of this power could not have been the intent of Congress. As has been said by the New York Supreme Court when considering dismissals like these in question: 'To convert these proceedings into machinery for the formal trial of issuable questions of fact would not, we think, be carrying out the policy or intent of the law, and would be disastrous to the well being and good administration of the schools.' People vs. The Board, 3 Hun., 177, 181; School District vs. McCoy, 30 Kan., 268, 276.

Within Board Power.

"It is my opinion that under the act in its present shape your action in regard to the petitioners was within