

# THE OREGON CONSTITUTION

*and* PROCEEDINGS *and*  
DEBATES *of the* CONSTITUTIONAL  
CONVENTION *of* 1857

Edited By  
Charles Henry Carey

Article of administration department was taken up.

Mr. Waymire moved to strike out the office of treasurer. It was proposed to give the governor a good salary, and he thought he could transact the duties of treasurer. The treasurer's fees alone would make a pretty good salary for the governor, and not much in addition would be required.

Mr. Kelly said he had no objection in striking out. But he thought the time might come, when we became populous, that we should need a treasurer. He would provide that when the population became large the legislature might create the office of treasurer.

Mr. Waymire thought it would be 50 years before we should need a treasurer. Consolidate the offices, and we decrease the taxes.

Mr. Boise was in favor of making the governor ex officio treasurer for the present and empowering the legislature to create the office of treasurer at a specified time.

Mr. Waymire had no objection to this if the time was put 20 years.

Mr. Boise said the convention could fill the blank with such number as they saw fit. We should give the

governor such salary as would enable him to live at the capital; otherwise none but citizens living there could afford to be governor. If we constituted him treasurer we could afford to give him such salary as would enable him to reside at the seat of government.

Mr. Kelly had misgivings about uniting these two offices—it was a union of purse and sword. In the case of defalcation in the treasury department, it would be the duty of the governor to cause to be put in force the law against him. Of course, he could not do this if he was both governor and treasurer.

Mr. Kelsay said if he was made treasurer bonds would be necessary and it would be a novel proceeding to require the governor to give bonds.

Mr. Grover saw no difficulty in uniting these two offices if it was desirable. The governor of the territory had always been treasurer of United States funds, and had given bonds as such.

The amendment was adopted.

Mr. Packwood moved to strike out the provision declaring the governor ineligible for more than four in six years. Lost.

Mr. Waymire moved to fix the time when the legislature could sever the offices of governor and treasurer at 20 years. Lost.

Somebody moved 15 years. Lost.

Mr. Kelly moved 10 years. Carried.

Mr. Kelly moved to require the governor, while treasurer, to keep an office at and reside at the seat of government, in the same manner as the secretary. Adopted.

Mr. Packwood moved to define the duties of the clerk of county court to be clerk of circuit court, county and probate clerk and auditor. Carried.

History of the Con

Mr. Wayne thought there was practically no union of purse and sword, for with the empty treasury a dollar was paid into the treasury there would be somebody to draw it out, and doubtless there would not be cash enough to pay the demands. If the governor had to use the sword it was more likely he would have to use it to compel the legislature to increase the taxes, that there might be enough in the purse to meet the demands upon it. He thought there would be a great saving, for what would pay a treasurer would pay the governor and the treasurer united, and we would get the governor for nothing. His figures for governor were \$2,000. But if he was not to be made treasurer he would not give him one dollar over \$600. It would not interfere with the duties of governor.

Mr. Boise was in favor of the union. The treasurer was not employed one month in a year in the transaction of his duties. The phrase union of purse and sword originated in England and had no applicability here. The governor could no more use the public funds if treasurer than if not. He could not pay out a dollar except in accordance with the law, and if he did his bondsman would be liable. We had neither purse nor sword. It was said that such union had never taken place in any other state. No other state had been situated like this. Few states had gone into the Union with as sparse a population as we have. To create separate offices was to give them to a set of leaches who would always hang about the seat of government wherever it was—Salem, Corvallis, Eugene, or elsewhere—for you could not give such salaries as would enable persons from abroad to take them. We would be more likely to find an honest and responsible treasurer in the person of the governor. It would be a saving also.

Mr. Shattuck should oppose the amendment; it was an innovation, and before innovations were entered upon they should be seen to be clearly necessary. It was said it would be a

matter of economy. He looked at it as a regular tin-peddler article; it had not a business favor in it. In case of resignation or death of governor, the secretary of state came governor; and, as he was auditor, you had auditor and treasurer united in one person.

Mr. Watkins was opposed to experimenting in this constitution. He was in favor of a cheap and simple government, but would not go about experimenting. To unite the office of treasurer and governor was to create opportunities for fraud and speculation. He was opposed to it.

Mr. Williams thought the union of governor and auditor was more natural than that of treasurer, though he did not conceive that there were any substantial objections to the union of either. One argument in favor of union was that it would be followed by a respectable salary. He would not give a governor \$600. He had better haul rails; it was just as respectable and more lucrative. He would be ashamed of a constitution with a \$600 governor. It would be laughed at abroad. It was no objection to this union that it was an innovation; it was no objection to a good measure that it was new. Neither was it an objection that it was old. He saw no danger of defalcation or fraud. There would be little or nothing in the treasury. He should support the motion.

Mr. Smith said to get a governor as a treasurer because we can't pay a governor as such is to plead the baby act in advance. If we can't afford to have a governor, let us adjourn and go home and tell the people they are not able to support a state government, that they have anticipated the time. He was for a governor and a treasurer, and he would give a governor \$1,500. He would have no \$600 governor. It was assumed that we were to have nothing in the treasury, that it was to be paid out as soon as it was paid in. Was it to be that this state was to have no public funds? Are the people inhabiting this land of gold—a people pos-

ing in this country... and they did not wish us to try dangerous experiments to save picanines and not unlikely lose thousands in the experiment. It was said that the treasurer's duties could be performed in a month. So it could—and in less time—if the money was all paid in and out at one time. But it was paid in at various times during the year and required him to be at all times in his office. If we can't afford to have the necessary officers of a state and pay them respectable salaries—not extravagant ones—let us remain as we are.

Mr. Kelly said the duties of governor and treasurer were different. The first wanted to be a statesman, a man of general knowledge of the wants of the state and of enlarged views of public policy; the latter was simply required to be a good accountant. If we united the two we should in electing a governor have to institute an inquiry as to whether or not he was a good bookkeeper.

Mr. Waymire was opposed to making offices and paying officers to keep up appearances. Keeping up appearances had ruined more men and sent more souls to perdition than all other causes combined. He did not care what people abroad thought.

Mr. Kelsay was opposed to the consolidation of offices, and opposed to uniting these. The principle had worked badly in our government. He did not endorse the doctrine that the people of Oregon were poor; they were richer than any people he had ever laid eyes upon, and he had traveled over some of the states. Our country was full of resources of wealth, and some day would develop all the riches of the great Empire state. He did not like the one-horse system of government. If we were not able to have a state with officers like other states let us remain as we are. If we had to consolidate offices which ought to be separate, to have a state, he was opposed to a state.

lost, as follows:

Yeas—Bristow, Brattain of Lane, Babcock, Boise, Cox of Marion, Cox of Lane, Campbell of Lane, Duncan, Fitzhugh, Hoult, Moores, Matzger, Nichols, Newcomb, Robbins, Starkweather, Waymire, Williams, and Mr. President—19.

Nays—Brattain of Linn, Burch, Crooks, Coyle, Campbell of Clackamas, Elkins, Grover, Hendershott, Kelsay, Kinney, Kelly, Marple, McBride, McCormick, Meigs, Olney, Peebles, Prim, Short, Shannon, Smith, Shields, Shattuck, Scott, White, Watkins, Watts and Whitted—28.

## Afternoon Session

[Journal]

2 o'clock p. m.

The articles on administrative department, with sundry amendments as reported from the committee of the whole, were taken up as follows:

First amendment—Section 6, strike out the words "clerk of the circuit court, auditor, recorder," and insert "county clerk."

Second amendment—Section 1, strike out the word "two" and insert the word "four"; strike out the word "four," and insert the word "eight"; strike out the word "six," and insert the word "twelve."

The question being on agreeing to said amendments, they were severally agreed to.

Mr. Boise moved to amend section 1, by adding at the end of said section, a proviso:

Provided, that the governor act as ex officio treasurer for the term of ten years.

The yeas and nays being demanded, resulted as follows:

Yeas—Messrs. Bristow, Brattain of Lane, Babcock, Boise, Cox of Marion, Cox of Lane, Campbell of Lane, Duncan, Fitzhugh, Hoult, Moores, Matzger, Nichols, Newcomb, Robbins, Starkweather, Waymire, Williams and Mr. President—19.

Nays—Messrs. Anderson, Brattain of Linn, Burch, Crooks, Coyle, Campbell of Clackamas, Elkins, Grover, Hendershott, Kelsay, Kinney, Kelly, Marple, McBride, McCormick, Meigs, Olney, Peebles, Prim, Short, Shannon, Smith, Shields, Shattuck, Scott, White, Watts, Watkins and Whitted—29.

So the amendment was disagreed to.

Mr. Marple moved to amend section 1, by striking out, in the third and fourth lines, the words, "But no person shall be eligible to either of said offices more than eight in any period of twelve years."

to vote in the precinct where they  
reside for county officers. Carried,  
yea 11.

Mr. Nash moved to extend the same  
privilege to state and congressional  
officers, viz. to vote in the precinct  
where residing. Lost, 15 to 25.

The report on education and school  
lands was taken up.

Mr. Nash moved to constitute the  
governor superintendent of public in-  
struction. Adopted.

Mr. Nash moved to declare the  
school fund arising from certain lands  
inalienable. Adopted.

Mr. Logan moved to insert "white"  
before "children," who should attend  
common schools; he said he could  
not see a nigger or an Indian under  
the provision as it stood. The motion  
was rejected.

Mr. Brown moved to strike out all  
except that the legislature should pro-  
vide for a system of common schools.  
Carried 21 yeas and 20 nays.

Mr. Wams moved to insert "white"

SECTION NO. 20

The Governor may remove from Office a Judge of the Supreme Court, or Prosecuting Attorney upon the joint resolution of the Legislative Assembly, in which Two Thirds of the members of each house shall concur, for incompetency, Corruption, Feasance, or delinquency in office, or other sufficient cause as in such resolution.—\*

\* Amended, November 8, 1910, infra.

SECTION NO. 21

Every judge of the Supreme Court before entering upon the duties of his office shall take, subscribe, and transmit to the Secretary of State the following oath.—

I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Oregon, and that I will faithfully, and impartially discharge the duties of a Judge of the Supreme, and Circuit Courts of said State according to the best of my ability, and that I will not accept any other office, except Judicial offices during the term for which I have been elected.—\*

\* Amended, November 8, 1910, infra.

ARTICLE VIII  
EDUCATION AND SCHOOL LANDS

SECTION NO. 1

The Governor shall be superintendent of public instruction, and his powers, and duties in that capacity shall be such as may be prescribed by law; but after the term of five years from the adoption of this Constitution, it shall be competent for the Legislative Assembly to provide by law for the election of a superintendent, to provide for his compensation, and prescribe his powers and duties.—

SECTION NO. 2

The proceeds of all the lands which have been, or hereafter may be granted to this state, for educational purposes (excepting the lands heretofore granted to, and in the establishment of a university) all the moneys, and clear proceeds of all property which may accrue to the State by escheat, or forfeiture, all moneys which may be paid as exemption from Military duty, the proceeds of all gifts, devises, and bequests, made by any person to the State for common school purposes, the proceeds of all property granted to the State, when the purposes of such grant shall not be stated, all the proceeds of the five hundred thousand acres of land to which this State is entitled by the provisions of an act of Congress, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant preemption rights, approved the fourth of

November, 1841", and also the five per centum of the Net proceeds of the sales of the public lands, to which this State shall consent on her admission into the union (if Congress shall consent to such appropriation of the two grants last mentioned) shall be set apart as a separate, and irreducible fund to be called the common school fund, the interest of which together with all other moneys derived from the school lands mentioned in this section shall be exclusively applied to the support, and maintenance of common schools in each school district, and the purchase of suitable libraries, and apparatus therefor.—

SECTION NO. 3

The Legislative Assembly shall provide by law for the establishment of a uniform, and general system of Common schools.

SECTION NO. 4

Provision shall be made by law for the distribution of the moneys of the common school fund among the several Counties therein in proportion to the number of children resident therein between the ages, four and twenty years.—

SECTION NO. 5

The Governor, Secretary of State, and State Treasurer shall constitute a board of Commissioners for the sale of funds arising from University lands, and for the investment of the funds arising therefrom, and their powers, and duties, shall be such as may be prescribed by law. *Provided* that no part of the University funds, or of the interest arising therefrom shall be expended until the period of ten years from the adoption of this Constitution, unless the same shall be otherwise disposed of by the consent of Congress for Common school purposes.—

ARTICLE IX  
FINANCE

SECTION NO. 1

The Legislative Assembly shall provide by law, for a uniform, and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just and equal assessment of all property, both real, and personal municipal, educational, literary, scientific, and other purposes, as may be specially exempted therefrom.—

\* Amended June 4, 1917, infra. An additional section was again amended November 6, 1912, infra. An addition thereto, infra.

SECTION NO.

The Legislative Assembly shall provide by law, for a sufficient sum to pay the interest on the public debt, and also a sufficient sum to pay the interest on the same, there be any.—

And fines, to be paid to the State, shall be—\*