

House Concurrent Resolution 16

Sponsored by Representative BOWMAN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Recognizes and honors members of 1857 Oregon Constitutional Convention who voted not to ratify state's founding document that included racial exclusion clause.

CONCURRENT RESOLUTION

1
2 Whereas the framers of Oregon's legal systems designed laws to exclude racial minorities-in-
3 cluding African Americans, Native Americans and those of Chinese descent-from enjoying equality
4 before the law, participating in civic life and living among white Oregonians; and

5 Whereas in 1844, fifteen years before statehood, one of the first official acts of Oregon's provi-
6 sional legislature was to pass a racial exclusion law that prohibited black people from living in the
7 territory for more than three years; and

8 Whereas the 1844 law authorized as punishment for any black settler remaining in the territory
9 a whipping of "not less than twenty nor more than thirty-nine stripes" for every six months they
10 remained; and

11 Whereas the territorial legislature passed another exclusion law in 1849, which barred black
12 people who were not already in the territory from entering or residing in Oregon; and

13 Whereas in 1857, after Oregonians had voted for statehood, they subsequently called for a state
14 constitutional convention; and

15 Whereas in August 1857, 60 delegates from across the territory met in Salem to draft the Oregon
16 Constitution; and

17 Whereas prominent among the issues the delegates wrestled with were questions of suffrage,
18 slavery and exclusionary racism; and

19 Whereas debate was fierce, and many delegates were adamantly opposed to slavery and argued
20 vehemently against enshrining racial exclusion laws into the Constitution; and

21 Whereas the convention ultimately decided to submit the questions of slavery and racial exclu-
22 sion directly to the voters of the territory, and the convention ended on September 18, 1857, when
23 the delegates voted to ratify the draft Constitution; and

24 Whereas the final tally included 35 votes in favor of ratification, but 10 delegates exercised their
25 conscience and courageously voted against the draft, and another 15 members of the convention
26 abstained; and

27 Whereas on November 9, 1857, the public voted overwhelmingly to approve the Constitution and
28 separately approved the provision banning slavery, ensuring that Oregon would be a free state, but
29 the public also voted heavily in favor of the racial exclusion clause; and

30 Whereas the final Oregon Constitution approved by voters thus included Article I, section 35,
31 which prohibited blacks from being in the state, owning property or making contracts; and

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 Whereas Oregon was the only free state admitted to the Union with a racial exclusion clause
2 in its Constitution; and

3 Whereas Oregon Constitutional Convention delegate John R. McBride, later a state Senator and
4 United States Representative, described the exclusion law as being “largely an expression against
5 any mingling of the white with any of the other races”; and

6 Whereas in 1859, the United States Congress voted to ratify the Oregon Constitution-including
7 its racial exclusion clause-and confer statehood on Oregon; and

8 Whereas Article I, section 35, of the Oregon Constitution, was legally invalidated by the ratifi-
9 cation of the Fourteenth Amendment to the United States Constitution in 1868; and

10 Whereas despite its unconstitutionality, section 35 remained formally in the Oregon Constitution
11 until it was repealed by Oregon voters with a 1926 ballot measure; and

12 Whereas it wasn’t until 2002 that Oregon voters removed references to the 1857 referendum and
13 its overtly racist language from the Oregon Constitution; and

14 Whereas although Oregon’s three exclusion laws were all later rescinded, they largely suc-
15 ceeded in their aim of discouraging free blacks from settling in Oregon, ensuring that Oregon would
16 develop as a primarily white state; and

17 Whereas it is imperative to teach current and future Oregonians about our racist history in
18 order to fully understand the realities of racial oppression and to address the continued impacts of
19 systemic racism on our state and nation; now, therefore,

20 **Be It Resolved by the Legislative Assembly of the State of Oregon:**

21 That we, the members of the Eighty-second Legislative Assembly, recognize Oregon’s racist
22 history, including the exclusion clause written into the Oregon Constitution at the time of statehood;
23 and be it further

24 Resolved, That we honor those members of the Oregon Constitutional Convention in 1857 who
25 exercised great courage and humanity by voting against the inclusion of racist language in the
26 state’s founding document.

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