

W. D. Brown
The Constitution;

TOGETHER WITH THE

SESSION LAWS OF OREGON,

ENACTED DURING THE

FIRST REGULAR SESSION

OF THE

LEGISLATIVE ASSEMBLY OF OREGON,

BEGUN, SEPT. 10, 1860.

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CONSTITUTION OF OREGON.

PREAMBLE.

We, the people of the State of Oregon, to the end that justice be established, order maintained, and liberty perpetuated, do ordain this Constitution.

ARTICLE I.

BILL OF RIGHTS.

SECTION 1. We declare that all men, when they form a social compact, are equal in rights; that all power is inherent in the people, and all free governments are founded on their authority, and instituted for their peace, safety, and happiness; and they have at all times a right to alter, reform, or abolish the government in such manner as they may think proper.

2. All men shall be secured in their natural right to worship Almighty God according to the dictates of their own consciences.

3. No law shall in any case whatever control the free exercise and enjoyment of religious opinions, or interfere with the rights of conscience.

4. No religious test shall be required as a qualification for any office of trust or profit.

5. No money shall be drawn from the Treasury for the benefit of any religious or theological institution, nor shall any money be appropriated for the payment of any religious services in either House of the Legislative Assembly.

6. No person shall be rendered incompetent as a witness or juror in consequence of his opinions on matters of religion, nor be ques-

tioned in any court of justice touching his religious belief, to affect the weight of his testimony.

7. The mode of administering an oath or affirmation shall be such as may be most consistent with, and binding upon the conscience of the person to whom such oath or affirmation may be administered.

8. No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right.

9. No law shall violate the right of the people to be secure in their persons, houses, papers and effects, against unreasonable search or seizure; and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

10. No court shall be secret, but justice shall be administered openly and without purchase, completely and without delay, and every man shall have remedy by due course of law for injury done him in his person, property or reputation.

11. In all criminal prosecutions, the accused shall have the right to public trial by an impartial jury in the county in which the offence shall have been committed; to be heard by himself and counsel; to demand the nature and cause of the accusation against him, and to have a copy thereof; to meet the witnesses face to face, and to have compulsory process for obtaining witnesses in his favor.

12. No person shall be put in jeopardy twice for the same offense, nor be compelled in any criminal prosecution to testify against himself.

13. No person arrested or confined in jail shall be treated with unnecessary rigor.

14. Offenses, except murder and treason, shall be bailable by sufficient sureties. Murder and treason shall not be bailable when the proof is evident or the presumption strong.

15. Laws for the punishment of crime shall be founded on the principles of reformation, and not of vindictive justice.

16. Excessive bail shall not be required, nor excessive fines imposed. Cruel and unusual punishments shall not be inflicted, but all penalties shall be proportioned to the offense.

17. In all criminal cases whatever, the jury shall have the right to determine the law and the facts, under the direction of the court as to the law, and the right of new trial, as in civil cases.

18. In all civil cases, the right of trial by jury shall remain inviolate.

19. Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor except in case of the State, without such compensation first assessed and tendered.

20. There shall be no imprisonment for debt except in case of fraud or absconding debtors.

21. No law shall be passed granting to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

22. No *ex post facto* law, or law impairing the obligations of contracts, shall ever be passed, nor shall any law be passed, the taking effect of which shall be made to depend upon any authority except as provided in this constitution; provided that laws locating the capital of the State, locating county seats, and submitting town and city corporate acts, and other local and special laws may take effect or not, upon a vote of the electors interested.

23. The operation of the laws shall never be suspended except by the authority of the Legislative Assembly.

24. The privilege of the writ of *habeas corpus* shall not be suspended, unless in case of rebellion or invasion, the public safety require it.

25. Treason against the State shall consist only in levying war against it or adhering to its enemies, giving them aid, or comfort.—No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or confession in open court.

26. No conviction shall work corruption of blood or forfeiture of estate.

27. No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their representatives; nor from applying to the Legislature for redress of grievances.

28. The people shall have the right to bear arms for the defence of themselves and the State, but the military shall be kept in strict subordination to the civil power.

29. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, except in manner prescribed by law.

30. No law shall be passed granting any title of nobility, or conferring hereditary distinction.

31. No law shall be passed prohibiting emigration from the State.

32. White foreigners who are or may hereafter become residents of this State shall enjoy the same rights in respect to the possession, enjoyment and descent of property as native born citizens. And the Legislative Assembly shall have power to restrain and regulate the immigration to this State of persons not qualified to become citizens of the United States.

33. No tax or duty shall be imposed without the consent of the people or their representatives in the Legislative Assembly; and all taxation shall be equal and uniform.

34. This enumeration of rights and privileges shall not be construed to impair or deny others retained by the people.

ARTICLE II.

SUFFRAGE AND ELECTIONS.

SECTION 1. All elections shall be free and equal.

2. In all elections, not otherwise provided for by this Constitution, every white male citizen of the United States, of the age of twenty-one years and upwards, who shall have resided in the State during the six months immediately preceding such election—and every white male of foreign birth of the age of twenty-one years and upwards, who shall have resided in the United States one year, and shall have resided in this State during the six months immediately preceding such election, and shall have declared his intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

3. No idiot or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited, by a conviction of any crime which is punishable by imprisonment in the penitentiary.

4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse, or other asylum, at public expense; nor while confined in any public prison.

5. No soldier, seaman, or marine, in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

6. No negro, Chinaman, or mulatto shall have the right of suffrage.

7. Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

8. The Legislative Assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein, from power, bribery, tumult, and other improper conduct.

9. Every person who shall give or accept a challenge to fight a duel, or shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

10. No person holding a lucrative office or appointment under the United States or under this State, shall be eligible to a seat in the Legislative Assembly; nor shall any person hold more than one lucrative office at the same time, except as in this Constitution expressly permitted; provided that, officers in the militia, to which there is attached no annual salary, and the office of postmaster, where the compensation does not exceed one hundred dollars per annum, shall not be deemed lucrative.

11. No person who may hereafter be a collector or holder of public money, shall be eligible to any office of trust or profit, until he shall have accounted for and paid over, according to law, all sums for which he may be liable.

12. In all cases in which it is provided that an office shall not be filled by the same person more than a certain number of years continuously, an appointment *pro tempore* shall not be reckoned a part of that term.

13. In all cases, except treason, felony, and breach of the peace, electors shall be free from arrest in going to elections, during their attendance there, and in returning from the same, and no elector shall be obliged to do duty in the militia on any day of election, except in time of war, or public danger.

14. General elections shall be held on the first Monday of June, biennially.

15. In all elections by the Legislative Assembly, or by either branch thereof, votes shall be given openly, *or viva voce*, and not by ballot, forever; and in all elections by the people, votes shall be given openly, or *viva voce*, until the Legislative Assembly shall otherwise direct.

16. In all elections held by the people under this Constitution, the person or persons who shall receive the highest number of votes shall be declared duly elected.

17. All qualified electors shall vote in the election precinct in the county where they may reside, for county officers, and in any county in the State for State officers, or in any county of a Congressional district in which such elections may reside, for members of Congress.

ARTICLE III.

DISTRIBUTION OF POWERS.

SECTION 1. The powers of the government shall be divided into three separate departments: the Legislative, the Executive, including the administrative, and the Judicial; and no person charged with official duties under one of these departments shall exercise any of the functions of another except as in this Constitution expressly provided.

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

SECTION 1. The legislative authority of the State shall be vested in the Legislative Assembly, which shall consist of a Senate and House of Representatives. The style of every bill shall be, "Be it enacted by the Legislative Assembly of the State of Oregon," and no law shall be enacted except by bill.

2. The Senate shall consist of sixteen, and the House of Representatives of thirty-four members, which number shall not be increased until the year eighteen hundred and sixty, after which time the Legislative Assembly may increase the number of Senators and Representatives, always keeping, as near as may be, the same ratio as to the number of Senators and Representatives. Provided, That the Senate shall never exceed thirty, and the House of Representatives sixty members.

3. The senators and representatives shall be chosen by the electors of the respective counties or districts into which the State may from time to time be divided by law.

4. The senators shall be elected for the term of four years, and representatives for the term of two years from the day next after their general election. Provided, however, That the senators elect, at the first session of the Legislative Assembly under this Constitution, shall be divided by lot into two equal classes, as nearly as may be; and the seats of senators of the first class shall be vacated at the expiration of two years, and those of the second class at the expiration of four years; so that one-half, as nearly as possible, shall be chosen biennially forever thereafter. And in case of the increase of the number of senators, they shall be so annexed by lot to one or the other of the two classes as to keep them as nearly equal as possible.

5. The Legislative Assembly shall, in the year eighteen hundred and sixty-five, and every ten years after, cause an enumeration to be made of all the white population of the State.

6. The number of senators and representatives shall, at the session next following an enumeration of the inhabitants by the United States or this State, be fixed by law and apportioned among the several counties according to the number of white population in each. And the ratio of senators and representatives shall be determined by dividing the whole number of white population by the number of senators and representatives respectively; and the number of senators and representatives to which any county or district shall be entitled, shall be determined by dividing the whole number of white population of such county or district by such respective ratios; and when a fraction shall result from such division which shall exceed one-half of said ratio, such county or district shall be entitled to a

member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for senatorial or representative purposes.

7. A senatorial district, when more than one county shall constitute the same, shall be composed of contiguous counties and no county shall be divided in creating senatorial districts.

8. No person shall be a senator or representative who, at the time of his election, is not a citizen of the United States, nor any one who has not been for one year next preceding his election an inhabitant of the county or district whence he may be chosen. Senators and representatives shall be at least twenty-one years of age.

9. Senators and representatives in all cases except for treason, felony, or breaches of the peace, shall be privileged from arrest during the session of the Legislative Assembly, and in going to and returning from the same; and shall not be subject to any civil process during the session of the Legislative Assembly, nor during the fifteen days next before the commencement thereof. Nor shall a member, for words uttered in debate in either house, be questioned in any other place.

10. The sessions of the Legislative Assembly shall be held biennially at the Capital of the State, commencing on the second Monday of September, in the year eighteen hundred and fifty-eight, and on the same day of every second year thereafter, unless a different day shall have been appointed by law.

11. Each House, when assembled, shall choose its own officers, judge of the election, qualifications and returns of its own members, determine its own rules of proceeding, and sit upon its own adjournments; but neither house shall, without the concurrence of the other adjourn for more than three days, nor to any other place than that in which it may be sitting.

12. Two-thirds of each house shall constitute a quorum to do business, but a smaller number may meet, adjourn from day to day and compel the attendance of absent members. A quorum being in attendance, if either house fail to effect an organization within the first five days thereafter, the members of the house so failing shall be entitled to no compensation from the end of the said five days until an organization shall have been effected.

13. Each house shall keep a journal of its proceedings. The yeas and nays on any question shall, at the request of any two members, be entered, together with the names of the members demanding the same, on the journal; provided, that on a motion to adjourn, it shall require one-tenth of the members present to order the yeas and nays.

14. The doors of each house, and of committees of the whole shall be kept open, except in such cases as in the opinion of either house may require secrecy.

15. Either house may punish its members for disorderly behavior, and may, with the concurrence of two-thirds, expel a member; but not a second time for the same cause.

16. Either house, during its session, may punish by imprisonment any person not a member, who shall have been guilty of disrespect to the house, by disorderly or contemptuous behavior in its presence, but such imprisonment shall not at any time exceed twenty-four hours.

17. Each house shall have all powers necessary for a branch of the legislative department of a free and independent State.

18. Bills may originate in either house, but may be amended or rejected in the other, except that bills for raising revenue shall originate in the House of Representatives.

19. Every bill shall be read by sections, on three several days, in each house, unless, in case of emergency, two-thirds of the house where such bill may be depending, shall, by a vote of yeas and nays, deem it expedient to dispense with this rule; but the reading of a bill by sections on its final passage shall in no case be dispensed with, and the vote on the passage of every bill or joint resolution shall be taken by yeas and nays.

20. Every act shall embrace but one subject, and matters properly connected therewith, which subject shall be expressed in the title. But if any subject shall be embraced in an act which shall not be expressed in the title; such act shall be void only as to so much thereof as shall not be expressed in the title.

21. Every act or joint resolution shall be plainly worded avoiding as far as practicable, the use of technical terms.

22. No act shall ever be revised or amended by mere reference to its title, but the act revised or section amended shall be set forth and published at full length.

23. The Legislative Assembly shall not pass special or local laws in any of the following enumerated cases: that is to say—

Regulating the jurisdiction and duties of justices of the peace, and of constables;

For the punishment of crimes and misdemeanors;

Regulating the practice in courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

For laying, opening and working on highways, and for the election or appointment of supervisors;

Vacating roads, town-plats, streets, alleys and public squares;

Summoning and empanneling grand and petit jurors;

For the assessment and collection of taxes for State, county, township or road purposes;

Providing for supporting common schools, and for the preservation of school funds;

In relation to interest on money;

Providing for opening and conducting elections of State, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities by executors, administrators, guardians or trustees.

24. Provision may be made by general law for bringing suit against the State, as to liabilities originating after or existing at the time of the adoption of this constitution; but no special act authorizing such suit to be brought, or making compensation to any person claiming damages against the State, shall ever be passed.

25. A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution; and all bills or joint resolutions so passed shall be signed by the presiding officers of the respective houses.

26. Any member of either house shall have the right to protest, and have his protest, with his reasons for dissent, entered on the journal.

27. Every statute shall be a public law, unless otherwise declared in the statute itself.

28. No act shall take effect until ninety days from the end of the session at which the same shall have been passed, except in case of emergency, which emergency shall be declared in the preamble or in the body of the law.

29. The members of the Legislative Assembly shall receive for their services a sum not exceeding three dollars a day from the commencement of the session; but such pay shall not exceed in the aggregate one hundred and twenty dollars for per diem allowance for any one session. When convened in extra session by the Governor, they shall receive three dollars per day; but no extra session shall continue for a longer period than twenty days. They shall also receive the sum of three dollars for every twenty miles they shall travel in going to and returning from their place of meeting, on the most usual route. The presiding officers of the Assembly shall, in virtue of their office, receive an additional compensation equal to two-thirds of their per diem allowance as members.

30. No senator or representative shall, during the time for which he may have been elected, be eligible to any office, the election to which is vested in the Legislative Assembly; nor shall be appointed to any civil office of profit which shall have been created, or the emoluments of which shall have been increased during such term, but this latter provision shall not be construed to apply to any officer elective by the people.

31. The members of the Legislative Assembly shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:
I do solemnly swear (or affirm, as the case may be) that I will

support the Constitution of the United States, and the Constitution of the State of Oregon, and that I will faithfully discharge the duties of Senator (or Representative, as the case may be) according to the best of my ability.

And such oath may be administered by the Governor, Secretary of State, or a Judge of the Supreme Court.

ARTICLE V.

EXECUTIVE DEPARTMENT.

SECTION 1. The chief executive power of the State shall be vested in a Governor, who shall hold his office for the term of four years; and no person shall be eligible to such office more than eight in any period of twelve years.

2. No person, except a citizen of the United States, shall be eligible to the office of Governor, nor shall any person be eligible to that office who shall not have attained the age of thirty years, and who shall not have been three years next preceding his election, a resident within this State.

3. No member of Congress, or person holding any office under the United States, or under this State, or under any other power, shall fill the office of Governor, except as may be otherwise provided in this Constitution.

4. The Governor shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, and the returns of every election for Governor shall be sealed up and transmitted to the Secretary of State, directed to the Speaker of the House of Representatives, who shall open and publish them in the presence of both houses of the Legislative Assembly.

5. The person having the highest number of votes for Governor shall be elected; but in case two or more persons shall have an equal, and the highest number of votes for Governor, the two Houses of the Legislative Assembly, at the next regular session thereof, shall forthwith, by joint vote, proceed to elect one of the said persons Governor.

6. Contested elections for Governor shall be determined by the Legislative Assembly in such manner as may be prescribed by law.

7. The official term of the Governor shall be four years; and shall commence at such times as may be provided by this Constitution, or prescribed by law.

8. In case of the removal of the Governor from office, or of his death, resignation, or inability to discharge the duties of the office, the same shall devolve on the Secretary of State; and in case of the removal from office, death, resignation, or inability, both of the Governor and Secretary of State, the President of the Senate shall act

as Governor, until the disability be removed, or a Governor be elected.

9. The Governor shall be commander-in-chief of the military and naval forces of this State, and may call out such forces to execute the laws, to suppress insurrection, or to repel invasion.

10. He shall take care that the laws be faithfully executed.

11. He shall, from time to time, give to the Legislative Assembly information touching the condition of the State, and recommend such measures as he shall judge to be expedient.

12. He may, on extraordinary occasions, convene the Legislative Assembly by proclamation, and shall state to both Houses, when assembled, the purpose for which they shall have been convened.

13. He shall transact all necessary business with the officers of government, and may require information in writing from the officers of the administrative and military departments upon any subject relating to the duties of their respective offices.

14. He shall have power to grant reprieves, commutations and pardons, after conviction, for all offences except treason, subject to such regulations as may be provided by law. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislative Assembly; at its next meeting, when the Legislative Assembly shall either grant a pardon, commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the Legislative Assembly, at its next meeting, each case of reprieve, commutation, or pardon granted, and the reasons for granting the same; and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted.

15. Every bill which shall have passed the Legislative Assembly shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that house in which it shall have originated, which house shall enter the objections at large upon the journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for or against the bill, shall be entered on the journal of each house respectively; if any bill shall not be returned by the Governor within five days (Sundays excepted) after it shall have been presented to him, it shall be a law without his signature, unless the general adjournment shall prevent its return, in which case it shall be a law, unless the Governor, within five days next after the adjournment (Sundays excepted), shall file such bill, with his objections thereto, in the

office of the Secretary of State, who shall lay the same before the Legislative Assembly at its next session, in like manner as if it had been returned by the Governor.

16. When, during a recess of the Legislative Assembly, a vacancy shall happen in any office, the appointment to which is vested in the Legislative Assembly; or when at any time a vacancy shall have occurred in any other State office, or in the office of judge of any court, the Governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

17. He shall issue writs of election to fill such vacancies as may have occurred in the Legislative Assembly.

18. All commissions shall issue in the name of the State, shall be signed by the Governor, sealed with the seal of State, and attested by the Secretary of State.

ARTICLE VI.

ADMINISTRATIVE DEPARTMENT.

SECTION 1. There shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a Secretary, and Treasurer of State, who shall severally hold their offices for the term of four years; but no person shall be eligible to either of said offices more than eight in any period of twelve years.

2. The Secretary of State shall keep a fair record of the official acts of the Legislative Assembly, and executive department of the State; and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislative Assembly. He shall be, by virtue of his office, auditor of public accounts, and shall perform such other duties as shall be assigned him by law.

3. There shall be a seal of State, kept by the Secretary of State for official purposes, which shall be called "The seal of the State of Oregon."

4. The power and duties of the Treasurer of State shall be such as may be prescribed by law.

5. The Governor, and the Secretary, and Treasurer of State shall severally keep the public records, books and papers in any manner relating to their respective offices; at the seat of government, at which place also the Secretary of State shall reside.

6. There shall be elected in each county, by the qualified electors thereof, at the time of holding general elections, a County Clerk, Treasurer, Sheriff, Coroner and Surveyor, who shall severally hold their offices for the term of two years.

7. Such other county, township, precinct and city officers as may be necessary, shall be elected or appointed in such manner as may be prescribed by law.

8. No person shall be elected or appointed to a county office who shall not be an elector of the county; and all county, township, precinct and city officers shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.

9. Vacancies in county, township, precinct, and city offices shall be filled in such manner as may be prescribed by law.

ARTICLE VII.

JUDICIAL DEPARTMENT.

SECTION 1. The judicial power of the State shall be vested in a Supreme Court, Circuit Courts, and County Court, which shall be courts of record having general jurisdiction, to be defined, limited and regulated by law in accordance with this Constitution. Justices of the peace may also be invested with limited judicial powers, and municipal courts may be created to administer the regulations of incorporated towns and cities.

2. The Supreme Court shall consist of four justices, to be chosen in districts by the elections thereof, who shall be citizens of the United States, and who shall have resided in the State at least three years next preceding their election, and after their election to reside in their respective districts. The number of justices and districts may be increased, but shall not exceed five until the white population of the State shall amount to one hundred thousand, and shall never exceed seven; and the boundaries of districts may be changed, but no change of district shall have the effect to remove a judge from office, or require him to change his residence without his consent.

3. The judges first chosen under this Constitution shall allot among themselves their terms of office, so that the term of one of them shall expire in two years, one in four years, and two in six years, and thereafter one or more shall be chosen every two years, to serve for the term of six years.

4. Every vacancy in the office of judge of the Supreme Court shall be filled by election for the remainder of the vacant term, unless it would expire at the next election, and until so filled, or when it would so expire, the Governor shall fill the vacancy by appointment.

5. The judge who has the shortest term to serve, or the oldest of several having such shortest term, and not holding by appointment, shall be the chief justice.

6. The Supreme Court shall have jurisdiction only to revise the final decisions of the circuit courts; and every case shall be tried, and every decision shall be made by those judges only, or a majority of them, who did not try the cause or make the decision in the circuit court.

7. The terms of the Supreme Court shall be appointed by law;

but there shall be one term at the seat of government annually. And at the close of each term the judges shall file with the Secretary of State, concise written statements of the decisions made at that term.

8. The circuit court shall be held twice, at least, in each year, in each county organized for judicial purposes, by one of the justices of the Supreme Court, at times to be appointed by law; and at such other times as may be appointed by the judges severally, in pursuance of law.

9. All judicial power, authority and jurisdiction not vested by this constitution, or by laws consistent therewith exclusively in some other court, shall belong to the circuit courts; and they shall have appellate jurisdiction and supervisory control over the county courts, and all other inferior courts, officers and tribunals.

10. When the white population of the State shall amount to two hundred thousand, the Legislative Assembly may provide for the election of supreme and circuit judges in distinct classes, one of which class shall consist of three justices of the Supreme Court, who shall not perform circuit duty, and the other class shall consist of the necessary number of circuit judges, who shall hold full terms without allotment, and who shall take the same oath as the supreme judges.

11. There shall be elected in each county, for the term of four years, a county judge, who shall hold the county court at times to be regulated by law.

12. The county court shall have the jurisdiction pertaining to probate courts, and boards of county commissioners, and such other powers and duties, and such civil jurisdiction not exceeding the amount or value of five hundred dollars, and such criminal jurisdiction not extending to death or imprisonment in the penitentiary as may be prescribed by law. But the Legislative Assembly may provide for the election of two commissioners to sit with the county judge whilst transacting county business in any or all of the counties, or may provide a separate board for transacting such business.

13. The county judge may grant preliminary injunctions and such other writs as the Legislative Assembly may authorize him to grant, returnable to the circuit court, or otherwise, as may be provided by law; and may hear and decide questions arising upon *habeas corpus*, provided such decision be not against the authority or proceeding of a court or judge of equal or higher jurisdiction.

14. The counties having less than ten thousand white inhabitants shall be reimbursed, wholly or in part, for the salary and expenses of the county court, by fees, per centage, and other equitable taxation of the business done in said court, and in the office of the county clerk.

15. A county clerk shall be elected in each county, for the term of two years, who shall keep all the public records, books and papers of the county, record conveyances, and perform the duties of clerk.

of the circuit and county courts, and such other duties as may be prescribed by law; but whenever the number of voters in any county shall exceed twelve hundred, the Legislative Assembly may authorize the election of one person as clerk of the circuit court, one person as clerk of the county court, and one person recorder of conveyances.

16. A sheriff shall be elected in each county for the term of two years, who shall be the ministerial officer of the circuit and county courts, and shall perform such other duties as may be prescribed by law.

17. There shall be elected by districts composed of one or more counties, a sufficient number of prosecuting attorneys, who shall be the law officers of the State, and of the counties within their respective districts, and shall perform such duties pertaining to the administration of law and general police, as the Legislative Assembly may direct.

18. The Legislative Assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court seven shall be drawn by lot as grand jurors, five of whom must concur to find an indictment. But the Legislative Assembly may modify or abolish grand juries.

19. Public officers shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.

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 elected to each house shall concur, for incompetency, corruption, malfeasance or delinquency in office, or other sufficient cause stated in such resolution.

21. Every judge of the supreme court, before entering upon the duties of his office, shall take and 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."

ARTICLE VIII.

EDUCATION AND SCHOOL LANDS.

SECTION 1. The Governor shall be superintendent of public instruction.

struction, 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.

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 aid 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 money 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 pre-emption rights, approved the 4th of September, 1841," and also the five per centum of the net proceeds of the sales of the public lands; to which this State shall become entitled 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 revenues 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.

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

4. Provision shall be made by law for the distribution of the income of the common school fund, among the several counties of this State, in proportion to the number of children resident therein between the ages of four and twenty years.

5. The Governor, Secretary of State, and State Treasurer shall constitute a board of commissioners for the sale of School and 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 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 valuation for taxation of all property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, or charitable purposes, as may be specially exempted by law.

2. The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the interest on the State debt, if there be any.

3. No tax shall be levied except in pursuance of law, and every law imposing a tax shall distinctly state the object of the same, to which only it shall be applied.

4. No money shall be drawn from the treasury but in pursuance of appropriations made by law.

5. An accurate statement of the receipts and expenditures of the public money shall be published with the laws of each regular session of the Legislative Assembly.

6. Whenever the expenses of any fiscal year shall exceed the income, the Legislative Assembly shall provide for levying a tax for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expense of the ensuing fiscal year.

7. Laws making appropriations for the salaries of public officers and other current expenses of the State, shall contain provisions upon no other subject.

8. All stationery required for the use of the State, shall be furnished by the lowest responsible bidder, under such regulations as may be prescribed by law. But no State officer, or member of the Legislative Assembly shall be interested in any bid or contract for furnishing such stationery.

ARTICLE X.

MILITIA.

SECTION 1. The militia of this State shall consist of all able-bodied male citizens between the ages of eighteen and forty-five years, except such persons as now are or hereafter may be exempted by the laws of the United States or of this State.

2. Persons whose religious tenets or conscientious scruples forbid them to bear arms, shall not be compelled to do so in time of peace, but shall pay an equivalent for personal service.

3. The Governor shall appoint the adjutant general and the other chief officers of the general staff and his own staff, and all officers of the line shall be elected by the persons subject to military duty in their respective districts.

4. The majors general, brigadier general, colonels or command-

dants of regiments, battalions, or squadrons, shall severally appoint their staff officers, and the governor shall commission all officers of the line and staff ranking as such.

5. The Legislative Assembly shall fix by law the method of dividing the militia into divisions, brigades, regiments, battalions, and companies, and make all other needful rules and regulations in such manner as they may deem expedient, not incompatible with the Constitution or laws of the United States, or of the Constitution of this State, and shall fix the rank of all staff officers.

ARTICLE XI.

CORPORATIONS AND INTERNAL IMPROVEMENTS.

SECTION 1. The Legislative Assembly shall not have the power to establish or incorporate any bank, or banking company, or monied institution whatever; nor shall any bank, company, or institution exist in the State with the privilege of making, issuing, or putting in circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person, to circulate as money.

2. Corporations may be formed under general laws, but shall not be created by special laws, except for municipal purposes. All laws passed pursuant to this section may be altered, amended, or repealed, but not so as to impair or destroy any vested corporate rights.

3. The stockholders of all corporations and joint stock companies shall be liable for the indebtedness of said corporation to the amount of their stock subscribed and unpaid, and no more.

4. No person's property shall be taken by any corporation, under authority of law, without compensation being first made or secured, in such manner as may be prescribed by law.

5. Acts of the Legislative Assembly, incorporating towns and cities, shall restrict their powers of taxation, borrowing money, contracting debts and loaning their credit.

6. The State shall not subscribe to, or be interested in the stock of any company, association or corporation.

7. The Legislative Assembly shall not, in any manner, create any debt or liabilities which shall singly, or in the aggregate, with previous debts or liabilities, exceed the sum of fifty thousand dollars, except in case of war, or to repel invasion, or suppress insurrection; and every contract of indebtedness entered into or assumed by or on behalf of the State, when all its liabilities and debts amount to said sum, shall be void and of no effect.

8. The State shall never assume the debts of any county, town, city, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the State in war.

9. No county, city, town, or other municipal corporation, by vote of its citizens, or otherwise, shall become a stockholder in any joint stock company, corporation, or association whatever, or raise money for, or loan its credit to, or in aid of, any such company, corporation or association.

10. No county shall create any debts or liabilities which shall singly, or in the aggregate, exceed the sum of five thousand dollars, except to suppress insurrection, or repel invasion; but the debts of any county, at the time this Constitution takes effect, shall be disregarded in estimating the sum to which such county is limited.

ARTICLE XII.

STATE PRINTER.

SECTION 1. There shall be elected by the qualified electors of the State at the times and places of choosing members of the Legislative Assembly, a State printer, who shall hold his office for the term of four years. He shall perform all the public printing for the State, which may be provided by law. The rates to be paid to him for such printing shall be fixed by law, and shall neither be increased nor diminished during the term for which he shall have been elected. He shall give such security for the performance of his duties as the Legislative Assembly may provide.

ARTICLE XIII.

SALARIES.

SECTION 1. The Governor shall receive an annual salary of fifteen hundred dollars. The Secretary of State shall receive an annual salary of fifteen hundred dollars. The Treasurer of State shall receive an annual salary of eight hundred dollars. The Judges of the Supreme Court shall each receive an annual salary of two thousand dollars. They shall receive no fees or perquisites whatever for the performance of any duties connected with their respective offices; and the compensation of officers, if not fixed by this Constitution, shall be provided by law.

ARTICLE XIV.

SEAT OF GOVERNMENT.

SECTION 1. The Legislative Assembly shall not have power to establish a permanent seat of government for this State. But at the first regular session after the adoption of this Constitution, the Legislative Assembly shall provide by law for the submission to the

electors of this State at the next general election thereafter, the matter of the selection of a place for a permanent seat of government; and no place shall ever be the seat of government under such law, which shall not receive a majority of all the votes cast on the matter of such selection.

2. No tax shall be levied, or money of the State expended, or debt contracted for the erection of a State house prior to the year eighteen hundred and sixty-five.

3. The seat of government, when established as provided in section one, shall not be removed for the term of twenty years from the time of such establishment; nor in any other manner than as provided in the first section of this article. Provided, that all public institutions of the State hereafter provided for by the Legislative Assembly, shall be located at the seat of government.

ARTICLE XV.

MISCELLANEOUS.

SECTION 1. All officers, except members of the Legislative Assembly, shall hold their offices until their successors are elected and qualified.

2. When the duration of any office is not provided for by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment. But the Legislative Assembly shall not create any office the tenure of which shall be longer than four years.

3. Every person elected or appointed to any office under this Constitution, shall, before entering on the duties thereof, take an oath or affirmation to support the Constitution of the United States, and of this State, and also an oath of office.

4. Lotteries, and the sale of lottery tickets, for any purpose whatever, are prohibited, and the Legislative Assembly shall prevent the same by penal laws.

5. The property and pecuniary rights of every married woman at the time of marriage, or afterwards acquired by gift, devise, or inheritance, shall not be subject to the debts or contracts of her husband; and laws shall be passed providing for the registration of the wife's separate property.

6. No county shall be reduced to an area of less than four hundred square miles; nor shall any new county be established in this State containing a less area, nor unless such new county shall contain a population of at least twelve hundred inhabitants.

7. No State officer or member of the Legislative Assembly shall directly or indirectly receive a fee, or be engaged as counsel-agent, or attorney in the prosecution of any claim against this State.

8. No Chinaman, not a resident of this State at the time of the

adoption of this Constitution, shall ever hold any real estate or mining claim, or work any mining claim therein.

The Legislative Assembly shall provide by law in the most effectual manner for carrying out the above provision.

ARTICLE XVI.

BOUNDARIES.

SECTION 1. In order that the boundaries of the State may be known and established, it is hereby ordained and declared that the State of Oregon shall be bounded as follows, to-wit:

Beginning one marine league at sea due west from the point where the 42d parallel of north latitude intersects the same; thence northerly at the same distance from the line of coast lying west and opposite the State, including all islands within the jurisdiction of the United States, to a point due west and opposite the middle of the north ship channel of the Columbia river; thence easterly to and up the middle channel of said river, and where it is divided by islands, up the middle of the widest channel thereof, and in like manner up the middle of the main channel of Snake river to the mouth of the Owyhee river; thence due south to the parallel of latitude forty-two degrees north; thence west along said parallel to the place of beginning, including jurisdiction in civil and criminal cases upon the Columbia river and Snake river, concurrently with States and Territories of which those rivers form a boundary in common with this State. But the Congress of the United States, in providing for the admission of this State into the Union, may make the said northern boundary conform to the act creating the Territory of Washington.

ARTICLE XVII.

AMENDMENTS.

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the Legislative Assembly, and if the same shall be agreed to by a majority of all the members elected to each of the two Houses, such proposed amendment or amendments shall, with the yeas and nays thereon, be entered on their journals, and referred to the Legislative Assembly to be chosen at the next general election; and if, in the Legislative Assembly so next chosen, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislative Assembly to submit such amendment or amendments to the electors of the State; and cause the same to be published without delay at least four consecutive weeks in the several newspapers published in this State; and if a majority of said electors

shall ratify the same, such amendment or amendments shall become a part of this Constitution.

2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately; and while an amendment or amendments which shall have been agreed upon by one Legislative Assembly shall be awaiting the action of a Legislative Assembly, or of the electors, no additional amendment or amendments shall be proposed.

ARTICLE XVII.

SCHEDULE.

SECTION 1. For the purpose of taking the vote of the electors of the State for the acceptance or rejection of this Constitution, an election shall be held on the second Monday of November, in the year 1857, to be conducted according to existing laws regulating the election of Delegates in Congress, so far as applicable, except as herein otherwise provided.

2. Each elector who offers to vote upon this Constitution shall be asked by the judges of election this question:

Do you vote for the Constitution—Yes or No?

And also this question:

Do you vote for slavery in Oregon—Yes or No?

And also this question:

Do you vote for free negroes in Oregon—Yes or No?

And in the poll books shall be columns headed respectively, "Constitution, Yes," "Constitution, No," "Slavery, Yes," "Slavery, No," "Free Negroes, Yes," "Free Negroes, No." And the names of the electors shall be entered in the poll books, together with their answers to the said questions, under their appropriate heads. The abstracts of the votes transmitted to the Secretary of the Territory shall be publicly opened and canvassed by the Governor and Secretary, or by either of them in the absence of the other; and the Governor, or in his absence, the Secretary, shall forthwith issue his proclamation, and publish the same in the several newspapers printed in this State, declaring the result of the said election upon each of said questions.

3. If a majority of all the votes given for and against the Constitution shall be given for the Constitution, then this Constitution shall be deemed to be approved and accepted by the electors of the State, and shall take effect accordingly; and if a majority of such votes shall be given against the Constitution, then this Constitution shall be deemed to be rejected by the electors of the State, and shall be void.

4. If this Constitution shall be accepted by the electors, and a

majority of all the votes given for and against slavery shall be given for slavery, then the following section shall be added to the Bill of Rights, and shall be part of this Constitution:

"Section —. Persons lawfully held as slaves in any State, Territory or District of the United States, under the laws thereof, may be brought into this State; and their descendants may be held as slaves within this State, and shall not be emancipated without the consent of their owners."

And if a majority of such votes shall be given against slavery, then the foregoing section shall not, but the following section shall be added to the Bill of Rights, and shall be a part of this Constitution:

"Section —. There shall be neither slavery nor involuntary servitude in this State, otherwise than as a punishment for crime, whereof the party shall have been duly convicted."

And if a majority of all the votes given for and against free negroes shall be given against free negroes, then the following section shall be added to the Bill of Rights, and shall be a part of this Constitution:

"Section —. No free negro or mulatto, not residing in this State at the time of the adoption of this Constitution, shall ever come, reside, or be within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws for the removal by public officers of all such free negroes and mulattos, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein."

5. Until an enumeration of the white inhabitants of the State shall be made, and the Senators and Representatives apportioned as directed in this Constitution, the county of Marion shall have two Senators and four Representatives; Linn, two Senators and four Representatives; Lane, two Senators and three Representatives; Clackamas and Wasco, one Senator jointly, and Clackamas three Representatives, and Wasco one Representative; Yamhill, one Senator and two Representatives; Polk, one Senator and two Representatives; Benton, one Senator and two Representatives; Multnomah, one Senator and two Representatives; Washington, Columbia, Clatsop and Tillamook one Senator jointly, and Washington one Representative, and Washington and Columbia one Representative jointly; and Clatsop and Tillamook one Representative jointly; Jackson, on Senator and three Representatives; Josephine, one Senator and one Representative; Umpqua, Coos and Curry, one Senator jointly, and Umpqua one Representative, and Coos and Curry one Representative jointly.

6. If this Constitution shall be ratified, an election shall be held on the first Monday in June, 1858, for the election of members of the Legislative Assembly, a Representative in Congress, and State

and county officers; and the Legislative Assembly shall convene at the capital on the first Monday of July, 1858, and proceed to elect two Senators in Congress, and make such further provision as may be necessary to the complete organization of a State government.

7. All laws in force in the Territory of Oregon when the Constitution takes effect, and consistent therewith, shall continue in force until altered or repealed.

8. All officers of the Territory of Oregon, or under its laws, when this Constitution takes effect, shall continue in office until superseded by the State authorities.

9. Crimes and misdemeanors committed against the Territory of Oregon shall be punished by the State as they might have been punished by the Territory if the change of government had not been made.

All property and rights of the Territory and of the several counties, subdivisions, and political bodies corporate, of, or in the Territory, including fines, penalties, forfeitures, debts and claims of whatsoever nature, and recognizances, obligations, and undertakings to or for the use of the Territory or any county, political corporation, officer or otherwise, to or for the public, shall enure to the State, or remain to the county, local division, corporation, officer, or public, as if the change of government had not been made. And private rights shall not be affected by such change.

11. Until otherwise provided by law, the judicial districts of the State shall be constituted as follows:—The counties of Jackson, Josephine and Douglas shall constitute the first district. The counties of Umpqua, Coos and Curry, Lane and Benton shall constitute the second district. The counties of Elgin, Marion, Polk, Yamhill, and Washington shall constitute the third district. The counties of Clackamas, Multnomah, Wasco, Columbia, Clatsop and Tillamook shall constitute the fourth district; and the county of Tillamook shall be attached to the county of Clatsop for judicial purposes.

Done in convention at Salem, the eighteenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven, and of the independence of the United States the eighty-second.

CHESTER N. TERRY, *Secretary*,
M. C. BARKWELL, *Assistant Secretary*.

M. P. DEADY, *President*.

BY THE GOVERNOR OF THE TERRITORY OF OREGON.

A PROCLAMATION

WHEREAS, the people of the Territory of Oregon, through their delegates in Convention assembled, prepared a Constitution for their government under a State organization, and submitted the same with certain propositions, to be approved and determined at an election which was held in the said Territory on the 9th day of November, A. D., 1857, in conformity to the provisions made by said Convention of delegates, and

WHEREAS, it was further provided by said Convention of delegates that the result of said election should be announced by Executive proclamation;

Therefore, to that end it is hereby declared and made known that at the said election, held on the 9th day of November, A. D., 1857, there were seven thousand one hundred and ninety-five votes given for the adoption of the said Constitution, and three thousand one hundred and ninety-five votes against its adoption. There were two thousand six hundred and forty-five votes given in favor of Slavery, and seven thousand seven hundred and twenty-seven votes against Slavery; and there were given one thousand and eighty-one votes in favor of permitting the residence of free negroes, and eight thousand six hundred and forty votes against the same.

In testimony whereof, I have herewith set my official signature, and caused the seal of the Territory to be affixed, at Salem, [i. e.] this 14th day of December, A. D., 1857.

GEO. L. CURRY.

By the Governor:

B. F. HARDING, *Secy of the Territory of Oregon*,
December 9th, 1857.