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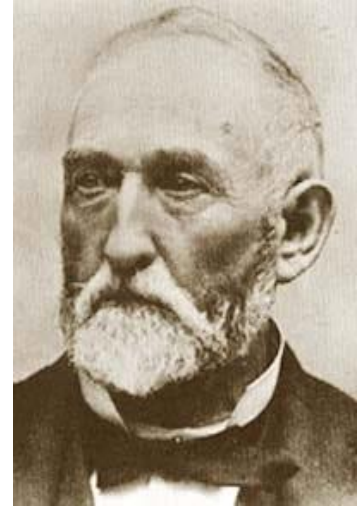
GOVERNOR WILLIAM W. THAYER

Administration

SEPTEMBER 11, 1878 TO SEPTEMBER 13, 1882

Governor's Biennial Message, 1880

Source: Messages and Documents, Biennial Message of Gov. William Thayer to the Legislative Assembly, 1880, Salem, Oregon, W.P. Keady, State Printer, 1880.



Gentlemen of the Legislative Assembly:

You, as the representatives of the people of this commonwealth, and constituting one of the co-ordinate departments of its government, are convened to enact such laws, and perform such duties pertaining to legislation, as are calculated to promote the general welfare.

It is unnecessary for me to state that you are clothed with an important trust; that material interests affecting you constituents are confided to your care; and that these may be advanced and greatly benefited by a wise and faithful discharge of your duty.

The constitution makes it my duty, as Governor, to give you from time to time information touching the condition of the State, and to recommend such measures as I shall judge to be expedient.

In compliance with that obligation, and agreeable to your expression of a readiness to hear any communication I might desire to make to your honorable body, I have chosen this occasion to call your attention, especially, to certain subjects which I deem of public importance:

FINANCES

Receipts during the fiscal years 1879 and 1880:

The revenues of the State derived from the flour mill tax	
amounted, in 1878, to.....	\$ 184,961 30
In 1879, to.....	186,691 24
Total.....	\$ 370,652 54

From other sources proper, viz:

Penitentiary, care of private insane, sale of stamps,	
Sale of State property, trial fees, and	
Miscellaneous.....	\$ 28,321 55
This, together with the proceeds of the four mill tax,	
Aggregates to the sum of.....	398,974 09

The revenues derived from the three mill tax levied to Meet the special indebtedness of the State,

Amounted, in 1878, to..... 138,720 99
In 1879, to..... 139,268 45

Aggregating the sum of.....\$ 377,989 44

Current expenses of the State government for the two fiscal years ending September 13, 1880:

The amount of the current expenses proper, or which
Warrants have been drawn, together with the
Interest on the bonded debt, is.....\$ 332,758 38
Deficiencies on account of inadequacy of
Appropriations..... 28,002 97
Interest due on Modoc War bonds.....6,200 07
Total.....\$ 366,961 42

The amount of expenses proper, for the two years,
Taken from the amount of revenues for the
Two years, leaves an excess in favor of the
State, of.....\$ 32,012 67

If there be added to the above receipts, the amount received from the former Treasurer, and the amount collected on account of delinquent taxes prior to 1878, and to the above expenses, there be added the various appropriations for purposes other than current expenses, it will, as I understand the matter, exhibit the result of the financial transactions of the State for the two fiscal years ending September 13, 1880.

The appropriations for purposes other than current expenses exceed the receipts from the former Treasurer, and on account of the collection of delinquent taxes, by \$21,970 20; which, taken from the \$32, 012 67, leaves \$10,042 47 in favor of the State. This balance will probably be still further reduced in consequence of interest upon warrants not paid promptly on presentation; and may be entirely overcome by items that have escaped my observation.

The revenues from the three mill tax have been applied to the extinguishment of the principal and interest of the special indebtedness of which it was provided. This indebtedness, it will be remembered, arose from an excess of expenditures over appropriations during several years prior to 1876. In the year 1876, in consequence of a decision of the Supreme Court of the State, to the effect that the revenues of a current year should be applied to the expenses of such year, the Legislative Assembly provided a three mill tax to pay off these accumulated excesses.

The principal of that indebtedness, at the close of the fiscal year 1878, was \$192,975 62. The various warrants that had been issued on account of it had been for a long time drawing interest. This interest will amount, including the portion thereof which has been paid since the close of the fiscal year 1878, to about \$115,000 00. Consequently, the revenue from the three mill tax for 1878 and 1879 will not extinguish the whole debt and interest, but will leave about \$30,000 00 thereof unliquidated. The September levy 1880 will, however, not only pay off the balance, but leave the excess of more than \$100,000 00; which can be applied to the payment of the general indebtedness of the State, or in other legal purposes. The receipts during the two fiscal years ending September 13, 1880, as will be seen from the foregoing, are sufficient to pay the ordinary expenses of the State government during that period, including interest upon the bonded debt. A large portion thereof, however, was, as has been stated, appropriated for other purposes.

The law in force with reference to the levy of a tax for State purposes, was enacted in 1876. It provided that the annual tax thereafter to be levied to defray the current expenses of the State should be four mills upon the dollar of all taxable property.

Properly, the proceeds of that tax should be applied solely to the purposes specified in the act; and cannot in legal strictness be appropriated to any other purpose. Section 3, of article 9, of the constitution, can, it seems

to me, have no other interpretation. Its language is, "And every law imposing a tax shall state distinctly the object of the same, to which only it shall be applied."

This requirement, I am aware, has not always been observed; yet it ought to be. No appropriation should be made of the funds realized from the four mill tax, except to pay the current, (running), expenses of the State government. The funds derived from other sources can undoubtedly be applied to any legitimate purpose. They may be set apart for the benefit of the State University, Agricultural College, or Orphan's Home; or be applied to the finishing of the capitol building; but it found inadequate to answer the demands for necessary appropriations, a tax should be provided especially to raise the required fund.

The act of 1876, providing the three mill tax, with the proceeds of the September levy before referred to, will have accomplished the purpose for which it was enacted; and it should not be repealed, subject to a proviso, that the repealing act shall not affect the said September levy, or the collection and payment to the Treasurer, of the proceeds thereof.

BONDED INDEBTEDNESS

The bonded indebtedness of the State includes the Soldiers' Bounty Bonds, Soldiers' Relief Bonds, Modoc War Bonds, and the bonded debt arising out of the Indian difficulties of 1878. The Soldiers' Bounty Bonds and the Soldiers' Relief Bonds were issued in 1864, in pursuance of two several acts of the Legislative Assembly, passed at that time, and were to run twenty years. A tax of one mill was provided in each act for the redemption of the bonds issued under it. Respective funds were thereby raised, more than sufficient to pay them off. At the close of the fiscal year 1878, according to the Treasurer's report, there was in the Soldiers' Bounty Fund, \$30,496 67; and in the Soldier's Relief Fund \$27,496 50; while the liability upon the former fund was but \$26,400 00; and upon the latter, only \$761 00.

The last Legislative Assembly passed an act authorizing the State Treasurer to transfer from the Soldiers' Bounty Fund all money which at that time was in said fund or so much thereof as might be necessary, to pay the mileage, per diem, and expenses of that session of the legislature; and which also authorized and required the Treasurer to transfer from the general fund, when necessary, an amount sufficient to pay the outstanding Soldiers' Bounty Bonds, and interest thereon. I am not informed whether or not this transfer was actually made by the Treasurer. If so made, the amount ought to have been returned from the current expense fund, for the two fiscal years of 1879 and 1880.

The legislature could at most only loan the Soldiers' Bounty Fund to the current expense fund, for a temporary purpose; and it should be restored from the current revenues for the years referred to, as it was applied to defray current expenses for those years.

In any view, the precedent is not a commendable one, as it savors too much of an infraction of the clause in the constitution before set out. At the same session of the legislature, the Treasurer was directed, by another act, to transfer the sum of \$25,750 00 from the Soldiers' Relief fund to the State Capitol Building Fund. This transfer was made, but it leaves \$1,746 50 in the Soldiers' Relief Fund, which is ample to redeem all the outstanding Soldiers' Relief Bonds.

This latter act might seem to conflict with the letter of the constitution; though I believe that an excess in any fund, even when it has been raised for a specific purpose, can be appropriated for another purpose. I must either be disposed of in that way, or given back to the tax-payers who paid it; which would be quite impracticable, to say the least.

The Modoc War Bonds were issued in pursuance of an act of the Legislative Assembly, approved October 22, 1874. They amount to \$132,858 76, and were made payable at the option of the State, on or before the first day of January, 1880, with interest thereon at the rate of seven per cent per annum, payable at the option of the State, on or before the first day of January, 1880, with interest thereon at the rate of seven per cent per annum, payable semi-annually, on the first of January and July of each year. The interest has been kept paid up until the first day of January last, but the principle sum has matured, and there are no funds applicable to their payment; and the credit of the State is liable to suffer on that account. The debt could, without doubt, be funded again, at the same or a less rate of interest. I would suggest that you adopt some plan at once to meet the emergency. If new bonds have to be issued, they should be issued upon terms of

payment similar to the former ones, and a tax provided to redeem them. Whatever measures are adopted for that purpose, should be taken with a view to discharging these claims as speedily as possible.

The excess of the three mill tax, before mentioned, could be applied as soon as realized, towards their payment, and one or two levies of a one mill tax would be sufficient to complete it.

It has been thought that the United States would pay this indebtedness, at least in part; and they ought, in justice, to pay it. The last Legislative Assembly provided for the application towards their payment of all money that the United States should pay into the treasury of the State for and on account of the Modoc War expenses; but thus far it has proved but an idle ceremony. What the future will develop is difficult to divine. In any event, the State has assumed their payment, and the sooner it is accomplished the sooner the State will be relieved from the burden of their constantly accumulating interest.

The indebtedness arising out of the Indian difficulties of 1878 has been audited, in pursuance of the act of the Legislative Assembly approved October 17, 1878, and amounts to about \$44,000 00. Bonds have been issued to the claimant, payable at the option of the State, on or before the first day of January, 1890, with interest thereon at the rate of seven per cent per annum, payable semi-annually, on the first days of January and July of each year after the issuance thereof, as in said act provided.

The manner in which these claims have been audited, and the amount allowed, will appear in the report of the Auditing Board designated in the act.

The indebtedness arising out of these claims belongs to the same class as the Modoc War expenses. They were occasioned by depredations of Indians, who, escaping from the control of the United States agents having them in charge, ravaged the settlements. If the Indian tribes that engaged in these hostilities had been independent nations, the State would evidently have no claim to indemnity from the United States. They have had assigned to them a territory to occupy, and have been placed in charge of United States officials, whose duty to the State, as well as to the United States, is to restrain them from marauding, and from plundering and outraging frontier settlers. When they fail to do this, and the State is obliged to call out her citizens to resist such predatory incursions, she is properly entitled to be indemnified for the expense incurred.

Upon every principle of justice and right, these claims should be assumed by the United States government.

The foregoing is all the general bonded indebtedness of the State.

There is a bonded debt, payable to the Willamette Falls Canal and Lock Company, or its assigns, out of the fund arising from the five per centum of the net proceeds of the sale of the public lands of the United States, lying within this State, and the fund arising out of the sale of the five hundred thousand acres of land donated to the State for the purpose of internal improvements.

The act under which these bonds were issued was approved October 21, 1870; and they originally amounted to \$200,000 00. They bear interest at the rate of seven per cent per annum, payable semi-annually in gold coin. The time of their payment, as specified in the act, was ten years, or sooner, at the option of the State.

At the close of the fiscal year 1878, there was due upon these bonds, as reported by the State Treasurer, \$160, 000 00. Since that time, payments have been made thereon reducing the amount to \$151, 500.

There are now outstanding, notes due to the State upon the sale of a part of said lands, amounting to \$80, 000 00; and there are approximately 260, 000 acres of the land yet unsold. By a judicious management of these funds, the said bonds can be redeemed. The enterprise to which they were made applicable - the construction of the canal and locks at the Willamette falls, has doubtless proved very advantageous to the people of the State; but the appropriation was premature. It should not have been made until the fund had been realized. The bonds, when issued, were necessarily below par; and were negotiated at a discount of

probably twenty per cent - a loss of \$40,000 00 at least - and by the time they are redeemed, will have well nigh exhausted a large, and what might have been, a valuable fund.

Appropriations of that character, from a fund to be realized at some indefinite period in the future, necessarily result in a sacrifice of pecuniary interests. They are similar, in principle, to a sale by an heir of his expectant inheritance. There is no way now to avoid this loss, but it should afford a salutary lesson for the future.

Besides the bonded indebtedness to which I have specifically referred, there is a considerable number of outstanding warrants, payable out of specific funds; generally out of the swamp land fund. They amounted, at the close of the fiscal year 1878, to \$136,600 00. By payments since made they have been reduced, as I am informed, to \$133,604 00.

Like the lock bonds, they were issued long before any fund was realized from the source from which it was expected to be supplied, and for the promotion of many impracticable schemes, such as are sure to be devised upon the assembling of a legislature; and the usual object of which is to enable parties to appropriate to their own use important interests which were intended for the public benefit.

Neither these warrants or the lock bonds are a general indebtedness against the State. State officials, however, are in duty bound to administer upon the property and funds from which they are expected to be created, properly, and with a view to realizing the full value thereof. The obligation of the State to the holders of these bonds and warrants extends no further than this; though I think that the payment of both from the proceeds of the property pledged for that purpose is assured beyond a doubt. The swamp lands will doubtless be confirmed to the State within a short time, and will afford ample means to discharge these warrants.

I have, perhaps, referred with unnecessary particularity to the various claims against the State. I have been constrained to do so from the fact that I am very anxious to have them liquidated, and desire to secure the co-operation of your honorable body in consummating that end.

I am convinced that a large portion of this indebtedness has been the result of inconsiderate legislation. An attempt to appropriate sums of money, when the State has not the money or my immediate prospect of obtaining it, is, to my mind, a pernicious practice. Any person of ordinary intelligence, by a moment's reflection, will appreciate the extent of the receipts and revenues of the State, from which general appropriations are made, and the condition of the various land grants that have from time to time been pledged to aid in the prosecution of various enterprises. The receipts and revenues referred to are principally derived from the four mill tax, the proceeds of which, under the law by which it is levied, are devoted to the payment of the current expenses of the State. It is comparatively a very small tax, not half as large as is levied in most of the counties for county purposes. It is hardly sufficient to meet the object for which it is levied, yet, whenever the Legislative Assembly convenes, numerous projects are brought forward and zealously urged for a diversion of a portion of this fund to a purpose entirely different. At least that is the practical result of all appropriations chargeable upon this fund, for purposes other than the payment of the ordinary expenses of the State.

I do not desire to have it understood that I am opposed to the appropriation of money for objects beneficial to the State, or that are calculated to promote the welfare of its citizens as a whole. Appropriations of that character may be, and often are, the result of wise legislation; but an appropriation for an object other than the payment of the current expenses of the State should be made either from the funds derived from sources other than the four mill tax, or from a special tax provided for that purpose, which might properly be provided in the act making the appropriation. It is my judgment that the present system of raising revenue by taxation is not in accordance with the spirit of our constitution. That it was never intended by the constitution that an act should be passed providing for a permanent tax to meet the expenses of the State government. Section 2, of article 9, of that instrument, reads as follows: "The Legislative Assembly shall provide for raising revenue sufficient to defray the expenses of the State and for each fiscal year, and also a sufficient sum to pay the interest on the State debt if there be any." And Section 6, same article, is in the following language: "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."

As I interpret these two sections, they intend that the Legislative Assembly, at each session, shall estimate the expenses of the State government for each fiscal year, and provide a tax to pay them. But as the constitution provides for biennial sessions only, it would follow that in order to carry out the provisions of said sections, the Legislative Assembly would necessarily have to estimate the expenses for each of the two fiscal years ensuing, and provide for levying a tax for each. And it renders it impossible to ascertain, whether or not the expenses of the first fiscal year exceed the income of that year, so as to provide for a deficiency, until the close of both fiscal years. The obvious intention of the framers of the constitution was to prevent a public debt of long duration, and if its provisions are observed, no such result can follow. Besides, a permanent tax may be too small to meet the expenses of one fiscal year, and be larger than necessary to defray those of another.

Should these suggestions meet with your views, and you adopt the plan indicated, of providing a tax for each fiscal year to defray the expenses thereof, the act could not well go into effect until the close of the fiscal year 1881, as the four mill tax provided by the law now in force has already been levied, and will probably be sufficient, with the other sources of income, to meet the expenses of one fiscal year. But the expenses of the fiscal year of 1882 could be provided for as before indicated. It would also be necessary, in order to carry out the suggestions upon this point, that the law now in force providing for the levy of the taxes for State, county, and school purposes, be changed so as to have the levy made in November, instead of September, as the legislature will then have adjourned and the amount of State tax provided for ascertained.

TAXATION

The value of all the taxable property in this State, as appears from the returns of the Assessors of the various counties thereof, in 1878, was \$46,240,324 57. In 1879 it was \$46,422,817 00. This valuation while the amount of indebtedness claimed is astounding. In 1878 there were returned sums of indebtedness claimed by the various taxpayers, which amount to \$17,711,786 00; and in 1879, sums which amount to \$19,90,878 00 - over seven millions of dollars more than the total assessment of notes, accounts and shares of stock. In 1880 probably a still larger amount has been returned. I am satisfied that a great portion of the indebtedness so claimed is fictitious. The law which permits its deduction from the valuation was doubtless intended as a just measure, and it probably would have proved such if it had not been grossly abused. I urged upon the last Legislative Assembly the necessity of changing it, in order to prevent fraudulent practices, which I knew, and most of the members of that body knew, had been, and were likely again to be resorted to, in order to evade taxation, if the law were continued in force; but on account of some inadvertence, I am inclined to believe it was neglected, and the abuse has increased, and I apprehend will continue to increase as long as that law remains upon the statute books.

I am convinced that the better plan of taxation would be to allow no indebtedness whatever to be deducted unless, perhaps, in the case of the assessment of notes, accounts and other choses in action, and then only to the extent of their valuation, in any case. I am satisfied that such a system would operate as favorably to procure uniformity of taxation as any that could be adopted.

If the present mode of deducting indebtedness from valuations for the purposes of taxation is, for any reason, allowed to continue, better safeguards against devices and subterfuges to shirk the payment of a due proportion of State expense ought to be provided. The debt sought to be deducted in such cases should be real. It should not be a mere contingent liability. It should be only in favor of the principal debtor, in case there are sureties. In case of joint indebtedness, the several debtors should only be allowed to deduct such a proportion as each debtor bears to the whole number of debtors. And the claimant for a deduction of indebtedness should in all cases be required to specify, under oath, the amount and nature of the debt, and to whom due. There are special subjects of taxation which will claim your attention. Certain kinds of business is being carried on in this State, by foreign corporations and companies, who should contribute to the expenses of the State government. Foreign banks and associations may engage extensively in business in the State, be protected by its laws, resort to its courts to enforce their rights, and yet so manage their affairs as to almost entirely exempt themselves from the payment of any tax. Institutions of that character are permitted to conduct their business in the State through a law of comity which every community of civilized

people should readily observe when not prejudicial to its own interests. They should not be oppressed or deprived of their just rights, but they ought to be required, in common with similar institutions of our own, to help bear the burden which the maintenance of government imposes.

Such institutions doing business in the State ought to be assessed upon the moneyed capital thus employed. The amount could be ascertained from the officials having charge of the business, by some suitable proceeding.

The same principle may possibly be extended, in some form, to foreign companies and persons who are conducting other kinds of business in the State through agents and solicitors sent for that purpose. In such cases, a license tax would probably be the most practicable mode to be adopted. In neither of the cases should revenues be exacted through a spirit of oppression or discrimination, but simply as a matter of equity and justice, due to our own citizens and residents. The imposition of taxes in any case is an unpleasant duty. They are burdensome in some instances, and are opposed in others through a spirit of parsimony; but the people, as a whole, are not inclined to object to the levy of taxes, if satisfied that the proceeds will be applied prudently and for the benefit of the entire community. Any other disposition of public funds is an absolute crime.

INTEREST ON STATE AND COUNTY INDEBTEDNESS

The law which allows interest upon State warrants whenever presented to the Treasurer and endorsed "Not paid for want of funds," and the same upon county orders, should be changed. No State or county indebtedness, except bonded indebtedness, ought to draw interest. It imposes an additional burden upon the taxpayers for which they are in no wise responsible; and create confusion in the management of finances. In creating appropriations no correct estimate can be made for interest, and usually none is attempted to be made, on account of it. Besides, it is the fault of the officials that warrants and orders are not paid upon presentation, and they should not be allowed to escape the blame by compelling the people to indemnify the holders of such evidence of indebtedness. It may be claimed that interest should be allowed as a matter of justice, or that it would impair the credit of the State or county to withhold it. If, in such as case, a party were to suffer injury, in consequence of not being promptly paid his debt, there are other ways of compensating him on account of it; but generally, a party who serves the State or county gets better pay than he would under other employers. Private parties are more apt to make close bargains than States or counties are; and as to affecting the credit of the State, I do not believe that any practical difference would ever be observed. Warrants and orders of that character will always be diligently sought after, whether they draw interest or not. It is, beyond question, a loose mode of financiering, and tends to complicate the management of fiscal affairs.

PUBLIC INSTITUTIONS

PENITENTIARY

The Penitentiary for nearly two years past has been under the charge of Mr. A. Bush, as Superintendent. The manner in which it has been conducted during that time, and its present condition, with some valuable suggestions concerning it, appear fully in his report to which I respectfully call your attention. It has been my desire to have the affairs of the Penitentiary conducted economically, and upon correct business principles. To have it rendered as remunerative to the State as possible, and to have good order and discipline enforced in its government. The importance of such an institution is unestimable. It could not, in fact, be dispensed with. It is one of the means of deterring crime, and of exercising a restraining influence over evil doers.

In order to administer its affairs successfully, financial skill must be exercised in its management, and the various positions provided in its organization must be filled with competent and efficient officers and employees. A great obstacle in the way of securing suitable functionaries is a tendency to use it to give place to political adherents as reward for party services. A practice of that character is liable to lead to abuse, and to result in the selection of unfit persons for the place. The duties to be performed are such as to require persons of peculiar adaptation, to discharge them properly. Zeal and activity displayed at elections, furnishes no proof of qualifications to fill such positions.

It has not, perhaps, been managed during the continuance of my term of office as well as the people may have desired, yet I have good reason to believe that it has been as well conducted as circumstances would permit. The purchase of supplies has been prudently and economically made. The prisoners have been allowed no superfluities, but plenty of good substantial food, comfortable raiment and quarters, and have been kept employed as much of the time as they possibly could be. Under the faithful management of Mr. W. P. Miller, First Warden, the farm belonging to the prison has yielded a good supply of farm products which have tended much to diminish the cost of the food of the convicts.

The officers and the employees have generally been very faithful in the discharge of their respective duties.

INSANE

The insane and idiotic have been kept, as formerly, under a contract with Dr. J. C. Hawthorne. The present contract was entered into on the--- day of -----, 1879, in pursuance of an act of the last Legislative Assembly, at the rate of five dollars a week for each patient. The asylum where they are kept has been well managed, and the patients kindly and skillfully treated. Extensive structures have been erected, with suitable and proper fixtures, and well arranged for their accommodation and comfort. The report of the Visiting Physician, to which I respectfully call your attention, will more fully show the plan and arrangement of the buildings, and the general management of the institution. The manner of keeping them by contract with private parties has been criticised to some extent, and a desire manifested on the part of many to have a State Insane Asylum provided speedily. This will eventually have to be done, without doubt, but it is not probable that the patients will be kept any better, or cheaper per capita than they are now, taking into consideration the cost of buildings and fixtures.

The great objection in my mind, to the present system is the lack of proper check upon the power to send persons to they asylum. The jurisdiction of the subject, it is true, is confided to the county courts of the various counties of the State, but it exercise is virtually an ex parte affair, and there seems to be no difficulty whatever in sending off as insane, any person ho is objectionable to the community in which he may happen to be. This may, in part, be the fault of the law, but it results in the creation of a large expense. The present number of patients in the asylum is over two hundred and ninety, and the cost to the State, for keeping them, is more than \$75,000 00 annually, besides an immense sum for taking them there.

In my judgment, the right to send persons to the asylum is liable to much abuse, and the law which authorizes it is too general and loose. I believe that a large portion of those sent could as well be cared for at home, either by their friends or the county in which they have a settlement. The cost to the state of taking them to the asylum is, in many cases, a sum sufficiently large to support the patient for a long period. I can see no reason whatever for supporting the idiotic or imbicile in the asylum at the expense of the State. In cases of insanity proper, there may be a necessity for it. The treatment is likely to be more skillful, as the practice is made a specialty; and in violent cases the patients can be kept more securely, and controlled more effectively than they could be if entrusted to private care. A well regulated asylum for the care and treatment of persons who have unfortunately become demented, is a very necessary institution- an institution which every commonwealth should maintain through principles of humanity- but it should be provided for by the authorities of the local civil divisions of the State. Such has been the custom from time out of mind. This subject should receive your prompt attention, and I would recommend the early appointment of a committee to investigate the matter thoroughly with instructions to report the condition of affairs in relation thereto. I do not intend to cast any reflections upon the conduct of the contractor who has charge of the insane and idiotic. I have no doubt but that he discharges his duties faithfully in the premises, but he has no alternative than to receive and treat the patients sent. The fault, if any, comes from other sources. If a remedy can be devised to prevent the sending of parties to the asylum who do not properly belong in such an institution, it out to be invoked at once. The influx to it, if not checked, will result in the absorption of the greater portion of the revenues of the State. It takes nearly half of them now, including the expense of conveying the patients there. The compensation for taking them, and the opportunity it affords to visit a more populous locality, has, I conclude, a considerable influence in multiplying the number of insane patients. The privilege of visiting an important town, and being paid or it, although attended with some annoyance, is liable to be regarded as a favor, especially by those living in remote sections of the State; and it will never be difficult, I apprehend, to have an occasion for it while the right to enquire into the mental condition of persons is so general, and the inducement so great to get rid of those who are unacceptable to the community where they are living. The

State is virtually unrepresented in the affair. It can exercise no veto authority, however frivolous the charge of insanity or idiocy may be, but must receive all who are sent, irrespective of their true condition or the motive which induced it. I appreciate that the question as to how the results indicated can be avoided, is not easy of solution. A complicated and expensive system might be resorted to which would probably correct the abuse, but I do not feel willing to recommend such a measure. I believe, however, as before suggested, that none but the insane should be sent to the asylum, and that either the counties from which they are sent should pay the expense of conveying them there, or that before any one is sent, a copy of the proceedings and evidence should be transmitted to some certain State official for approval. That such State official have authority to inquire into the case, and the residence and financial condition of the alleged lunatic; and shall certify that such alleged lunatic is a proper subject to be sent to the asylum, before being taken there at the expense of the State.

The duration of the present contract for keeping the insane and idiotic is six years, subject to proviso that if, at the expiration of four year, the State shall have provided a State Insane Asylum, then the contractor shall turn the patients under his charge over to the State. Nearly two year of that time has now elapsed, and the question as to whether a State Insane Asylum shall be provided, within the four years, so as to receive the patients as the expiration of that time, should be determined and acted upon at this session. Such an undertaking should be preceded by the levy of a tax of a sufficient amount, to justify its prosecution. One levy of a mill tax upon the dollar would raise at least \$46,000 00. With that amount of money on hand, or in immediate prospect, the construction of the requisite buildings and fixtures for the insane might properly be commenced. They need not be completed at once. A section of a building could be constructed sufficient to answer present purposes, and the remaining portions built and complete s the money to be paid therefor can be realized from a special tax provided for the purpose. Convict labor could also be employed to advantage in forwarding the work. An undertaking of that character should not be commenced hastily, Steps should be duly and considerately taken to provide the required means before attempting to construct any building. The work cannot be done on credit, or paid for out of any fund which the State now has, but the expenses must be provided for by taxation.

THE MUTE AND BLIND SCHOOL

The Legislative Assembly in 1870, by a joint resolution, adopted at its session in that year, directed the State Board of Education to make such provisions for the instruction of the deaf mutes of the State as, in their opinion, they might deem most conducive to the welfare of that class of persons; provided that the expense thereof should not exceed the sum of two thousand dollars per annum.

The Legislative Assembly, in 1872, by an act passed at its session in that year, appropriated the sum of four thousand dollars, gold coin, to be expended for the education of blind persons of the State; said sum to be expended for said purpose under the direction of the State Board of Education, and full discretion was given to said Board to rent such buildings, employ such teachers, purchase such books, and provide for boarding and lodging the scholars, as they might deem best to carry out the provisions of said act; provided, they should not in any case exceed the said appropriation.

The Legislative Assembly at its session in 1874, passed an act providing for a mute school, and appropriated for its maintenance the sum of ten thousand dollars. By the terms of the act, the State Board of Education was constituted a board of trustees for the education of deaf mute residents of the State, on payment of two hundred and fifty dollars annually, in advance. At the same session, a similar act was passed, providing for a school for the education of the blind which school was designated in the act, "The Oregon Institute for the Blind," and appropriated for its maintenance the sum of four thousand dollars.

The Legislative Assembly, in 1876, passed similar acts, and appropriated, for the education of deaf mutes, twelve thousand dollar; and for the "Oregon Institute for the Blind," eight thousand dollars.

The Legislative Assembly, in 1876, passed similar acts, and appropriated, for the education of deaf mutes, twelve thousand dollars; and for the "Oregon Institute for the Blind," eight thousand dollars.

In 1878, the Legislative Assembly made a general appropriation of ten thousand dollars, with no directions as to its expenditure, except that it was to pay for teacher, and for expenses of mute and blind schools.

Under the said resolution and acts, schools were established for these two classes of persons, and were in session when the officials constituting the present Board of Education came into office. The object of the law providing for the education of deaf mutes and the blind was ostensibly to qualify them to earn a living, and prevent them becoming a public charge. The purpose was commendable, and if carried out, would greatly benefit a class of persons who, from misfortune, are deprived of important senses, the loss of which cripples their ability to gain a livelihood. The schools continued in session after the present Board came into authority, until May, 1879. The attendance at the blind school was very small, and a part of those in attendance were middle aged men. That of the deaf mutes did not exceed twenty in regular attendance. The expense of maintaining them was large, requiring a complete outfit sufficient, probably, for a school five times as large; besides, the duty imposed upon the Board of Education, as the schools were organized, was a source of great annoyance, similar in character and much more perplexing than that endured by school district directors. The Board, realizing the embarrassment in which it was placed in regard to the two schools, and believing that they were not affording sufficient benefit to justify the expense incurred in conducting them, determined to continue them no longer, until more satisfactory arrangements could be made for their management; since which time, the school for the blind has not been re-opened. Some time last February, however, arrangements were made with the Rev. P. S. Knight to take charge of and conduct the school for deaf mutes, with an understanding that an association of some character could be formed for the purpose of superintending the education of that class of persons, if the legislature should so provide. In my judgement, both schools should be under an organization similar to that which the government and superintendence of the State University is under, which should have charge of the education of both classes of these persons. In such case, a reasonable appropriation could be made by the State in aid of the enterprise, and the Board of Education be relieved of the duties of trusteeship provided in the law now in force.

Should you think favorably of this suggestion, and pass an act creating a school for the education of the deaf mutes and the blind, and providing a board of directors for its government and superintendence, and for the appointment of its members, a sufficient number of benevolent and competent persons could doubtless be found who would accept the position of directors for its government and superintendence, and for the appointment of its members, a sufficient number of benevolent and competent persons could doubtless be found who would accept the position of directors, and gratuitously discharge the duty imposed. It is unjust to burden the Board of Education with the management of such institutions in detail. It is due the Rev. P. S. Knight that I should say, that while he has been in charge of the school for education of the deaf mutes, it has been well and faithfully managed. His theory in regard to educating them is to give them a practical education, such as will qualify them to earn as honest living; in which I fully concur.

LANDS GRANTED TO THE STATE

SWAMP LANDS

By an act of Congress passed March 12, 1860, extending to Oregon and Minnesota the provisions of an act to enable the State of Arkansas, and other States, to reclaim the swamp lands within their limits, all the swamp lands within the State of Oregon, except such as the government of the United States had reserved, sold, or disposed of in pursuance of some law theretofore enacted, were granted to the State. Said act contained a provision to the effect that the selection to be made from lands already surveyed, should be made within two years from the adjournment of the legislature of the State, at its next session after the date of the act; and, as to all lands thereafter to be surveyed, within two years from such adjournment, at the next session after notice by the Secretary of the Interior to the Governor of the State, that the surveys have been completed and confirmed.

The language employed in the act, to express the intention of Congress in reference to the manner of selecting these lands, and by whom they were to be selected, was unfortunately ambiguous.

Nothing seems to have been done with reference to their selection until 1870, when the Legislative Assembly, by an act passed at a session thereof held in that year, attempted to provide for their selection and sale. The Legislative Assembly evidently had no well defined idea as to when or how the selections were to be made; but its members could hardly be chargeable with blame for being ignorant upon that subject, as the manner in which it was to be done was but vaguely defined in the act of Congress referred to.

The clause in said act of 1870 providing for the sale of lands to be selected was an ill advised measure. It is true that the grant of these lands to the State, was a present grant; still the subject to which it is applicable must be ascertained to render it operative. Any attempted sale of them before their identity is established and acknowledged upon the part of the United States, cannot fail to cause confusion and difficulty. The selection of swamp lands, under said grant, necessarily requires the co-operation of the United States and State authority.

Congress has made the grant, which is complete, except the identification of the subject of it, which must be ascertained in some mode recognized by the Land Department of the United States as regular. An attempt on the part of the State, on its own motion, to segregate, as it has been termed, the swamp lands, especially in advance of the public survey, would not only lead to interminable conflicts, but be an act of great discourtesy. Nothing has been effected within the last two years in reference to obtaining a confirmation of selections of these lands.

I have, however, as Land Commissioner of the State, selected 106,826 56-100 acres of them, and sent the lists thereof, with proof of their swampy character, to the office of the Surveyor General of Oregon, who has as I am informed, passed upon the selections and transmitted them to the office of the Commissioner of the General Land Office for confirmation. These selections, with a great number of others, prepared by my predecessors, and forwarded to the latter office by the Surveyor General, remained in the office last named for a long time unacted upon. The lists of selections and proofs made by myself were made through contractors for surveying the public lands within the State. I chose to employ those persons to make them, believing that it could be done better and more economically in that way than by sending out persons especially for the purpose. The proofs prepared were supposed to be in conformity with the rules of the Commissioner of the General Land Office; but their confirmation having been delayed for a long time, I applied to the department at Washington, at the suggestion of Mr. Tolman, the Surveyor General of Oregon, to appoint an agent or commissioner to view the lands, if necessary, and hear proofs as to their character. In pursuance of that application, the Commissioner of the General Land Office has kindly assented thereto, and has appointed General R. V. Ankeny, agent for the department, with instruction to proceed to the State of Oregon for the purpose of making an examination in the field of the lands claimed by the State under the swamp land grant, which had not been finally decided upon by that office, or the department, and to be governed in his actions in the matter by certain instructions given him, and rules and regulations adopted by the department- with direction to confer with the State authorities of Oregon, and if they should decide to appoint an agent also, to co-operate with him in ascertaining what lands enure to the State, and agree upon some plan of operations.

General Ankeny, in pursuance of such appointment, came to the State to engage in the discharge of his duties under it. Under the circumstances of the affair, I felt constrained (though laboring under doubt as to my authority to do so,) to appoint an agent to co-operate with him, as signified in his instructions, but as yet I have, unfortunately, not been able to secure the services of a suitable person to fill the position. I trust, however, that I may soon succeed in doing so and that the joint agents so selected will proceed to the field of operations and engage in the examination of the lands, and in taking proof of their character, and that a considerable quantity of the swamp lands of Oregon will very soon be confirmed to the State. It is very important, in the present condition of affairs concerning these lands, that selections be made as fast as the surveys are extended over the public domain. The law now in force with reference to the selection of swamp lands authorized me to appoint an agent to select all lands donated to this State by the United States, who shall receive as a compensation for such service a sum not exceeding three cents per acre - provided, he shall not receive a greater sum than fifteen hundred dollars per year for such services - for all lands actually selected by such agent and confirmed by the State. No appropriation was made, however, from any fund to pay for making selections.

It could probably have been legitimately made from the proceeds of the sales of swamp lands, if any sales had been made, but none of them have been in a condition to sell, and will not be until the title is confirmed to the State. The contracts I have made with parties relative to the selection of swamp lands contain a stipulation that they shall be paid from appropriations to be made by the Legislative Assembly. It would be the better way if the expenses of locating and selecting these lands could be paid from money realized from a sale of them, but, from present indications, their payment on that plan would be delayed longer than parties

who perform the services can afford to wait. Especially so, if the work is pushed forward as vigorously as it should be. How to provide for the exigency will greatly tax your wisdom and ingenuity. As to myself, I acknowledge that I am at a loss what to recommend.

I feel a great anxiety to have the swamp lands confirmed to the State. They cannot be disposed of until that is accomplished. They are pledged for the payment of a large interest bearing debt, which ought to be discharged, and the status of the title to them is such that it prevents their settlement, and creates a cloud upon the title of a large amount of lands that in fact are not swamp lands. Besides, when these lands are secured to the State, they can probably be sold for a sum that will add materially to its finances, in addition to paying off the debts for which they are pledged. The cost of selecting them, including that which has been incurred during the past two years, will amount at the close of the fiscal year 182, under the law now in force, to \$6,000 00. Add to that the expense of employing the agent to co-operate with General Ankeny, and of extra selections that should be made, and it will amount to double that sum. Twelve thousand dollars, at least, should be provided in some manner to meet this cost and expense.

I am certain that the law in force authorizing the sale of swamp lands ought to be changed in some of its features. That the State Board, charged with that duty, should be vested with discretionary power as to the amount of lands to be sold to a purchaser, and that some of the qualifications affecting persons desirous of purchasing should be removed.

I am aware that it would be much better for the country, if these lands could be reclaimed, so as to make them arable, to sell them in comparatively small quantities and to actual settlers; but I doubt very much if that can be accomplished. The State cannot afford to undertake it. Besides they are charged with the payment of large sums of money, which are constantly increasing, on account of interest, and the longer it continues, the greater the amount of the lands which will be consumed in extinguishing it.

Under the circumstances, I am confident that it would be much better for the State, as soon as it can be settled as to what are swamp and overflowed lands, within the meaning of the grant, to dispose of its interest, in them to any person who is willing to buy it, and in quantities to suit the purchaser. A swamp usually includes a large body of land, and it is exceeding doubtful if any purchaser could be found who would be willing to buy a subdivision of a section, it might be well to entertain it. The propriety of selling large or small quantities depends so much upon the circumstances of each particular case, that it should be left to the discretion, to a great extent, of the Board.

The law now in force with reference to the sale of this character of lands seems to contemplate the present payment of the purchase price in full. I am of the opinion that they could be sold more readily, and upon better terms, by giving a reasonable credit upon a part of the purchase price. A portion of it, sufficient to insure the sale, should be exacted at the time it is made, and the deferred payments bear interest at a reasonable rate.

Should you see fit to adopt the foregoing suggestions in reference to the sale of swamp lands and terms of payment of the purchase price thereof, it would be necessary to amend sections 4, 5 and 8 of the act entitled "an act for the selection, locations and sale of State lands, etc.," approved October 18, 1878, and I would recommend that section 1 of said act be amended so as to empower the land commissioner therein named to appoint an agent to aid in the location of swamp lands, and that his compensation be fixed at some reasonable amount. Also, that section 33 of said act be amended by substituting the word "agents" for "agent," in first line of said section, and by either leaving out the proviso therein entirely, or enlarging the limitation. The interest of the State is liable to suffer materially if the limitation mentioned is allowed to remain a part of the statute.

The authority to appoint an agent to aid in the location of swamp lands is, in the present condition of affairs, very necessary, not only to locate and secure the confirmation of such lands as belong to the State under the grant, but also to ascertain what lands included in its terms have been disposed of by the United States since its date, with a view of claiming indemnity therefor. Such a claim is just, and it is the settled policy of the United States, as I am advised, to allow a State the government price for the lands granted to it, which have been sold by the general government subsequent to the grant.

OTHER LANDS GRANTED TO THE STATE

The grants of lands to the State which were to be selected include the seventy-two sections set apart and reserved for the use of a State University. Ten entire sections for the purpose of completing public buildings and for the erection of others, etc. The salt springs, to the extent of twelve in number, with six sections of land adjoining. The ninety thousand acres secured to the State under the act of Congress of July 2, 1862, donating public lands to the several States and Territories which might provide colleges for the benefit of agriculture and the mechanic arts, and the five hundred thousand acres secured under the act of Congress of September 4, 1841, for the purpose of internal improvements.

STATE UNIVERSITY GRANT

The lands included in the grant for the use of a State University have all been selected, except some two or three hundred acres, and have all been approved by the department of the United States, except about eight hundred acres. About seventeen thousand acres of the lands secured to the State under this grant remain unsold. The proceeds of the sales, including accumulations of interest during the ten years after the adoption of the constitution, which are considered available, amount to about \$57,000 00, not including certain parcels of real property that have been bid in by the Board of Commissioners on foreclosure of mortgages given to secure loans of the funds. These are probably worth \$3,000 00. There has been distributed of accumulated interest collected since September 9, 1878, by payment to the State University, the sum of \$10,205 00. Heretofore, the interest has not been collected and paid promptly, and the fund has suffered material loss in consequence of the inadequacy of the security on some of the loans. This has caused considerable complaint, and created serious doubts as to the efficiency of the present mode of managing the fund. The President of the Board of Regents, Hon. M. P. Deady, in his report bearing date December 31, 1879, to which I respectfully act so as to provide that any installment of interest in arrear shall bear interest until paid, at the same rate as the principle, that such a provision would promote the prompt payment of interest, and at least secure compensation for the illegal delay. He further says in the report that it is to be considered whether this fund cannot be placed where it will be better cared for, and the interest more punctually paid than now. That the experience of the past has demonstrated the fact that it is folly expect the Board of Commissioners to attend to the fund as it ought to be done, in addition to their other duties, for the meager compensation allowed them. That to expect a Treasurer of State to collect the interest promptly on \$40,000, distributed over the country in forty different loans, in addition to his other duties, at the risk, too, of offending the borrower and incurring his opposition at the next election, on an annual salary of \$800 00 is expecting too much of the average man. And as a practical remedy, he suggests that the funds, as fast as collected, be loaned to the State. Have the board authorized to loan the fund to the State as fast as it accumulates, and it can be used to retire a like amount of outstanding indebtedness.

These suggestions and reasons coming from the source they do, are calculated to impress you with their importance. The borrower who fails to pay his interest promptly when the loan is from a fund of this character, could not complain in having to pay interest upon interest that has matured; and such a provision in the law would, I have no doubt, be a strong incentive to the payment of interest as it became due. The only danger I could apprehend from such a requirement would be the difficulty it would tend to create in loaning the fund. Money in Oregon does not at present readily command even ten per cent interest upon large sums and long time. The borrower, if a responsible and reasonable prudent person, is inclined to effect a loan upon the most favorable terms to himself, and will ordinarily, in order to secure these, apply to the party and at the place where it can be obtained with the least inconvenience and risk. The fact is that moneyed men in Oregon to-day have to seek the borrower in order to make permanent loans of large sums instead of being anxiously sought after and importuned to assent to it. It has become a transaction between parties upon an equality of footing much more than formerly; and the terms upon which loans are made are constantly becoming more liberal. Any requirements, therefore, beyond the exaction of a reasonable rate per cent and ample security might, I fear, be an obstacle in the way of effecting loans of the fund; which are unproductive, of course, unless invested in some form. The loan of it to the State as suggested would secure the regular payment of the interest, but I can hardly imagine how the plan proposed could be carried out. There is practically no indebtedness against the State except the Modoc War Bonds and the bonds issued in payment of the expenses of the Indian difficulties of 1878, unless it be the special indebtedness included in the Road Warrants and Lock Bonds which the State would not be justified in assuming.

The general bonded indebtedness draws but seven per cent per annum. With prudent management, I believe the university fund, under the present system, would realize between nine and ten per cent per annum, and losses be almost entirely avoided. I do not know of any reason under the regulations provided in the act of 1876, for the loan of the fund, why the Board of Commissioners should not manage it as well as banking institutions do their funds. I am not prepared to admit that a meagre compensation is any excuse for negligence in office, or that high salaries insure extra services. I am satisfied that the Treasurer of the State has attended faithfully to the collection of the interest, and while it may not always have been paid as promptly as desired, or as it should have been, yet as promptly as debts are usually collected in business transactions. I submit these views through no spirit of opposition to the suggestions of the honorable President of the Board of Regents. I appreciate the reasonableness of his suggestions, and the good faith in which they were made; and I shall be satisfied with any action you may take in the matter, but feel it my duty to present any objections to these plans that may occur to me.

The faithful management and preservation of the fund is very important to the community at large, not so much because of its intrinsic value, as the fostering it affords to an institution, the prosperity of which will be the pride and luster of the State.

GRANT FOR THE COMPLETION OF PUBLIC BUILDINGS, SALT SPRINGS GRANT, AGRICULTURAL COLLEGE GRANT, AND GRANT FOR INTERNAL IMPROVEMENTS

The ten sections granted for the purpose of completing public buildings, etc., have been selected and approved to the State and have all been sold, except a few small tracts, and these are claimed and in course of final disposition.

The terms of the grant of the salt springs required that they should be selected within one year after the admission of the State. No such selection having been made, the grant being in futuro, has undoubtedly lapsed.

The 90,000 acres of land granted under the act of congress of July 2, 1862, known as the agricultural college grant, have all been selected except one hundred and forty-three 87-100 acres. There have been sold of these lands, twenty-three thousand acres, leaving sixty thousand acres thereof unsold. The proceeds of the sales amount to \$50,000 00. No interest was distributed until after the act of the Legislative Assembly approved October 21, 1878, amending section 3 of an act for the further organization of the agricultural college, went into effect. Since that time, \$7,800 00 interest money has been paid to the college. The fund is in a flourishing condition, and will be greatly augmented when the balance of the lands granted are sold. The college, to the benefit of which it is devoted, is advancing in importance, and stands among the first of our institutions of learning.

The lands embraced in the grant under the act of congress of September 4, 1841, known as the five hundred thousand acre grant for internal improvements, have all been selected, and about two hundred and forty thousand acres thereof sold. The Register of the La Grande Land District, as it is termed, has had charge of the selling of them, and has received and had the custody of the securities given upon such sales.

Whatever benefits the La Grande land office may have conferred upon the State in the past, it is evident that it is at present an unnecessary institution; that its functions are fulfilled and it should be abolished. The sales of land within that district and management of the funds arising therefrom, can be conducted by the Board of Commissioners for the sale of school and university lands as well without any intervening agency of that character, and with far less expense to the State.

APPROPRIATIONS

Laws providing for the payment of the expenditures of the State government should be specific in their terms. Appropriation bills are often too general. The Legislative Assembly has the undoubted right to designate the particular purpose to which the funds of the State shall be applied, and to limit the amount to the item of service rendered, article furnished, or expenditure incurred; and in some cases it becomes necessary that it should do so, particularly when there is no general law regulating the subject. An appropriation of a sum of money in gross for a general object, and the manner of applying it not being specifically pointed out, causes great embarrassment to the auditing officer. The appropriation of \$2,000 00 made by the last Legislative

Assembly for the support of non-resident poor in the several counties furnishes an illustration of the kind of appropriations referred to. It is true there is a general law providing that when any person shall become a public charge, who is not a resident of the State, the county court of the county wherein such person becomes such public charge shall provide for such person and the expense thus incurred shall be refunded to said county by the State; and a bill of such expenses, approved by the County Judge and attested by the County Clerk with the seal of the county court thereon, with satisfactory proof that said pauper is a non-resident of the State and not chargeable to any county therein, shall be forwarded to the Secretary of State who shall audit and allow the same and draw a warrant on the State Treasurer in favor of said county for the amount due, and said Treasurer shall pay such warrant out of any money of the State treasury not otherwise appropriated. But his law does not specify how such county court shall provide for such pauper, nor limit the expense of the provision. In that character of cases, food is the article usually required, and the only relief the State ought to furnish; but to what extent it shall be supplied or at what cost is not mentioned. One county may provide it at the rate of three dollars per week, another at the rate of three dollars per day, and the Secretary have no alternative but to allow the claim of each to its full extent. If an appropriation is to be made for the support of non-resident poor, which I very much doubt the policy of, it should either be appropriated among the several counties so that no one of them will get the whole of it, or the price of board chargeable to the State be fixed and rendered uniform throughout all the counties.

The appropriation of \$3,000 for the Children's Aid Society is still more general. The manner of its expenditure is wholly unprovided for, and no obligation is imposed on any one to apply it to any particular purpose; besides being an appropriation to one object of funds which have been realized from a tax levied in pursuance of a law that stated an entirely different object of the tax. The same may be said of the appropriations for the State University and Agricultural College.

Appropriations for arresting fugitives from justice ought to contain a provision authorizing the Governor, in granting a requisition, to limit the expense of the agent to demand the fugitive in any case, to a sum certain, or, if he should deem proper, issue it upon the condition that no expense be paid by the State. An amendment of the law governing the proceedings in relation to fugitives from justice by inserting a provision of that character would have the same effect, and would be very beneficial to the interests of the State. Public justice may demand in many cases private parties are more interested in the issuance of a requisition has to be granted where there are grounds for believing that it ought to be denied on account of the amount of expense that will be incurred by the State in consequence of granting it; but it is doubtful whether the Governor has the right, in any case, to refuse such an application when regularly made, although the language of the statute upon that subject is in terms permissive. Conceding, however, that he has the right to refuse the application, yet he is many times placed in an embarrassing situation in having to assume a responsibility without being certain whether or not he has the right. The authority to impose the expense, or a material part of it upon the applicant, would serve as a wholesome check in such cases and save the State a large expense.

Certain of the appropriations made by the last Legislative Assembly to pay current expenses of the State government arising from some of the particular sources of expenditure, have not been exhausted. The excess in such cases is subject to reappropriation. The reappropriations, which you deem proper to provide for the payment of.

The salary of the Superintendent of the Penitentiary, amounting to \$3,300.00, has not been drawn since the first day of November, 1878, and, as I am informed, will not be. Neither will the \$400.00 appropriated as the salary of Prison Inspector. The right of the superintendent to his salary is unquestionable. But there is a question, in my mind, as to the right of the Governor to receive pay as Prison Inspector. It has, however, been done in the past I believe, and perhaps legitimately. At least, I attach no wrong or impropriety to any of my predecessors who have seen fit to receive it. I am, however, inclined to the view that the duties of the Governor as specified in the constitution, and his salary as fixed by that instrument, cannot be increased or diminished by legislative enactment; and as this is a fixed opinion of mine I recommend that the said \$400.00 be reappropriated, and that no other appropriation of that character be made, at least during my term of office.

REPRIEVES, COMMUTATIONS AND PARDONS

The constitution and laws of the State require the Governor to report to the Legislative Assembly each case

of reprieve, commutation, and pardon granted by him, and the reason for granting the same; also, the names of all persons in whose favor remissions of fines and forfeitures shall have been made, and the several amounts remitted. In obedience to that requirement I submit at this time my report upon this subject.

The number of commutations, as you will observe from the report, is large-probably much larger than has ever been granted in this State during the same length of time. There are two reasons for this. The one is, that there has been a greater number of convicts in the penitentiary during the time referred to than at any prior period of like duration. The other is, that in nearly all cases where convicts have been discharged before the expiration of the time specified in their sentence, a commutation has been granted; while formerly, a practice prevailed of remitting a portion of the sentence; or, as it was termed, allowing extra time in favor of a party on account of some extra service, and discharging him without granting any commutation or pardon; but the same as if he had served the full time, subject to the remission for merits as provided by statute. This resulted in allowing more credit for merit than the statute authorized. I have no desire to criticise the practice referred to of allowing extra time to convicts for some extra labor or meritorious services beyond that which they may entitle themselves to under the rule laid down in the statute. I have adopted the practice myself, but have not authorized the discharge of the convict in such cases without a formal commutation, or pardon if I believe him entitled to a pardon. You will notice that in a great majority of the cases of commutations, the convicts have served nearly all the time specified in their sentence. The object of granting the commutation in such cases has been to render the discharge legal. The fact; however, has frequently been commented upon by parties with as much apparent seriousness as if there had been an important exercise of the pardoning power.

The framers of the constitution very wisely and properly vested in the Governor the pardoning power. No other branch of the government could have exercised it as well. The judiciary could not, as it necessarily would be controlled in its action by general rules, both in the admission of testimony and its decisions. A Legislative Assembly would evidently be a very unfit body to exercise such a prerogative. All governmental institutions are but human inventions, and at their best are very imperfect however much they may benefit mankind. Depriving a human being of life or liberty as a penalty for the transgression of the law, is an assumption upon the part of a commonwealth of high authority, and it can only be justified upon the ground that the safety of the public demands it. The execution of the offender, or his continued detention, insures an immunity from his further depredations. His reformation would have the same result, though that is not likely to be effected except through the influence of punishment. The most important aim in the infliction of punishment, however, is to afford a salutary example to those who are not restrained by moral sentiments or through moral influence. To determine, then, what is undign punishment in a particular case, the security of the public from the acts of the particular offender, and the beneficial influence it will have upon those who are prone to evil, must be considered. The legislature, in prescribing the vindicatory part of a penal act, has in view of a general class of offenders only, and great latitude is usually given to the courts in administering it; though some of our penal statutes are very much restricted. Among these may be included the provision of the criminal code which makes it a felony to steal an article in a building, without regard to the value of the article, or the kind or condition of the building. Another is the provision which makes it a felony to steal any of the equine or bovine species without any alternative, and without any regard to the value of the animal.

The judge who pronounces the sentence of the law upon the offenders has a better opportunity to know what amount of punishment should be inflicted, as he has heard the testimony in their case and been able to observe the surroundings. But the evidence adduced is admitted under rules that are general and often arbitrary; besides he may be impulsive, and have been unconsciously prejudiced, and he certainly does not know the effect the punishment he imposes will have upon the culprit, or its influence upon the public. Nor can he know the many little circumstances surrounding the transaction which have influenced the perpetration of the offence, and over which the offender had no control.

Whoever it can be ascertained that punishment has fulfilled the purpose for which it was intended, or has accomplished all it is capable of accomplishing in a particular case, its continuance becomes vindictive.

By close inspection of the conduct of convicts and an inquiry into their history, many facts may be elicited which in some cases tend to extenuate their transgressions. Many of them, however, naturally belong in a prison. They are vicious and unfit to be at large. Many others owe their condition more to misfortune than to

depravity. It has been my policy, thus far, to hold them to a rigid discipline while in prison, and to release them as soon as consistent with public safety and justice. I have doubtless made mistakes in the exercise of the pardoning power, but in every case I have exercised it conscientiously, and with a view to benefit the prisoner and the State; and in nearly all the cases, so far as I have been able to learn, those who have been released have since conducted themselves properly. The duty which the authority imposes is not a pleasant one. It would be much more agreeable to a Governor to shirk its responsibility entirely by refusing to interfere in any case, but it would be very unjust to adopt such a course.

The law requires, also, that when the Governor grants a reprieve, commutation, or pardon or remits a fine or forfeiture, he must within ten days thereafter file all the papers presented to him in relation thereto in the office of the Secretary of State, by whom they must be kept as public records open to public inspection. You will find the papers relating to the cases reported, on file in accordance with the law and subject to your examination.

CONCLUSION

There are many other subjects that will require your consideration during the session of your body, but I will not weary you any further than to call your attention to certain special matters which are likely to come before you. I have referred already to the employment of parties to select swamp lands, to be paid therefor from appropriations to be made by the Legislative Assembly. The parties referred to are H. C. Perkins and W. H. Byars. The terms of employment and amount of services performed will be presented in due time to such committee as you may appoint to consider the matter. There will be other claims of like character which should also be referred to a committee for investigation. Among these are claims in favor of P. L. Willis, Esq., for services in examining the books and papers of the State Land Department, indexing them, and examining the lists of selections of swamp lands in the Surveyor General's office, and obtaining proof of their swampy character. In favor of John Mullan, Esq., of Washington City, D. C., for services in securing confirmation of title to lands in favor of the State, and for legal services in cases in which the State was a party before the Department at Washington. In favor of Hon. B. F. Bonham, for legal services in the case of the State vs. Samuel E. May and sureties, upon sale on execution of certain real property bid in by the State. In favor of Messrs. John M. Thompson, A. C. Gibbs, and W. H. Holmes for legal services in cases of the state against the late Board of Commissioners and certain other parties. These various claims, and others, perhaps, arising out of the services appertaining thereto, were incurred in pursuance of engagements entered into by myself with the several parties, with the understanding that the Legislative Assembly would adjust them. As to their necessity and merit you will, of course, be the judges. The benefit of the State and the protection of its interests were the sole motives on my part of inducing their performance, and I trust and expect no less than a due consideration of the several matters and an honest and upright adjustment of them. Your duties generally will be found to be complicated, and it will require assiduous labor on your part to perform them to the satisfaction of your constituents, or yourselves. Your session will necessarily be very brief. The constitution allows you compensation for forty days only, and that, I believe, has always heretofore effectually circumscribed the duration of a legislative term in this State; but by industry and energy combined with practical views and common sense ideas, you will be enabled even in that short space of time to accomplish a vast amount of benefit to the public. Every measure that comes before you, should be duly considered before being acted upon, and schemes and devices of every nature which are only calculated to benefit the few at the expense of the many, should be promptly discarded.

You may differ widely in your politics, in your opinions regarding questions of political economy, and in your theories of government, but when an attempt at legislative jobbery is sought to be carried out, you should with one accord rebuke it most emphatically. A legislative body is many times, unfortunately, surrounded by a class of unscrupulous schemers, attended by a retinue of hired lobbyists, as they are termed, ready to filch from the public treasury under any specious pretence they can invent. I do not wish to disparage any one's efforts in securing the adoption of measures which they honestly believe will benefit the State, or in opposing reckless legislation calculated to effect their vested rights. They are at full liberty to employ all the means in their power for such purposes, but jobbers of every description, and professional lobbyists, who hand around legislative halls to secure employment for compensation, to further private gains, are vampires upon the body politic, and deserve unconditional ostracism. The touchstone to be applied to every legislative measure proposed should be, whether or not, if adopted, it will prove a substantial benefit to the State. In the consideration of its merits it should be closely scrutinized in all its various features, and if it be found that a

prospect of large gains and profits in favor of private parties is lurking under cover of its provisions, that should awake a suspicion as to its justness and expediency. And if, by a retrospective view of past legislation it should be ascertained that acts have been passed, the practical operation and effect of which tended more to the promotion of individual interest than to public advantage, they should at once be amended or changed so as to remedy the mischief as effectually as it is in the power of the legislature to do so.

In conclusion, I desire to assure you that in every effort upon your part to advance by honest and wholesome enactments, the interests of the State, to promote its prosperity and welfare, and to lessen the burdens upon the people which the expense of government imposes, you will find in me a faithful ally and supporter.

It must be remembered that our State is but in its infancy. That its population is small, and its material wealth is very limited. That notwithstanding it embraces within its boundaries a large area of territory, which includes extensive districts of productive lands, valuable mines of coal, iron, and precious metals, vast quantities of timber, broad rivers, innumerable bays, harbors, and inlets, abounding in fish of the choicest kind sufficient to supply the markets of the world, yet its resources are comparatively undeveloped. And that while it possesses all the elements of grandeur and magnificence, its greatness can not be successfully achieved without the benefit of a well regulated government, whose foundation is laid upon the broad principles of honesty, economy, and justice. That a spirit of extravagance and recklessness indulged in by those who are chosen to administer its affairs during its incipiency, will necessarily result in retarding its growth and blighting its promising prospects.

If we would promote its welfare we must avoid the enactment of laws calculated to impose grievous burdens upon its citizens, or that will operate unjustly against them, and watch diligently its interests with zealous care and filial devotion. The destiny of the commonwealth is in a great measure committed to the charge of its representatives; and a faithful adherence upon their part to the sentiments of true patriotism will secure to themselves and their posterity a sound and salutary government, which is of more value and importance than the acquisition of wealth or the distinctions of office.

Governor's Biennial Message, 1882

Source: Messages and Documents, Biennial Message of Gov. William Thayer to the Legislative Assembly, 1882, Salem, Oregon, W.H. Odell, State Printer, 1882.

Gentlemen of the Legislative Assembly:

You are convened in general session to discharge a great and important duty enjoined upon you by the constitution and laws of your State.

The people of this commonwealth have committed to your charge for a period of time, one of the co-ordinate branches of their government. They have invested you with the power of prescribing rules of civil conduct, to which all must yield due obedience, and which, if wisely devised, will tend to promote their general welfare. You are clothed with authority that is supreme in its nature, in civil relations, and you have taken upon yourselves a solemn obligation that you will exercise it for the best interests of those you represent. And I would add, without intending any disparagement of your appreciation of the duties of your high office, that the honor and dignity of the State demand that you discharge your sacred trust in accordance with that oath which has been administered to you severally, and deposited in the archives of this assembly.

Your session will doubtless be brief. It will not be likely to extend beyond the forty days for which, by the provisions of the constitution, you are entitled to receive compensation, and I would most respectfully suggest that it behooves you to employ the entire time in considering and acting upon those measures only, which are calculated to benefit the community at large; and that if you devote any part of it to trifling matters, it will necessarily result in a neglect of public interests, and in a wanton waste of public funds.

The position that Oregon will occupy in the bright constellation of States that compose our Union, depends very much upon the conduct of those who may constitute this body. It may be made a glorious

commonwealth. It may have salutary laws and enforce their execution; have its finances in a sound and healthy condition; be free from debt; its people be in the enjoyment of full immunity from oppressive taxation; its securities be at a premium; its institutions flourishing; its public buildings adequate to the public necessities and requirements; and its funds ample to afford aid in developing its resources; or it may present phases of a directly opposite character. A prudent course on the part of its Legislative Assembly will do much towards insuring its prosperity.

The suggestion of these views may appear presumptuous on my part, especially as my term of office will close with this communication, and in all probability, will be the last official duty in civil affairs I shall ever be called upon to perform; but I would be wanting in patriotism and ungrateful to the people who conferred upon me the distinguished honor of being Governor of the State, if I were to neglect to call your attention to any matter that might be of advantage to the public wealth.

It has been my desire during the time I have been in office, to have the affairs of the State managed economically. I believed when I entered upon my term, that the general sentiment of the people was opposed to extravagance in any department of the government; and I have had no reason since to change that belief.

The objection to profligacy in civil affairs is not so much in consequence of the particular loss that will be suffered from recklessness, as from the general evil effects it will produce. Its tendency is corrupt and it naturally leads to all manner of abuses in the civil service, It is highly pernicious in many respects, and will unavoidably destroy any government in which it is tolerated. A people who duly appreciate the blessings of civil liberty, will condemn the practice wherever it is found to exist.

FINANCES

In my general message to the Legislative Assembly two years ago I gave a brief statement of the current receipts and expenditures of the State, for the two preceding fiscal years, and I now submit one for the years 1881 and 1882. The various items of this expense are set forth in the report of the Honorable Secretary of State, and should be closely scrutinized; and if any part of them is found to have been improperly incurred, the matter should be brought to public notice. State officials should be held accountable for mismanagement of public funds, and their acts should be subject always to fair and honest criticism.

RECEIPTS

From the four mill tax, 1881.....	\$193,932 61
From the four mill tax, 1882.....	237,030 91
From the earnings of Penitentiary.....	11,054 25
From delinquent taxes.....	1,683 79
From private insane.....	2,716 07
From sale of stamps.....	4,651 59
From sale of books.....	346 15
Miscellaneous sources.....	803 50
This, with balance on hand Sept. 1, 1880.....	57,794 26
Amounts to a total of.....	\$510,013 13

At the close of the fiscal years 1879 and 1880, there were certain deficiencies in the appropriations of 1878 amounting to \$31,957 86. These were provided for by appropriations made by the Legislative Assembly in 1880. Besides, there were existing claims payable out of the said \$57,794 26, which, with the amount of said appropriations, would consume nearly all the above specified sum. Hence, the revenues and receipts for the said year 1881 and 1882, before mentioned, were in fact, nearly all the resources the State had, with which to defray the current expenses for those years.

CURRENT EXPENSE FOR THE YEARS 1881 AND 1882

The current expenses during the fiscal years 1881 and 1882, including the appropriations and claims above referred to; also relief to Mrs. Stinson, the Paris Exposition, and Jackson county, and the sums appropriated for the State University, Mute School, and Orphans' Home, and all excess of expenses above appropriations, amount to about \$400,000.

This expense includes deficiencies in the appropriations made in 1880, but not the excess unexpended in any of the appropriations of that year. That is, it includes the actual current expenses incurred by the State during those two years, and the relief measures, and the appropriations to the University, Mute School and Orphans' Home before mentioned.

The result is that there remains a balance belonging to the State amounting to about the sum of \$110,000, over and above all expenses and legitimate claims, for the two years named; and which can be devoted to any proper use that you may deem advisable. I believe that it is the largest sum that has ever been left unexpended of the current revenues since the State Government was organized and it should be wisely applied to the interest and advantage of the State.

My reasons for saying that it can be devoted to any proper purpose are these: It is a part of a fund which, in the main, was raised for a specific purpose, namely, to defray the current expenses of the State for the two years named. This is the effect, as I understand, of the decision of our Supreme Court in *Simon vs. Brown*, 5 Oregon, 285.

The fund has accomplished its object, and the said balance is an excess not required for that purpose; though I can never believe that the system of raising revenue to meet the current expenses which we have fallen into, is in accordance with the provisions of the constitution of the State.

I do not think that it was intended by that instrument to provide a fixed tax for an indefinite length of time, with which to defray those expenses. No iron bedstead affair of that character was contemplated; but, on the contrary, a simple mode calculated to prevent a large excess or deficit of revenues, and which would necessarily prevent indebtedness from accumulating. It requires the Legislative Assembly to provide at each session a list of the probable expenses for each of the biennial years - specifying the objects - and to levy a tax sufficient to defray the estimated amount - a similar mode to that pursued by the County Courts of the State. If, at the end of the two years, there should be found a deficit of revenues, it should be included in the next list; if an excess, it could be considered as so much on hand, and lessen the next tax proportionately.

This mode is clearly indicated in the constitution, (see Section 2 and 6 of Article 9 thereof) and why it has not been followed is past my comprehension. I have brought it to the attention of the Legislative Assembly at each of the two preceding sessions, but for some reason I do not understand, it has not been acted upon.

There is one point that Legislative Assemblies should keep in view, whatever the mode of raising revenue may be, and that is, that a sufficient amount of funds should at all times be in the Treasury to pay any warrant that is legally issued.

A refusal to pay a warrant on due presentation, in consequence of a lack of funds, is a reflection upon the credit of the State, and proof of official mismanagement. No business man could afford to have his paper protested, and a commonwealth should never be in a condition to be compelled to dishonor its drafts. It impairs its dignity and humiliates its citizens.

GENERAL BONDED INDEBTEDNESS

The general bonded indebtedness of the State includes the soldiers' bounty bonds, the soldiers' relief bonds, the bonded debt arising out of the Indian difficulties of 1878, known as the Umatilla Indian war, and the bonded debt created by the act approved October 25th, 1880, to complete the payment of the Modoc war bonds.

The soldiers' bounty bonds and soldiers' relief bonds are in the same condition they were at the close of the fiscal year 1880, except that the time when the State will be entitled to redeem them, in accordance with the terms upon which they were issued, is so much nearer at hand, though it continues two years yet. The requisite funds have for a long time been in the Treasury, with which to pay them off, but the holders could not be compelled to receive payment, and, as it appears, preferred to retain them as an investment.

The bonded debt arising out of the Umatilla Indian War is yet outstanding, except so far as it has been affected under the provisions of said act approved October 25th, 1880, entitled, "an act to refund the war debt and maintain the public credit, and appropriate money and levy a tax therefor."

At the last mentioned date there was outstanding a bonded indebtedness known as "the Modoc War Bonds" which amounted to \$132,858.72 with certain accrued interest thereon. By the provisions of said last mentioned act the State Treasurer was authorized to sell the bonds of the State of Oregon to such an amount as, with the surplus moneys not otherwise appropriated, which had or might accrue from the three mill tax levied pursuant to an act to provide for a tax to defray the current expenses of the State, and to pay the indebtedness thereof, approved October 20th, 1876, would realize enough money to pay in full the said Modoc War Bonds, with the accrued interest. And for the purpose of paying the principal and interest upon the bonds of the State of Oregon so to be sold, a one half mill tax upon the dollar was thereby levied.

In pursuance of said act of October 25th, 1880, said Treasurer did sell one hundred and twenty bonds of the State of Oregon, each being for the sum of five hundred dollars, from the proceeds of which, with the surplus moneys accrued from said three mill tax, he has, as I am informed, redeemed the said Modoc War Bonds.

There has been realized the proceeds of one levy of the half mill tax, which amounted to \$29,628.00; and which has been applied upon the principal and interest of the said indebtedness, as in and by said act provided. The portions thereof unliquidated are respectfully the sums following: Upon the Umatilla Indian War Bonds, \$28,171.00; upon the bonds issued under the act of October 25th, 1880, \$60,000.00. A continuation of this tax four years longer will more than pay off the entire amount. This indebtedness arose out of claims assumed by the State, but which, in justice, should have been paid by the United States in the first instance.

They were occasioned by Indian deprivations upon the frontier settlers, committed by Indians who were in charge of agents of the United States, and were under its authority. It was the duty of the State to protect its citizens, and it very properly interposed for that purpose, and doubtless created an immediate liability to the claimants yet the United States has quite recently passed two acts that will, in effect, reimburse the State in part for the amount paid, and liability incurred, on account of these claims. By the terms of one of these acts about eighty thousand dollars for the expenses on account of the Modoc war has been allowed to the State; and under the provisions of the other, the Secretary of the Treasury, with the aid and assistance of the Secretary of War, is directed to cause to be examined and investigated certain claims of the State which will include the Umatilla war claims and certain other claims in favor of the State, all amounting to about seventy thousand dollars.

They will not be likely to be allowed at the amount claimed, I presume, judging from past allowances by United States officials; but it will dispose of the question for the future, and state authorities will be better advised as to the true condition of the State finances.

This is all of the general bonded indebtedness of the State, and if the Umatilla war claims and other claims referred to are allowed at any reasonable amount against the United States they, together with the Modoc

war claims already allowed, will not only pay off all indebtedness arising out of those claims, but will bring into the State Treasury a surplus of several thousand dollars.

SPECIAL BONDED INDEBTEDNESS

There is a bonded debt payable to the Willamette Falls Canal and Locks Company, or its assigns, out of the fund arising from the five per centum of the net proceeds of the sales of the public lands in this State, and the fund arising out of the sale of the five hundred thousand acres of land donated to the State for the purposes of internal improvements.

The original amount of these bonds was \$200,000. They bore interest at the rate of seven per centum per annum. The five hundred thousand acre grant has all been sold, excepting 37,617.21 acres, two-thirds of the purchase price of which has not been paid.

The cash sums arising upon the sale of said lands, except the portion thereof consumed in expenses attending the management of the grant, have been applied in payment of said lock bonds, which as reduced the same to the sum of \$68,00, and the Treasurer has sufficient money on hand to pay off about \$30,000 more of them.

Of the deferred payment arising upon the sale of said lands, there remains in notes and mortgages outstanding, now in the hands of the present Register of the La Grande Land Office, and in the hands of the Clerk of the Board for the sale of school and university lands and the State Treasurer, about ninety-five thousand dollars, besides the said \$30,000 in the hands of the State Treasurer. These securities when collected, with the money on hand will complete the payment of the lock bonds, and leave a surplus; but as the securities draw interest at the rate of ten per centum per annum, while the lock bonds only draw at the rate of seven per centum per annum, it is not policy to enforce their immediate payment.

There will probably be left of the proceeds of the said grant, after the lock bonds are redeemed, \$56,000, besides the 40,520 acres of land. This land remaining unsold is not near an average quality, and its sale will likely be slow, and the price, \$1.25 an acre, may have to be reduced in order to effect a sale of it.

Whatever is left of this grant belongs, I suppose, to the common school fund. The grant was for the purposes of internal improvements, but the people of the State, in the formation of the Constitution, provided in that instrument in effect that all the proceeds thereof, if Congress assented thereto, should be set apart as a separate and irreducible fund, and be applied for the support and maintenance of common schools.

At the time the act was passed under which the Lock bonds were issued-the act approved October 21st, 1870-it was claimed that congress had not assented to such application; and upon that ground the Legislative Assembly assumed the right to make them payable out of that grant, and provided accordingly. But Congress, on February 9th, 1871, passed a joint resolution by which it assented to the application of the 500,000 acres of land to the support of common schools, as provided in the Constitution of the State. That action on the part of Congress doubtless secures to the common school fund all that remains of said grant.

The disposition of that grant might be the subject of reflection that would prove profitable to the people of this State. It was a valuable grant, and at least three quarters of a million of dollars should have been realized therefrom. Instead of that, however, it has all be frittered away, excepting about eighty or ninety thousand dollars thereof, to redeem two hundred thousand dollars of State bonds, which, when issued, were sold for one hundred and sixty thousand dollars. The proceeds of the grant may have been applied to a meritorious purpose, but its management has been such, that not a third of its value has been realized by the State. It is a sad commentary upon the administration of government, and I only made reference to the unpleasant subject in order that greater precaution may prevail in the future in the control and management of State interests. The sacrifice of half a million dollars, in the sale and disposition of the proceeds of one land grant, ought to be a wholesome lesson to those who are intrusted with the conduct of public affairs. There is another special indebtedness known as the Road Warrants. They were made payable generally, out of the Swamp Land fund. They amounted, two years ago, to \$133,604.00. During the last two years a portion of

them, amounting to about \$14,000.00 of principal, and about \$5,500 of interest, has been taken up in payment of the twenty per cent. Payable on the purchase of swamp lands, under the former act providing for the selection and sale of the swamp and overflowed lands belonging to the State of Oregon.

I did expect that before this time, they would all have been liquidated. They can only be paid, however, from the proceeds of the sales of swamp lands, which can not be sold until they are listed to the State by the United State Land Department; unless it be done in compliance with the provisions of said former act, in order to preserve the faith of the State towards those who made application in good faith, to purchase that character of lands in accordance with its terms. And not many of those would probably be willing to complete their purchases until it was ascertained that the title to the land was in the State.

The balance due upon these warrants is but a small sum compared with the amount and value of the swamp and overflowed lands the State is entitled to, under the act of Congress of March 12th, 1860; yet it will be likely to drag along until more of them, claimed by the State as swamp and overflowed lands, are certified to be such by the Department at Washington having the matter in charge; but when that glorious occurrence will happen, remains a problem.

TAXATION

The Legislative Assembly, at its last session, interposed some restrictions upon the deduction of indebtedness in the assessment of property for the purposes of taxation, and I am satisfied that this has had the effect to prevent the allowance of a large amount of spurious claims.

If the provisions of the act are faithfully enforced by the Assessors of the various counties, it will break up a practice that has long prevailed, of claiming deductions on account of contingent liabilities and fictitious debts; and will obviate some of the objections urged against including choses in action in the list of property taxed, as it will tend to insure their taxation.

The same difficulty, however, exists in securing uniformity in the matter, and will be likely to continue. It is beyond the skill of legislators to provide so that all property will bear an equal burden in the support of government, proportionate to its value. It is a result that can never be fully accomplished; yet no reasonable efforts should be spared to approximate it, as it is one of the conditions upon which the government was accepted by the people.

There is less difficulty in making school and county taxes uniform than taxes for State purposes. In the former case the Assessor has an opportunity of comparing valuations, and if he adjusts his assessment properly in that respect it works no injustice, whether it be too high or too low as a whole, as the levy by the County Court can be made to correspond; but not so in regard to State taxes. There the total valuation of the property of the several counties should represent the true value of the assessable property of each. Otherwise the latter taxes would be unequal. The law, it is true, requires the Assessors to assess property at its actual cash value. This would effect the result if they were all equally firm in their opinions, and their judgments were alike; but no such coincidence could be expected, and hence their valuations differ as widely as their minds. Besides, they are not equally faithful and conscientious in the discharge of their respective duties.

The only way of remedying the difficulty, that I can see, would be the establishment, in some form, of a Board for the equalization of taxes, as between the counties, which are levied for State purposes.

I believe that a meeting of the Assessors as a board with authority to establish general rules regarding the valuation of similar kinds of property in the various counties, would be the best form that could be devised. Their session would not need to be ore than four days, and the expense, if they were paid the same mileage and per diem as the members of the Legislature, would not amount to two thousand dollars a year. Their simply meeting and comparing views for the purposes suggested would influence the selection of more competent persons to fill it. My views upon this subject may be considered Utopian, but I submit them for your consideration.

I desire to call your attention especially to certain kinds of business that have been carried on in the State for a long time by foreign parties, who have been under no legal obligation to contribute a due proportion of the expenses of its government.

I refer to foreign express, banking and insurance companies. They have been engaged in very worthy enterprises, and the law of comity demands that they should be permitted to prosecute their respective kinds of business within the jurisdiction of the State without oppression or unjust discrimination, and that they receive the full protection of its laws; but comity does not exempt them from the general burthen which is occasioned by the administration and maintenance of those laws. That would be unjust to our own citizens.

Chapter 24, Miscellaneous laws of the State, provides that every foreign corporation, before engaging in the business of fire or marine insurance, or express or brokerage, shall deposit with the state Treasurer the sum of \$50,000 in interest bearing bonds of the United States, or bonds of the State of Oregon, to be kept as a security for claims against such corporation; and that the corporation or association shall pay taxes upon such deposit, within the county where deposited, in the same manner and to the same extent as an individual, and that the deposit shall be held liable therefor.

This statute would afford a remedy in part in the cases referred to, but the agents of the said corporations have artfully made the deposits in United States bonds, which, not being taxable under State authority, the provisions thereof subjecting them to taxation are rendered nugatory.

A change of these provisions could be made so as to remove the difficulty in the way of the taxation of the deposits; or, the corporations and all foreign companies could be required to pay a sum in gross by way of license, as a condition upon which they might be permitted to carry on business in the State. A reasonable regulation in that respect would only be just and equitable.

It will, however, require firmness on your part to carry it out. Whenever a measure of that kind is introduced there will doubtless a swarm of agents of those various companies gather here. And employ all their blandishments to defeat it; but influences of that kind should never be permitted to thwart honest legislation.

PUBLIC INSTITUTIONS

PENITENTIARY

The report of Mr. A. Bush, Superintendent of the Penitentiary, which is herewith submitted, will furnish you full information regarding the condition and management of that institution; and I deem it unnecessary to do more than to call your attention to certain general matters relating thereto.

I believe that it has been conducted as well as the circumstances would admit of.

The several officers in charge have faithfully performed their respective duties. The superintendents, in attending to the general affairs of the prison, has used good practical sense and judgment at all times; and the Warden, Mr. W. P. Miller, in his attention to the detail matters, has exhibited a degree of prudence and economy highly commendable in a public officer. These two gentlemen, by provident and judicious management, have materially lessened the expenses of the establishment. They have inaugurated a correct financial system in its business operations, and have used it strictly for the object and purposes for which it was instituted.

The discipline has not been as rigid, perhaps, as necessary, but that, in part, has been on account of the sentiment of the community. Greater importance will be attached to individuality in a sparsely settled country, than in one occupied by a dense population. More charity and kindness will be exhibited in the former than in the latter. It may be a mistaken idea, yet it is certain to have its influence in the punishment of crime. If, however, such an institution is in the outset organized upon correct business principles, it will succeed. Its rules of government will gradually and imperceptibly become sufficiently severe for all practical purposes.

One of the best means of securing discipline is to employ the convicts in constant and unremitting labor; but in order to do that, it is necessary that some kind of business should be established at the Penitentiary, which would furnish all of them employment.

Divers kinds of business have been attempted, but none of them were sufficiently extensive to engage a large number. If the proprietors of some general manufacturing enterprise could be induced to take hold of the matter, and arrange for the employment of all the spare convicts, at a small compensation even, it would be an advantage to the convicts and the State.

There has been a difficulty in the way of making any permanent arrangement of that character, in consequence of the want of authority on the part of the Superintendent. He is empowered by the general law, to employ the prisoners, but that is very vague and indefinite. Yet it is the extent of his power, under the law, though the Legislative Assembly, in 1874, adopted a joint resolution to the effect that the Superintendent be authorized to contract all the available convict labor, to the highest responsible bidder, at rates not less than fifty cents a day for each convict, for a term of years not exceeding four in any one contract. Said labor to be performed within the prison bounds, and under the charge of the State. In 1880, the Legislative Assembly by another joint resolution, authorized the Superintendent to contract with responsible parties, the convict labor, at a price of not less than thirty cents per day for each convict so employed.

Whether the Legislative Assembly by joint resolution only, can make any valid regulation upon the subject is very doubtful. Resolutions of that character do not have the force of law. It requires an act, duly introduced, read, passed and authenticated to have that effect.

But if otherwise, the terms of the resolutions referred to are too much restricted to enable the Superintendent to make an advantageous arrangement. A business that would give employment to all the convicts, requires the investment of a large amount of capital. To get it started and well under way would involve the expenditure of an immense sum of money. No capitalist would be so imprudent as to engage in so extensive an affair, unless he could make certain and permanent arrangements; and until the matter is in a condition in which such arrangements can be made, the business carried on at the prison, by convict labor, will be, as it hereto fore has been, spasmodic. The subject is well worthy of your consideration.

A law should be once, vesting in the Superintendent wide discretion in the premises. It is highly important to the State, that the convicts be kept employed at a compensation that will reimburse the State, in a great part at least, for the amount it costs to keep them; and more important that they acquire a trade, and industrious habits, so that they can earn an honest living when discharged.

I herewith submit a report of the reprieves, commutations and pardons granted during the last two years of my term, with the reasons therefor, and the names of all persons in whose favor remission of fines and forfeitures have been made.

The course I adopted in regard to commutations makes the number of convicts commuted and pardoned almost equal to the number that has been discharged. I deemed it judicious to remit a portion of the sentence in every case, where the behavior of the prisoner had been such as to justify it. I preferred that way to the practice of giving money on account of good conduct. It has been less expensive to the State, and I think has had a better effect on the party released from the imprisonment. If a portion of his term is remitted he can employ it, if so disposed, in earning money by his labor, under a contract of his own making which will tend to make him more self-reliant; and if not disposed to work when set at liberty, the merit money, as it is termed, will prove a detriment, for in a great majority of cases he will at once engage in a life of idleness and dissipation, and very soon become involved again in difficulty.

I think it would be better to repeal the provision of the statute which authorizes the payment of merit money. The provision which requires the payment of the five dollars is well enough, though it would be better instead of that, to authorize the Superintendent to procure the convicts a passage to his home, if he has one, or to some place where he would be likely to get employment.

Idleness is the cause of a great amount of the crime committed. A person who is inclined to be industrious, and has a knowledge of any kind of useful business, is not very apt to become a criminal; and that system of punishment for criminal offenses which encourages habit of industry and enables the offender to acquire a knowledge of skilled labor, is the only one likely to prove reformatory. And I may truthfully add, that those parents and guardians who neglect to have their children and wards engage in some legitimate and suitable employment, re guilty of a social wrong, and are responsible, to a great extent, for the vice and crime which the state is endeavoring to repress.

STATE INSANE ASYLUM

By an act approved October 25th, 1880, entitled "An act to provide for the construction of a brick Insane Asylum Building for this State, to levy a tax and appropriate money therefor," a Board of Commissioners consisting of the Governor, Secretary of State and State Treasurer, was created for the purpose of carrying into effect the object of the said act.

In pursuance thereof the Board duly organized and proceeded to erect such building. The Report of the Board of Commissioners to this body will furnish full information in regard to the character of the structure erected, its condition and the expense incurred; and I need only refer to certain duties growing out of that affair, which you will be required to discharge. The Building is so far completed by the first day of December next, as the State has the right, under the contract with the late Dr. J. C. Hawthorne, to receive them then; it being provided in that contract, that if at the expiration of four years (from the first day of December 1878) the State shall have provided State Insane Asylum, then the said contractor shall turn the patients under his charge over to the State. Otherwise the contract, by its terms, is to continue two years longer.

The act of October 25th, 1880, before referred t, appropriated the sum of twenty five thousand dollars from the surplus moneys arising under an act to provide a tax to defray the current expenses of the State, and to pay the indebtedness thereof, approved October 20th, 1876, and further provided for the levy of an annual tax of one mill on the dollar, with which to defray the expenses of erecting the building.

The Board has received the twenty-five thousand dollars appropriated from said surplus moneys, and a little over fifty-nine thousand dollars the proceeds of one levy of the mill tax will not probably be realized before February or March of 1883. The Board considered it a duty to complete the building by the first of December 1882; and in order to do so, it was necessary to push forward the work in advance of the receipts of the fund. The result is, that the expense at the present time amounts to more than the amount of funds realized, and will overrun, as will appear from said Report of the Board, a few thousand dollars, the amount limited in the act providing for the construction of the building. These circumstances have delayed its completion, yet the work is so far advanced that it can be finished, through your cooperation, by the time referred to.

I deem it very necessary that it should be done by that time, as it will enable the State to save at least thirty-three and one third per cent of the cost of keeping the patients under the said contract; which will be a saving of about thirty thousand dollars a year. The building must also be furnished, so as to render it suitable for the keeping and management of the patients, before they can be received by the State. This will require the expenditure of probably forty thousand dollars, which you will have to make provision for; and the whole matter will require prompt action on your part, as the time intervening between this ad the first day of December next, must all be employed to accomplish the undertaking.

The way open to do it, however, is very simple, and only requires promptitude on your part. The Treasurer should be directed to pay from the mill tax fund the expense in building in excess of the hundred thousand dollar limitation, and a special appropriation of forty thousand dollars be made from the excess in the current expense fun, arising from the four mill tax before referred to, with which to furnish it. There need be no delay in the matter, nor do I think there will be, if the interests of the State are given a preference over those of private persons.

A small amount of interest will accrue upon the warrants drawn upon the one mill tax fun, or the "Insane Asylum Building fun," as it is termed in the said act of October 25th, 1880, and some interest has already

accrued on warrants drawn on it; but the present levy which will be paid into the State Treasury by March next, will liquidate the whole expense, and leave a surplus; which can be applied to other purposes, and which might be provided for at this session.

I have no interest whatever in having these suggestions carried out, except the general interest I have in common with the citizens of the State of Oregon, but I assure you that I feel a great solicitude that it be done. I realize its importance and fervently hope that it will not be neglected. I trust that you will appreciate its necessity and not permit the selfish mercenary interests of individuals to defeat the early consummation of such and important undertaking.

An other very necessary duty demanding your attention, will be the passage of an act providing for the government and management of this institution. Offices must be created and provision made for the selection of suitable persons to fill them; their duties prescribed and compensation fixed. This I regard as a matter of more consequence by far, than any that will be likely to come before you at this session.

All civilized people agree that suitable measures should be adopted in every community, to secure proper care and treatment of those who have unfortunately been bereft of their reason. It is a humane step, dictated by benevolence and christian charity; and designed not only to render that class of persons as comfortable as possible, but to cure their infirmity and restore them to their faculties. Every enlightened State in Christendom acknowledges its obligation to accomplish that object it within the power of human ability.

The cost of the Insane Asylum, when completed and furnished, will not probably be less than one hundred and seventy-five thousand dollars. The purpose for which it will be employed will depend very much upon your action. If its government is rightly organized and its affairs prudently and wisely managed, it will prove a blessing to the community and a credit to the State; but if on the contrary, it should be used as an appliance in the political machine, employed alternately by the different political parties of the country, it will be pernicious, and will impose an unnecessary burden upon the people.

There are too many persons who are clamorous for place and position on account of their rendition of services to the prevailing party; and an institution of this character can very easily be perverted into a means of rewarding those persons for the efforts and zeal they have exhibited in securing a party triumph. They have implicit faith that they have earned a position of profit, and they demand of the successful candidate a recognition of their claim to it.

The fact that they may be entirely unfit for the place they aspire to fill, does not deter them in the least. That is a matter of indifference. Their test of an applicant's qualification for office is, whether or not he has been faithful to his party. If he has maintained a blind adherence to it for a long period of time, has been zealous and active in political campaigns, though an entire failure in every regular business he has undertaken, it will not do to refuse him. The party needs his services. He is poor, of course, and must be provided for. A refusal under such circumstances, on account of the unsuitability of the applicant, would bring upon the unfortunate head of the department having the disposal of the matter the maledictions of an army of place hunters.

It is said that when Aristides was defeated for an office to which three hundred others were elected, he thanked the Gods that there were three hundred better men in Athens than himself; but the modern office seeker evinces no such spirit of resignation. He claims the position, not because he is the better person to fill it, but because he has earned it. He imagines that there was a tacit understanding that if he employed cunning, deception and trickery in securing party success, he would entitle himself to political preferment; and he regards his claim as binding in conscience as one arising out of a commercial obligation.

In establishing a government for the management of this Asylum, it would be a criminal neglect of duty on your part, not to provide strong barriers against attempts, by the class of persons mentioned, to gain control of it. It would be far better to establish, at the expense of the State, a kind of Lazzaroni, where they can be supported, than to permit them to foist themselves upon an institution erected for the purposes of exercising benevolence, charity and mercy.

In the organization of this government, a mode should be provided for selecting the officers to administer the affairs of the institution, that would be independent, so far as it can possibly be made so, of all political influences or considerations. Competent, qualified and efficient persons must conduct its management, to render it successful; and they must be selected on account of their peculiar fitness to perform the duties assigned them.

If the selection could be made by a Board of Commissioners consisting of three members, chose in the same manner that Regents of the State University are chosen, I believe it would prove satisfactory. The Board should have a general supervision over the affairs of the Asylum. It should hold its meetings there, which should be as often as four times a year, about the close of each quarter; should be authorized to make rules for the conduct of its affairs, ascertain the manner in which official duty was being performed, and examine and certify to the Secretary of State all accounts of the expenses it has incurred.

The members of the Board should receive no compensation for their services, beyond the payment of the expenses created in the discharge of their official duty, an account of which should be made out and audited by the Secretary of State, as other claims against the State are audited; and they should be appointed from the members of the different political parties of the State.

A Board of that character, made up of prominent citizens, in my opinion would so organize and manage the State Insane Asylum that it would subserve the purposes for which it was instituted, and be a source of gratification to all who sympathize with the unfortunate and afflicted of their race.

THE SCHOOL FOR DEAF MUTES

The last Legislative Assembly organized the school for deaf mutes, by providing for a Board of Directors to have the charge and management thereof.

The plan was recommended in my last general message, and it has operated well, and relieved the Board of Education of a great annoyance. The school for the last two years has been under the immediate charge of Rev. P. S. Knight, as Superintendent, who has given it faithful attention, and it is now in prosperous condition. The report of the Board of Directors to the Hon. Secretary of State, will give full particulars of the progress of the school, and the state of its finances. I am satisfied that it has been conducted, during the time referred to, for the benefit of the pupils, and that they have made rapid advancement under their present tutors. The school is well organized, and its affairs are being prudently and economically managed.

The difficulty in the outset, with such an institution, is the tendency to appropriate it to the benefit of persons who were not intended to be the recipients of its favors. It is liable to be overloaded at the start, with burdens of various kinds; and it has to endure a severe struggle before it can get fairly under way. I think this has now passed that stage and gained a secure footing. Its affairs are conducted on a business basis, and in accordance with business principles; and that to my mind is an assurance of success.

No institution can flourish without the moral support of the community, and this is not usually gained without an effort on the part of its managers. The superintendent, r. Knight, is entitled to great credit for his energy, perseverance and faithful labors in securing the establishment of the school, and a reasonable support o the part of the State will enable it to become a permanent and beneficial institution.

LANDS GRANTED TO THE STATE

The condition of the various land grants to the State, is generally very well understood.

I have already referred to the five hundred thousand acres donated for internal improvements.

The grant of ten sections of land for the completion of public buildings, has been fully realized.

The grant of the salt springs lapsed long ago, and no benefit will probably ever be realized therefrom.

The seventy-two sections set apart and reserved for a State University have been selected, and about twenty-nine thousand acres thereof sold; leaving about seventeen thousand acres unsold.

The ninety thousand acres of land granted under the act of July 2d 1862, for an Agricultural College, have been selected and about twenty-six thousand acres thereof sold. The rice at which they are required to be sold by the terms of the grant, two dollars and a half an acre, renders their sale slow.

The sixteenth and thirty-sixth sections in each township, granted to the State for the use of schools, have been, and are being, sold from time to time, as the public surveys are extended. The full benefits of this grant will not be realized until all the public lands in the State are surveyed.

The several funds arising from the sales of the lands included in the said grants amount to the following sums respectively:

The University fund, principal.....\$ 62,000
The Agricultural College fund, principal..... 65,000
The Common School fund, principal..... 655,000

The investment of these funds, under the present rate of interest has become very difficult.

During the past two years there has been a large supply of money to loan in the state, and it has resulted in lowering the rate of interest in private business transactions. Borrowers have been able to hire the use of money at a less rate per centum than that provided in the law regulating the loan of the school funds. How long such a condition of affairs will continue is unknown. At present it is operating to the detriment of these funds. They are liable to lie idle, or to be loaned to applicants of doubtful credit, neither of which alternatives is encouraging.

It is very proper to prescribe the rate of interest at which these funds shall be loaned, though the business of the country, in fact, fixes the rate of interest. I think it absolutely necessary to lower the rate of specified in the preset law from ten per centum to nine per centum or lower. I doubt whether half of the amount on had will be called for during the next year unless that is done.

The system of loaning should also be made as simple and require as little formality as possible. The present mode of loaning the Common School fund is the best one, in my opinion, that could be devised. The application is made through an agent appointed by the Board who recommends the loan if he considers it a desirable one to be made. It is then considered by the Board, and the application is either granted or refused.

If the officers having charge of the matter attend to their duty, there need be no mistakes. They should first appoint a good responsible agent in each county; who should carefully consider each application before acting upon it. And they should bear in mind that they have no right to entertain an application for a loan except at a regular meeting of the Board. It would be unsafe to permit parties desiring to borrow from these funds, to solicit the officers having charge of them severally and personally.

Besides, it would be irregular to make a loan under an assent given by them separately. The Governor, Secretary, and Treasurer have no authority over the subject, except as a Board, and that can only be constituted by a regular meeting of its members.

I am not aware of any bad loan of the Common School fund having been made during the four years of my term, except one procured by misrepresentation, and the party restored the money in that case.

The loan of the University fund is under a different regulation. The agents in the several counties to whom the applications are made are appointed by the Judge of the district-formerly a Judge of the Supreme Court, now, I suppose, by a Circuit Judge - and a fee of ten dollar to such agent provided for.

I believe it would be better to allow the board to appoint the agents in all cases, and to have one uniform system. The board would be the better judge of the qualifications of a person to be agent than the Circuit Judge, and I would recommend that the law be changed in that respect. I know that owing to the complexity of the regulations in regard to loaning the University fund, borrowers prefer to obtain loans from the Common School fund in every instance. I believe that the other members of the Board will fully bear me out in this conclusion.

Those regulations were well intended when devised and adopted, and doubtless have proved beneficial; but the successful management of that fund must always, to a great extent, depend upon the fidelity of the members of the Board, and its efficiency. If it has at any time failed to invest the fund prudently, it has been owing, in a great measure, to a lack of method in the transactions of its business, which leads into loose and careless practices. Such a course can easily be avoided by adhering to some general, reasonable system.

These several funds at present are in a very good condition. They have, for the last two or three years, been rendered as productive as they could have been under any other management with like restrictions. They respectively aid in the support and maintenance of highly important institutions that have been established for the benefit and advancement of the people of the State, and should be sacredly guarded and protected.

Our system of self-government must depend for its success upon the intelligence of the people. A mass of ignorant persons have no correct conception of the true principle of civil liberty. They must be rightly educated in order to understand and duly appreciate them. It is indispensable to the preservation of a republican form of government that learning be disseminated broad cast over the whole land, and though some may fall by the wayside, some on stony places and some among thorns, yet other will fall upon good ground and bring forth fruit that will nurture, sustain and uphold civil and religious liberty.

I herewith submit the report of the Hon. Matthew P. Deady, President of the Board of Regents of the State University, and also that of Professor B. L. Arnold, President of the Agricultural college, which will furnish you full information of the workings, progress and condition of the two institutions, while the report of professor L. J. Powell, Superintendent of Public Instruction, will disclose the like information in regard to the Common Schools of the State.

These gentlemen have severally entitled themselves to great commendation. The former, for the worthy services he has gratuitously bestowed in behalf of the University, and the latter two, for the zeal and perseverance they have manifested, and the faithful labor they have performed in the discharge of their respective duties to the Agricultural College, and to the Common Schools.

Professor Powell in his report urges, as you will notice, the levy of a State tax of two mills upon the dollar for the support of Common Schools. The matter is worthy of your consideration, though I do not feel that I am sufficiently advised upon the subject to recommend it. Aid, however, to any of these institutions, should not be withheld through a stringy policy on the part of the State.

Under the act of October 21st, 1870, the act providing for the building of the Canal and Locks at the Willamette Falls, the faith of the State is pledged to pay into the Common School fund at such time as it takes possession of such Canal and Locks. \$200,000. This should be considered in connection with the subject of the levy of the proposed tax. The only objection which I would make against levy of a State tax for school purposes would be as to the time when it should be done; that is, whether in any event, such action should not be deferred until the present indebtedness of the State is completely adjusted, the Insane Asylum fully completed and occupied, and the State house finished.

A continuation of the present tax, which amounts to five and a half mills upon the dollar, for another two years, will produce a sufficient revenue with the means from the other sources before mentioned, to accomplish the

whole affair. If the administration of the government is economically conducted, the proceeds from the four mill tax will leave a large excess in that fund; probably more than two hundred thousand dollars, in the two years. The mill tax for constructing the Insane Asylum will afford a fund of sixty thousand dollars at least that will not be required for the purposes for which it was levied; and the half mill tax levied to pay the Indian war claims, with the allowance by the United States on account of the expenses of the Modoc and Umatilla Indian wars, which will probably be realized by the time mentioned, will also afford a considerable excess.

I have no means of knowing how much will be required to finish the Capitol building, but it certainly ought not to require more than a hundred thousand dollars to complete the inside work and build the dome. The building of the porticoes and outside stairs could be delayed a term of years, without injury or inconvenience; though they would doubtless improve the general appearance of the building.

But in order to bring about such results, prudent management must be observed by all the departments of the government. A loose profligate course would effectually defeat it, and plunge the State into more indebtedness. You can do much to avoid so unfortunate a consequence, and it will only require negative action on your part. Resolve to vote emphatically No! upon every measure introduced for the purpose of filching money from the Treasury, oppose propositions for relief based upon stale and doubtful claims, and refuse appropriations in aid of schemes intended in the main, for the benefit of private individuals.

If the course indicated is pursued, the results predicted will be sure to follow. The four mill tax for current expenses can then be reduced to three mills, possibly two and a half, and the mill, and half mill taxes taken off entirely. The financial affairs of the State will then be in a condition to admit of the imposition of a two mill tax for school purposes, without any greater burden to the tax-payers than at present. I would be in favor of first getting entirely out of debt. Then when the public buildings are completed, reduce the tax for current expenses to a sum that will fairly meet such expenses; and then, if though advisable, levy the tax mentioned for school purposes.

THE SWAMP LAND GRANT

During the last two years I have made all the efforts I felt justified in making, to have the lands that were granted to the State by the act of Congress of March 12, 1860, selected.

I considered it very important to have it ascertained which lands of the public domain were swamp and overflowed, within the meaning of that act, and to have them certified to the state, for two reasons: first, in order that the State could liquidate the Road Warrants before referred to, which were made payable out of the swamp land fund; second, that the confusion occasioned by the grant might be removed.

In many sections of the State settlers did not know from what source their title to the lands they occupied could be derived. The State claimed a large portion of the public lands under said grant, and steps had been taken under the act of the Legislative Assembly of October 26, 1870, to select them. Applications had been made to the Board of purchase of large tracts as swamp lands. The United States Department had refused to recognize any selections made under State authority, in advance of the public surveys. Pre-emption and Homestead entries were constantly being made of portions of them. Grantees, holding under grants to the State made by the United States for the purpose of building roads, were claiming other portions of them. Other portions still were within the limits of Indian Reservations, established by the United States long after the passage of the act of March 12, 1860. Numerous conflicts had arisen, growing out of these various circumstances, and the whole subject was very badly complicated.

Another serious difficulty in the way of their adjustment was the mode that had been adopted for their selection.

It appears that as early as the 21st of May, 1860, an official letter was addressed by the Department of the United States, at Washington, to the then Governor of Oregon proposing to allow one of two modes of segregation of the swamp lands included within the terms of the said grant, viz.: First, to abide by the field notes of survey designating the lands; or, second, for the State to select the lands by her own agents in the

field. The State after deliberating upon the proposition for a little more than fourteen years, concluded to accept the latter mode; as appears from a joint resolution of the Legislative Assembly passed October 13, 1874.

It would naturally be supposed that having had ample time to consider the matter the better mode would have been chosen; the one that would have relieved the State of all expense, and from the embarrassment of selecting an army of agents to perform the services; but unfortunately it was not. It elected "to select the swamp and overflowed land within her boundaries by agents of the State," and the proper officers of the State were instructed to furnish to the Department of the Interior, such evidence and in such manner, of the swampy character of the lands, as the said Department should prescribe.

A copy of this resolution having been furnished the Department of the Interior, it prescribed "such evidence and in such manner of the swampy character of the lands," with such a degree of nicety as a department of the United States government is able to prescribe. It required the selections, when made by the State agents, to be forwarded to the United States Surveyor General, with the evidence of the swampy character of the lands, which evidence was particularly and minutely defined, was very abstruse, and in some of its features almost impossible to be complied with.

After the mode was adopted numerous lists of selections were forwarded to the Surveyor General, accompanied in some instances with proof of the swampy character of the lands loosely made, and in other without any proof whatever; and these lists in the majority of cases were being tossed about in that office without much idea as to what should be done with them, through some of them had been forwarded to the office of the commissioner of the General Land office, but did not receive much better treatment there. The whole affair, in fact, was in a muddle, if I may be permitted to use such a term. Twenty years had elapsed, and only about three or four thousand acres of these lands had been listed to the State, which were procured, as I am informed, through the exertion of Quincy A. Brooks, Esq., of Lake county, who, I presume, engaged in a direct correspondence with the Department at Washington.

In this condition of things I had but one alternative, which was to follow the mode the department had proposed and the State elected. That course had to be pursued or the whole affair ignored, and the claim of the State to the lands virtually surrendered. In order to carry it out, I was compelled to employ the services of several parties. I had to ascertain what lands were probably swamp and overflowed before I could, as Land Commissioner of the State, claim them as such. To do this I had to appoint an agent to view the lands in the field and to furnish me with a list of them and to procure the proof prescribed by the Department. It was necessary also to engage the services of a competent person to overhaul the lists in the Surveyor General's office, and attend to supplying proofs with reference to those, and to overlook the ones furnished by the field agent.

I engaged the services of Mr. H. C. Perkins to view the lands in the field, and Mr. P. L. Willis to attend to the other labor. Besides, the Department at my request, has sent an agent to view the lands included in the lists forwarded to the office of the Commissioner of the General Land Office, who was instructed to cooperate with an agent appointed on the part of the State; and I appointed Captain John Mullan as agent to attend to, and urge speedy action upon the part of the Department, in the examination and certifying of the lists forwarded by the Surveyor General. These several matters have entailed some expense, but it was the only course to follow; and I assumed the responsibility to adopt it, and to push forward the work as fast as it could be done with the complicated machinery provided for its management.

In order that you may have a better understanding of the manner in which the proceedings in selecting the swamp lands are conducted, and the result in part, of the efforts employed, I submit a recent statement of Mr. D. Harmon acting Commissioner of the General Land Office. It bears the date August 19th, 1882, and is as follows:

"Total area of lands claimed by the State, including lists unaccompanied by proof as well as such as have been duly selected and reported, 463,910.82 acres. Of these lands the following have already been disposed of as stated: Lands in sections 16 and 36 donated to the State as 'School Lands' by organic act of Feb. 14th, 1859, 10,174.03 acres. Lands selected and approved to W. V. & C. M. Military Wagon Road, act of July 5th,

1856, 487.99 acres; lands selected and approved to O. C. Military Wagon Road, act of July 2d, 1862, 3,528.79 acres; lands already patented to the State in swamp land patented to the State in swamp land patents Nos. 1,2 and 3, 27,610.19 acres; leaving the total area of lands yet to be examined and the claim of the State thereto be adjusted 365,259.62 acres. Against this there re now pending claims under preemption, homestead and other laws to 12,752.09 acres. Proof is yet to be furnished as to the character of 205,921.80 acres. Leaving the total area of lands duly selected and which having been examined in the field have been reported upon favorably, 146,585.73 acres.

The lands embraced in this last mentioned area will be listed for approval and subsequent patenting to the State at as early a date as possible."

I conclude from the above statement, that the State will receive the 146,585.73 acres above specified as soon as the clerical labor making out the lists is performed, which, added to the 27,610.19 acres already patented, makes an aggregate of one hundred and seventy-four thousand one hundred and ninety-six acres (round numbers) of land secured, and will also doubtless receive the greater part of the 205,610.19 acres when examined in the field by the joint agents referred to, though other proof of their swampy character may have to submitted. In nearly three hundred thousand acres which will be forwarded soon, if not already done, to the Commissioner of the General Land office.

Since writing the above I have received a telegram from Captain John Mullan, dated at Washington on the 7th of this month, informing me that lists of selections of swamp lands embracing 98,300.17 acres in the Lakeview and La Grande Districts would be certified for approval to the Secretary of the Interior by the Commissioner of the General Land Office on the 12th instant.

At the commencement of my term of office there had only been approved, by the Surveyor General, 43,653.94 acres. During the time of its continuance he has approve 449,789. 36 acres, nearly all of which have been selected, and the proof required by the mode aforesaid furnished. Besides other selections have been, and are being made, which, when completed, will make the area of acres at least a half a million, from which the State should realize nearly that number of dollars.

There should be remaining in that fund, after the Road Warrants re paid off, fully three hundred thousand dollars.

This fund, like the five hundred thousand acre grant, has been unkindly dealt with. It has been rudely invaded, and a great portion of its substance purloined. Some portion of it may have been applied to useful purposes, but it would be very small when compared with the benefits that should have been received by the State. The appropriations from it for the building of certain roads was somewhat after the manner of the disposal of the various grants y the United States to the State, for the building of roads from and to certain points. Generally they went to enrich private parties.

It is to be hoped most devoutly that the scheming, plundering system of appropriating funds of that character through some flimsy pretext is at an end. If those lands had been preserved they could have been applied to a substantial beneficial purpose; to the building up of some charitable or literary institution that would have been enduring and have reflected honor and credit upon the representatives of the people of Oregon for years to come.

But the remnant may still be preserved and rendered highly useful. Ten per centum of the swamp land fund is pledged by the laws of the State to the use of the common schools. Another portion should be applied to the benefit of the State University; which will enable an institution that should be the pride of Oregon to gain a firm financial footing. Had such a policy been pursued a few years ago we should not have witnessed the humiliating spectacle of the prevention of a forced sale of its building only through the kindly intervention of a non-resident of the State. An institution that sheds its light and luster far and wide becoming a mendicant for foreign aid, is no a pleasant subject of contemplation.

The course that has been adopted in the selection of the swamp lands, although not, in my judgment, the better one, will doubtless under the circumstances, have to be continued; but the bulk of the expense has been made. The mode is now better understood, has become systematized and the greater portion of the lands have been listed under State authority. The business can now be conducted regularly and at far less expense than it heretofore could have been.

One great source of embarrassment has been the lack of funds, with which to carry it forward on a cash basis. The payment of the appropriations that have been made for that purpose has been postponed to the Road Warrants; at least that has been the construction the Treasurer has placed upon the law. It should be so worded as to require that the first money that is paid into the fund be set apart to pay the expenses of the fund, and the first sums realized should be reserved for that purpose. The holders of the warrants could not complain at that, as the expenses of selecting the land incurred for their benefit, to the extent of enabling the State to redeem their warrants in a shorter time. They could not, in fact, be redeemed at all if the lands were not selected and sold.

PILOTAGE AND TOWAGE

The rates of Pilotage and Towage at the mouth of the Columbia have been the subject of complaint for a long time, and should be investigated with a view of remedying any wrong connected therewith, if such should be found to exist. I have no knowledge whatever of the matter, further than to know that it costs a large sum for a ship to come in over the bar there and go out with a cargo, on account of Pilotage and Towage. I am ignorant as to whether or not the charges therefor are greater than they should be, yet it ought always to be the subject of close scrutiny.

Charges of that character increase the cost of shipment and must necessarily be paid indirectly, by the producer, and if exorbitant, wrongfully injure him. It is the correct policy of the State to relieve that class of persons more especially the agriculturalists, from all unjust exactions so far as can be done consistently with right and justice. The farming interests constitute the main support of nearly all other classes of business, and the growth and prosperity of the State are dependent almost entirely upon them; still, persons engaged in that occupation have no right to complain of the high rate of charges of parties engaged in other business, if they are on an equality of footing, as free competition is open in such cases, which is apt to regulate the matter satisfactorily.

But when a business has been established ostensibly for the benefit of the public, and in consideration thereof it has been granted special privileges, it should be restricted to reasonable and fair profits. In that case it becomes a subsidiary of the general interest of the public, and has no right to claim anything beyond an adequate compensation for its services. The compact between its proprietors and the State is, that it shall be employed for the benefit of the public in a particular line of duty and that they will only exact a just recompense therefor. If, therefore, it should at any time be ascertained that the managers of such a character of business were levying exorbitant charges for their services, or were receiving excessive profits under existing rates, the Legislative Assembly would have the same right to reduce the rates that it would to diminish the fees or salary of a public officer.

It does not follow, however, that the Legislature should adopt an oppressive policy in regard to such business. In the regulation of it, the scales of justice should be evenly balanced. Every circumstance in its favor should have its due weight, and you should not be swayed by motives of self interest, or feelings of bias or prejudice. You should make a fair and honest inquiry into the matter, and adopt such measures as the exigency may require.

SALMON FISHERIES

I deem it a duty to call your attention especially to the condition of the Salmon Fisheries of the Columbia River.

A few years ago steps were taken by certain parties interested in the preservation of those fisheries, to establish what is termed a hatching house, for the propagation of salmon. They were induced to engage in the undertaking in order to prevent the extermination of that species of fish. They secured certain aid from the United States, and the Legislative Assembly of 1878 passed an act to create the office of Fish Commissioner for the Columbia River, to license the taking of salmon in said river and its tributaries, and to encourage the establishment of such hatching house. The Legislature of Washington Territory had already passed an act for the same purpose, which by its terms, was to become operative when the Legislature of Oregon should enact a similar statute.

The license provided in said act required the payment of a certain sum upon the boats, nets and traps employed in said business. It also required the payment of a certain sum to be made by certain of the persons engaged in the business. This money was to be paid to such Fish Commissioner, and was to be paid over by him to any company furnishing satisfactory evidence to the effect that such hatching house had been established and had hatched salmon with which said river had been stocked and supplied.

The imposition of the tax provided for by the license quite naturally occasioned great dissatisfaction upon the part of those who were required to pay it; and, as a matter of course, the validity of the act was questioned, and it became the subject of judicial investigation.

The courts of Washington Territory decided that their statute was total nullity, upon the ground that the provision in regard to the time when it should go into operation was illegal; and the Circuit Court of Oregon in the Fourth Judicial District, held that the provision of our statute upon the subject was unconstitutional, on the ground that the money to be paid to the Fish Commissioner and by him disbursed should have been required to be paid into the State Treasury, and paid out in pursuance of appropriations duly made. The result was that the hatching house enterprise failed, as the salmon of the Columbia river are very likely to within a few years, unless stringent measure are adopted to prevent it.

There is at present a statute regulating those fisheries - the act approved October 16th, 1878. It restricts the time of taking the fish to certain months, limits the size of the meshes of the nets and seines employed in the business, provides what distance apart the slats shall be in the fish traps, and prohibits fishing on certain days within the months in which the fish are allowed to be taken.

Its provisions are probably observed where they do not conflict with the interests of the parties engaged in the business. Whenever that occurs they are doubtless considered as violative of some great natural right. That is the usual way in which parties reason upon such subjects who are interested in the matter. They appreciate the advantages to themselves, and are oblivious to every other consideration.

Nature has bountifully supplied the Columbia river with salmon, a very excellent quality of fish, which, if preserved, will afford to the people of the State and adjoining Territories, a delicate and substantial article of food for all future time. The State has full control over the subject within its limits. That authority has never been delegated. It has complete power to regulate its fisheries.

By proper legislation on the part of the State, and of Washington Territory, the salmon of the Columbia river could be preserved and rendered a lasting benefit to the people of both sections of the country. This can be done by limiting the catch during the spawning season. It may require the arbitrary exercise of authority, for no other kind will check the greed and rapacity of a portion of mankind; the class that will prosecute any business as long as it can be rendered profitable, regardless of the importance of the consequences that are certain to follow.

One of two modes should be adopted. Either shorten the period in which salmon are allowed to be taken during the season, and regulate the kind and character of the appliances to be employed in taking them, so as to catch only the larger sized fish; or limit the catch of a season to a specified number. Either mode may require the appointment of an officer invested with authority to enforce the provisions of the regulation, but the exigency of the case will justify it. Some rigorous measure must be adopted to prevent the expiration of those valuable fish from the waters of the Columbia river.

In connection with the act creating the office of Fish Commissioner, I wish to call your attention to the report of J. W. Cook, Esq., President of the Oregon and Washington Territory Propogating Company, dated January 24, 1881, which you will find on file in the Executive Office. That Company organized to establish a hatching house, and furnished evidence to the Fish Commissioner of the establishment of the same, and of having hatched salmon with which said river had been stocked and supplied. The Fish Commissioner, supposing the law to be valid, and having received, by way of licenses, under it a considerable sum, paid over to the said company a portion thereof, as by said act provided.

The report of Mr. Cook sets out the account relating thereto, and shows a balance in his hands of \$409.61, for which he is ready to account to ay properly authorized person, His course in the affair has been very honorable, and evinces a disposition to do what is right in the premises; but I am at a loss to know how the State will be able to adjust the matter. Strictly this money should be paid back to the parties who paid it originally, if they could be ascertained, which would be very difficult indeed. It being a public matter, however, I have deemed it proper to inform you regarding it.

THE INSANE AND IDIOTIC

The insane and idiotic, since the death of Dr. J. C. Hawthorne, which occurred about February, 1881, have been kept under the contract made between him and the State, which I have already referred to, by Mrs. Rachel Hawthorne, widow of the deceased, and Dr. Simeon E. Josephi, administratrix and administrator of his estate. The whole number in charge of said representatives is three hundred and fifteen, of which two hundred and twenty-one are males, and ninety-four females.

The same care and treatment of that class of persons which was bestowed by Dr. Hawthorne during his life, has been continued by his successors since they assumed the charge of them. They have kindly provided for them and shown them every attention calculated to mitigate their sufferings and restore them to health.

They have performed their duty faithfully, but the law which provides for the keeping of the insane and idiotic is, in my judgment, faulty, I do not think that this law should provide for keeping the idiotic. It involves a large expense in sending them to the Asylum, and I see no reason why they should be sent there when they could as well be cared for in the counties from which they are sent. The insane are usually violent, and it requires a secure place to detain them; besides, with proper facilities and skillful treatment, they may be cured. These considerations render it necessary to establish a general institution for that purpose. One that is safe, where better care may be given and more skillful treatment be employed. But no one having more sense than the idiot himself, would expect his recover from his infirmity; nor is it usually necessary to provide any very secure place in which to keep him. An ordinary Poor House such as every county in the State could afford to have where it is necessary, would answer the purpose. To send such a person, as is many times done, a long distance and at the cost of hundreds of dollars, simply in order that he may have a subsistence, is bad policy.

The law is also faulty in not having more effective checks against the committal of persons to the Asylum. There seems to be no difficulty in securing the commitment of any one complained against.

But a short time ago an escaped convict from the Idaho Prison took refuge in our Asylum for the insane and idiotic, in order to escape his arrest and return to that Territory. He feigned insanity and had no difficulty in getting sent there. He was subsequently discovered by an officer who came with a requisition for his return to prison. I have not learned the particulars of his committal to the Asylum, though I presume it was done in the usual way. Two householders of the county from which he was sent doubtless made the application in writing under oath to a County Judge, setting forth that by reason of insanity he was suffering from neglect and exposure, and that it was unsafe for him to be at large; that the County Judge caused him to be brought before him, and at the same time caused to appear two or more competent physicians and the Prosecuting attorney of the District, and they proceeded to examine him, and that the physicians after careful examination and thorough diagnosis of his case, certified upon oath that he was insane; by which device hi succeeded in smuggling himself into what he supposed to be a secure place of concealment.

This circumstance is furnished as an illustration of the loose and careless manner in which the law upon that subject is administered. And I apprehend that such will always be the case as long as the State is made to bear the expense of taking the patient to the Asylum, and of keeping him there. If the counties were compelled to pay it, more prudence and caution would be exercised in the matter. In no case should the State be made liable for expense in carrying a patient to the Asylum or a convict to the Penitentiary, as that duty is performed by county officers, and in the execution of the judgments and sentences of courts for counties.

APPROPRIATIONS

In former messages I have deprecated the practice of making appropriations from the funds before they were realized. Also the practice of applying funds to a different purpose from that for which they were raised. I have had occasion to veto two different bills each providing for the appropriation of a sum of money to construct a fish ladder at the Willamette Falls, as no funds were provided from which they could be taken, and they would consequently have had to have been taken from funds raised for an entirely different purpose in order to have effectuated the object intended.

I still adhere to these views. But at this time there is the hundred and ten thousand dollars excess in the current revenue fund before referred to, which might, I think, consistently with these views, be devoted to any purpose calculated to promote the general good of the State. I do not wish it to be understood, however, that any part of it should be trifled away at the whim or caprice of any one. It should be touched sparingly. A sufficient amount of it should be retained to furnish the State Insane Asylum as before suggested; also to pay the expense of the present session of the Legislative Assembly, and to pay for the first quarter of the current expenses of the State, as the present tax for that purpose will not be realized in the time to meet the payment of these expenses as they mature.

But the amount specified in the said bills of appropriation for the fish ladder which I believe was two thousand dollars, might properly be appropriated out of said excess. I do not know how meritorious the measure was. But it was passed by two successive Legislatures and I suppose is regarded as important. Besides this the State Agricultural Society is in great need to aid and should receive it. This society was organized for a highly beneficial purpose. It was designed to promote the farming and manufacturing interests of the country, and is a very worthy and meritorious enterprise. No one will doubt that it has had a salutary influence.

It has been unfortunate in its financial affairs, owing to circumstances which human foresight could not provide against. Unfavorable weather at the time sent forth holding its annual fair, occurring several years in succession, interfered materially with the attendance and the expense incurred in providing therefore occasioned large losses. It can however be made a success, and will be if properly supported. An appropriation in its favor of a few thousand dollars at this time, would be a valuable assistance and I very much doubt whether a portion of the excess in the fund referred to, could be employed to a better purpose.

I hope you will not overlook this subject, but that you will render such assistance to the undertaking as will give to the officers and members of the society renewed encouragement, and will relieve it to some extent from its present embarrassment.

There are many other matters of general interest to which your attention might be called, but they will doubtless occur to you without any suggestion on my part.

We have cause for congratulation on account of the promising condition of our State. There has never been a period in its history when its prosperity was so unmistakably assured. Every surrounding indicates thrift. Its rivers and harbors are being opened and improved. The Willamette is navigable during a great portion of the year from Eugene City to its confluence with the Columbia, a distance of nearly one hundred and fifty miles. The Columbia, when the canal and locks now being built at the Cascades are completed, will be open to free navigation for a distance of more than two hundred miles. And another improvement at The Dalles, which is certain to be made in the near future, will add several hundred miles more, extending along almost the entire northern boundary of the State, thence up into the interior of Washington Territory, and by one of its

branches, which is also navigable, touching and important shipping point in Northern Idaho, thus connecting remote sections of the interior country with the sea by a continuous line of river navigation.

The railroad enterprises that are being prosecuted within its limits, with those already built, will extend three lines across it, and with their connections will constitute that number of through routes to the Atlantic seaboard. These several and influential means will open wide all the avenues of its commerce, will accelerate the settlement of its extensive territory and develop its inexhaustible resources.

With these unparalleled advantages, the generosity of nature, munificence of the general government, and adventurous and enterprising people, the future is secure if we faithfully discharge our duty. But, however fortunate we may be in these respects, the State may yet never accomplish the great objects for which it was organized. To be successful in the respect, the honor and dignity of its government must be maintained. It must enforce order, insure justice and promote the general welfare. It must not burden the various industries of the State by oppressive taxation, but leave the agricultural pursuits, the manufacturing interests, the commerce and carrying trade free from all unjust exactions.

The progress and prosperity of the State depend wholly upon individual enterprise; upon the industry and energy of its citizens. They can not expect direct personal benefit from its government, nor should they solicit it. They have the right, however, to demand that its protecting aegis be thrown around them, that they be secure in their lives, their liberties, and their hard earned acquisitions, and that the revenues they have contributed for its support shall not be devoured by schemers, jobbers and idle cormorants, but be faithfully and honestly applied to the purposes for which they were raised.

In taking my leave of State affairs I do not renounce that interest. I had in their successful management at the beginning of my term. My connection with them, I believe, has increased it. I can say with truth and candor that the circumstance of my going out of office has not abated in the least, my desire to see a faithful and successful administration of the State government. I sincerely hope that my successor may be more fortunate in accomplishing that end than I have been, and I now assure him that his efforts in that direction will receive my ardent sympathy and earnest support; and that all his official acts will be viewed by me in the light of that charity which is kind, which thinketh no evil; and which I implore may be liberally exercised by others in their retrospective view of my own official acts.

W. W. THAYER