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## GOVERNOR JOHN WHITEAKER ADMINISTRATION

March 3, 1859 to September 10, 1862

### **Governor's Message, 1862**

Source: House and Senate Journal, Salem, Oregon, Henry L. Pittock, State Printer, 1862: Proceedings of the House, Appendix to the House Journal, Page 3.

Gentlemen of the Legislative Assembly:

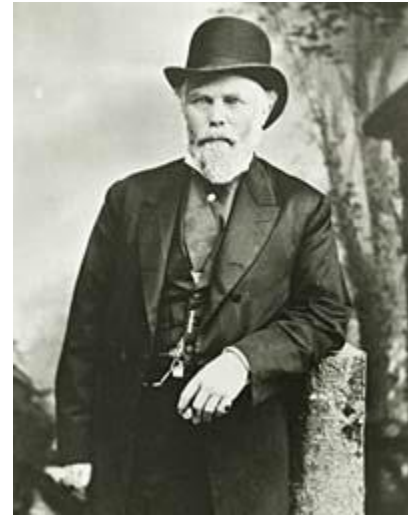
The third Regular Session of your body has commenced; and it is the duty of the Executive, under your invitation, to communicate with you upon such subjects as he may deem right and proper, and for the best interests of the State.

I do not feel called upon in making this communication, to recommend measures for your adoption; as my connection with your honorable body must necessarily close at a very early date, or before your deliberations shall have assumed a Legislative form. I shall confine myself to such reports as usually come from the Executive Department and those especially enjoined upon the Governor by the Constitution.

While our common country has been afflicted, and still suffers, from the greatest calamity a people can experience, our own State has been visited by scourges which, though relieved from the horrors of civil war, has resulted in the loss of immense quantities of property, the depriving of many of our citizens of their homes, or the means of support, and seriously crippling, for the present, the Agricultural interests of the State. Indeed, the high waters of December last did more than destroy property, and desolate homes; and many human lives were lost, while attempting to escape the floods, or generously assisting to relieve others from their perils.

The unprecedented cold weather, which followed upon the heels of the inundation, seemed to be more disastrous to the farmer than the high waters. Stock, which escaped the floods, seemed to be reserved for a harder fate: to perish from cold and starvation. It is estimated that full one-half of the horned cattle in the State perished, during last winter, either by drowning, freezing or starvation. Probably one third of the horses, mules and hogs perished from the same causes.

These are great and trying calamities; such as the people will [feel] for years to come. Still, it might have been worse; had it rained for two weeks and continued warm as it was, the whole valley of the Willamette would have been covered with water from mountain to mountain; when the whole country must have been desolated, and, in a measure, depopulated. So, when we reflect that the country is still left with the means for the support of all, that we have been



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blessed with a genial season, and an abundant harvest, and above all, a singular healthy summer, we have great reason to be thankful to Almighty God.

Herewith, I transmit an abstract of the report of A.P. Dennison, Recruiting Officer, appointed by the Governor to recruit the Company of mounted Volunteers called for by Col. George Wright, of the Regular Army, on the 12th day of September, 1861. Appended thereto will be found a copy of the requisition of Col. Wright upon the Governor, his proclamation calling for Volunteers, and the subsequent orders disbanding them. It will be seen from the report of the Recruiting Officer that the expenses incurred in recruiting, including all charges, or accounts, amount in the aggregate, to the sum of nineteen hundred and eighty-five 25-100dollars. The Recruiting Officer recommends provisions for its early payment—in which I fully concur. The call was made in good faith, those who came forward and volunteered to serve their country did it in good faith, and those who furnished the supplies, transportation, &c., doubtless did it in good faith, and are justly entitled to their pay.

There have been one hundred and forty-eight applications for land, under the Act of the Legislature of the 19th of October, 1860, amounting, in the aggregate, to twenty-one thousand six hundred and eighty-seven 92-100 acres. Before any applications were approved, the views of the Governor, as to the probabilities of persons holding under, and by virtue of, said Act, were given to the public. Further examinations have strengthened the views then entertained. On the 4th day of December, 1860, a copy of the Act, together with a letter soliciting the views of the Commissioner of the General Land Office, as to the validity of the law, was transmitted to that Department. The Commissioner replied, “that the Act of the Legislature is in conflict with the laws of the United States, &c.” Copy of his letter is herewith transmitted.

It is now believed that difficulties growing out of these locations will be experienced at an earlier day than heretofore anticipated. It is very clear that, without additional Congressional action, claimants can hold in no less quantities than 320 acres, and that in compact form; nor can any of the proceeds of such land be diverted to any other purposes than internal improvements. But when the land sales come off, which are proclaimed for October next, what is to hinder these lands from being offered and sold? The Land Officers in this State have no knowledge as to what lands have been located, under this Act; and, if they had, they would have no authority to withhold them from market, after being offered by the President’s proclamation. It is true, those locating lands under this Act, were informed of the difficulties they would be most likely to experience in obtaining titles. But the State is, in good faith, bound to every claimant for a patent.

By an act of the Legislative Assembly, passed at the session of 1860, the Governor was “authorized to select the lands and salt springs granted to the State by the act for the admission of Oregon into the Union.” I, at an early day, addressed a communication to the Commissioner of the General Land Office, asking such instructions as would enable me to select and locate these lands and salt springs. The answer received referred to the five hundred thousand acres granted to each of the new States; I immediately forwarded another communication enclosing a copy of that part of the act for the admission of Oregon, which makes the grant in question; to this, no reply has been received. I then addressed a note to the Hon. J. W. Nesmith, in which I requested him to see the Commissioner and give the matter his personal attention. Through the interposition of Senator Nesmith I was assured that the instructions were then in course of preparation, and that they would be forwarded at an early day. As yet, however, no instructions have been received and the lands are not selected.

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In my communication to the Legislative Assembly of the 24th of September, 1860, I called "attention to the acts of Congress of September 28th, 1850, also, the Act of March 12th, 1860." By these acts all the swamp and overflowed land remaining unsold are granted to the several States within which they are situated; copies of these acts together with a communication from the Commissioner of the General Land Office were then submitted to the Legislature, and action by that body invited. By communication from the Governor of the 18th of October, 1860, the attention of the Legislature was again called to the same subject, but that body did not choose to take any action in the premises. If there should be no exception made in favor of the State by the President's proclamation offering the public lands in Oregon for sale, we will most likely have forfeited our right to the overflowed and other lands granted to the State.

Our Penitentiary, and the manner in which its affairs are administered, are a disgrace to the State, and are not a terror to the evildoer; and we need not hope for a better state of things while the present policy in conducting its affairs prevails, and the buildings remain unimproved. I am not aware that the leasing system should be hurriedly abandoned, but that the State should have an officer at the Penitentiary who should have a general supervising control over the prison and its inmates, there can be no doubt.

In my communication to the Legislature of the 24th of September, 1860, I took occasion to speak of the condition of the building, and the unsuitableness of the grounds on which it is located. These remarks, then made, appear to be applicable at the present time.

Since my last report to the Legislature, the pardoning power has been exercised in favor of thirteen convicts in the Penitentiary, and one has been discharged from confinement in the jail for Multnomah county, copies of these pardons are herewith transmitted, and I respectfully refer you to them as containing a brief statement of the reasons for which they were granted.

By the act of October 19th, 1860, "the sum of four hundred dollars is annually appropriated for the purchase of books" for the State Library, "to be expended under the direction of the Governor." This object has not been accomplished; the money appropriated has not been drawn from the Treasury, and no books have been added to the Library by purchases. The Secretary of State (ex-officio auditor) construing the law to mean that "there was no money placed at the disposal of the Governor," and an unsuccessful effort having been made to purchase books in the city of New York on the faith of the State, by a very experienced and capable agent, it was deemed proper to let the matter rest, where it was until the Legislature should make the law more clear, or some other person be charged with its administration.

There has been received into the Treasury during the last two fiscal years (per Auditor's Report) ending on the 8th day of September, 1862, the sum of 91,780 04-100 dollars; of this amount ninety-one thousand five hundred and ninety-six 04-100 dollars has been raised from direct taxes, and one hundred and ninety-two dollars from all other sources. On the 9th day of September, 1860, which closed the last two preceding fiscal years, there remained in the Treasury the sum of three thousand eight hundred and ninety-nine 01-100 dollars, which added to the above, makes an aggregate sum of ninety-five thousand six hundred and eighty-seven 05-100 dollars, paid into the Treasury during the last two fiscal years ending September 7th, 1862. There has been disbursed during the same period the sum of fifty-five thousand three hundred and seventy-two 39-100 dollars, leaving a balance in the Treasury on the 7th day of September, 1862, of forty-thousand three hundred and fourteen 66-100 dollars.

It has been found that, under an economical administration, the present levy of two mills on the dollar will raise a greater amount of funds than is required to meet the current expenses of our State Government.

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I have thought proper to call your attention to what has probably not escaped your observation, the Act of June 2nd, 1859, entitled "An Act to regulate the Treasury Department." This Act provided that the official term of the Governor of the State shall commence on the second Monday of September, 1862, and every four years thereafter." This is the day on which, the Legislature meets, and if it should so happen that there should not be a quorum present, or from any cause an organization should not be perfected in both branches on the day fixed by law, the Legislature could not count the vote and declare the election; consequently the new Governor could not be inaugurated. This would open a question as to whether the Governor elect, the day fixed by law having passed, could qualify at some future day. This may seem to be a question easy to settle on just principles, and I believe, it is; but it is easy to see that such a question would be settled according to the wishes of the party having the Legislature, be those what they might.

But, aside from any suppositions, in a case of this kind, there is a practical wrong in the new Governor assuming the office on the first day of the session. It is not to be expected that the Legislature can organize at all times and transact any business on the first day of its meeting, and even if it should, when the new Governor is qualified the old one is disqualified, and yet it is his duty to report to the Legislature his official acts for the last two preceding years. This he must do while he is Governor, or he cannot do it at all; and; assuming a quorum to be present, it is not to be supposed that the Legislature can meet, organize, receive a message from the old Governor, count and declare the vote, and inaugurate the new Governor all on the first day. It may happen when that body is not divided in politics, but where parties are anything like equally balanced, it will be impossible.

It is with no pleasure that in making this my last official communication to you, I am able to say that, during the last four years and upwards which have elapsed since I assumed the duties of the office, which I now yield into the hands of my successor, that peace, health, and with the exception of some Providential calamities, prosperity has reigned throughout our young State. Strict economy has been observed in making appropriations; and those made for the ordinary expenses of Government have been sufficient to meet the salaries of officers.

During my official services I have been called upon in that capacity to visit the Penitentiary; having been informed by those in charge of that institution, that on a certain day the Penitentiary would be abandoned, and that food would no longer be furnished for the prisoners. Under the law, in case of abandonment, it is the duty of the Governor to take the Penitentiary in charge, and provide for its being kept in such a manner as proscribed by law. For that purpose, I visited Portland, and after repeated conversations with the Lessees, they concluded not to abandon the Penitentiary at that time, but that they would continue to keep it until your present meeting.

No extra allowance or pay has been received for expenses incurred in performing such extraordinary services; indeed, not a dollar has been drawn from Treasury for incidental expenses of the Executive during my term of office.

I have felt it to be a duty I owe to the country and to myself, and probably to you honorable body, to make the foregoing statement and suggestions; and I have been as brief as I know how to be. I cannot hope that anything that I might say would meet your approval, or the approval of those who differ with me as to the policy adopted, and being carried out by the President of the United States at this time. But no true friend of his country will bow in silent submission to its ruin; no real patriot will acquiesce in the entire subversion of the charter of the people's liberties and a denial of all the civil and political rights enjoyed by other civilized people. No man having

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any respect for himself, or for humanity, ought to remain silent and see himself stripped of his property, and his family beggared and degraded beneath the level of an inferior race, who enjoy their new and exclusive privileges at the hands of those who have desolated our country, abolished our institutions, rights and freedoms, and threatens all with death or imprisonment who do not silently acquiesce in their feast for blood and carnage.

But a few short months ago, when it was predicted by real Union men—lovers of their country and its institutions—that the war could not be prosecuted without the destruction of the Constitution, and that the abolition of slavery and the subjugation of the South would yet be resorted to; these warnings were scouted, and they denounced as traitors and defamers of the Administration and its supporters.

Now, we are complacently told these measures, together with the positively ruinous taxation and abridgement of the common rights of the citizens, are “Military necessities.”

These horrors have been brought upon the country against the solemn warnings of good and true men, who have received nothing in return but abuse and denunciation; but the time is close at hand, and is now beginning to be felt, when all must share in the common ruin. All must pay their allotted share of the tax; all must assist to pay loyal owners for their emancipated slaves, to support, provide for, and furnish them with homes and employment, as well as for the prosecution of a war pushed forward with a million men, which must result in the eternal severance of the Union, and if no discrimination is made in the matter of taxes, it is not likely there will be much partiality shown in drafting men into the army.

The bitter fruits of sectionalism and fanaticism are now upon us. But few persons will now contend that the war can, or was ever intended to, restore the Union. All liberties are denied, that do not suit the powers that be, and all laws despised which stand in the way to the destruction of the liberty, prosperity and happiness of the white American citizen. But this thing is upon us. No powers can relieve us from the evils already inflicted, and I fear none will be found sufficient to save us from those so soon to follow. That proud title: American citizen, once so much coveted by persons from European and other countries, has lost much of its charms, and is now coupled with all the crimes known to civilized people. My advise to all who think with me is to obey the laws, pay your taxes, discharge every duty you owe to the Government; and I would say to those who think differently, (but I know you will not take my advice), show your sincerity by volunteering, under the call of the President; shoulder your messenger of death, and go down into the seceded States and assist him in his labor of love, and to restore the Union.

The civil war now raging in the East must have its influence on the whole country. It is being felt at this time, by the increased prices of many of the necessaries of life; add to this the Federal tax, now soon to be levied and collected, and the burdens upon the people will be hard indeed. But the thing is upon us; and we, as good citizens, should meet it at least to the extent of our abilities to do so. Practically it makes no difference whether a man assisted in bringing about the present state of things, or whether he opposed the policy which produced them, he should to the extent of his ability, meet the burdens the laws impose upon him, and trust to time and the voice of the people to change a policy, the bad effects of which are already patent to the world.

On a former occasion, I said that I have no hope which would survive the downfall of this Government; and I have seen nothing since to encourage a hope, after such a consummation; but I, at the same time, expressed fears of such a fatal result, if the war policy should be adopted by the General Government. I have seen nothing since to quiet such fears; but much to justify them. I, and others of my political views, have been charged with opposing the

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Government. If to oppose the political views of the President, and those who think with him, be opposing the Government, then indeed, the charge may well be made; for I have steadily and firmly opposed it from the time it was incorporated into the platform of a political party in this country; I ever believed that the triumph of these principles, and their practical application, in administering this Government, would produce the dread results and terrible state of things now upon the country. A factious opposition, simply for the purpose of trammeling the action of the party in power, is, or would be, unworthy any lover of his country; especially at such time as the present, when the Government is engaged in such a stupendous undertaking.

But, where the wisdom of the policy adopted by that party is doubted; nay, where it has been proved to be fatal to every interest in the country; why should free citizens be censured for canvassing, or criticizing, or even offering a stern opposition to it? My opposition has been caused by a firm conviction that a Government formed, like ours, by mutual consent, and compromise, must be held together by the same means. Where the sword has hewn out and established a Government for itself, the sword may very properly be evoked in support of that Government, as against subjects before conquered; but it is contrary to all reason to apply such a remedy in a Government like ours.

I have hoped that I was in error, in regard to the policy of the administration, and that my fears were ill founded, but as yet I have hoped in vain. In my judgment, the policy of the President and the acts of Congress have proved to the Southern people what their leaders told them was so, before secession was resorted to. The emancipation and confiscation measures have annihilated whatever of Union sentiment did exist in the slave States before their adoption; nor are they without their effect in the border, and even other free States. This fact is evidenced by the fresh impetus given to arms of the Southern soldiers in the late battles before Richmond, and at other places. But I will refrain from arguing a question, which honesty compels me to treat in such a manner as to make it odious to you. I can only hope—though against my own convictions—that our country may soon be restored to peace and prosperity, and that the old Union may be restored, with all the rights, privileges and blessings enjoyed under the old Constitution.

I cannot close my remarks respecting the general interests of the State, without referring to a provision of the Constitution, and what appears to me to be a duty of the Legislature under it. In section four of the Schedule of the Constitution, it is provided that “No free Negro or Mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside, or be, within this State, or hold any real estate, or make any contract, or maintain any suit therein; and the Legislative Assembly shall provide, by penal laws, for the removal, by the public officers, of all such Negroes and Mulattoes, and for their effectual exclusion from this State, and for the punishment of persons who shall bring them into the State, or employ or harbor them therein.”

It is notorious that many persons of this class have already come to the State, since the adoption of the Constitution, and are now residing within its limits. This is certainly in violation of a plain provision of the Constitution. It makes no difference whether this is a wise and just provision in our fundamental law, or not; it seems to me the duty of the Legislature is clear, on this subject; and I respectfully commend it to your attention. The clause of the Constitution above quoted, is entirely inoperative without some legislation under it. Laws must be enacted providing penalties, and officers appointed to carry such laws into execution.

JOHN WHITEAKER

Executive Office, Salem, Oregon, Sept. 8, 1862