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## GOVERNOR SYLVESTER PENNOYER ADMINISTRATION

January 12, 1887 to January 14, 1895

### **Inaugural Message, 1887**

Source: Public Documents, Inaugural Address of Sylvester Pennoyer to the Legislative Assembly, 1887, Salem, Oregon, W.H. Byars, State Printer, 1886.

### INAUGURAL ADDRESS OF GOVERNOR SYLVESTER PENNOYER TO THE LEGISLATIVE ASSEMBLY OF THE STATE OF OREGON FOURTEENTH REGULAR SESSION 1887



Gentlemen of the Legislative Assembly:

Having now taken the oath of office as Chief Executive Magistrate of Oregon, I cannot but feel the greatest distrust of my own abilities towards a proper and faithful discharge of its high and responsive duties. We are at the very threshold of an era in the history of our government which will call for an imperatively demand the highest order of statesmanship, the most deep-seated patriotism, and the profoundest devotion to our constitutional form of government. While Providence is still vouchsafing to us fitting seed-times and abundant harvests, and while we are blessed with a most salubrious climate and fruitful soil, yet there is abroad within our own State and all over the land a feeling of discontent, not by any means confined to the over-crowded population of our large cities, but pervading the great masses of the working classes of the county. The farmers and the day laborers toil early and late, barely receiving enough remuneration for the absolute necessities of life, and all trades and industries not favored by especial legislation are languishing, while, on the other hand, wealth continues to accumulate more rapidly than ever before in the coffers of the favored moneyed classes. The accumulation within the last three decades of great wealth in the hands of the few, the unprecedented growth and arrogant assumption of overshadowing monopolies and the bestowment of the great burden of the burdens of government upon the laboring and producing classes, is charged, and with great measure of truth, to a long-continued and persistent series of vicious class legislation on the part of the Federal Government. Added to this, is the further fact that while our population is vary rapidly increasing, and while a large stream of immigration is still pouring upon us, this country has not in the future any new and fertile fields upon which to put its overcrowded peoples.

Now, population will become denser and new issues of great moment and new questions of policy will devolve upon those who have control of government. Feeling, then, the great responsibility which the march of events has placed upon those entrusted with government at this period, I approach the discharge of the duties assigned me with feelings of awe, but with the fervent hope that the God of our fathers, whose guiding hand has been plainly witnessed in the past history of our country, may still lead it in the ways of justice, peace and prosperity, for long ages yet to come. The retiring Executive, who has graced the office during his term with both dignity and ability, has just now given you the required information concerning the condition of the State, and it now devolves upon me to recommend such measures as by me are deemed expedient. In doing this I shall strictly confine myself to the recommendation only of such practical legislation as shall in my judgment be in strict accordance with the Constitution we all have sworn to support, and as shall be conducive to the best interests of the State and the people.

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## RIVER IMPROVEMENTS

From the very first settlement of Oregon until now, the great river upon the northern boundary of the State, which would be open to unrestricted competition, has been and is yet under the control of a private corporation. The works begun by the General Government, at the Cascades, about a decade ago, have been delayed, and even now there is no knowledge as to when they will be completed. The Federal Government, which has control of commerce, and whose duty it is to finish these works in the most expeditious manner, is acting the niggard in regard to them. While it has been most munificent to private corporations, giving to the Northern Pacific Railroad Company enough land with which it could build and equip its entire road and have thirty millions of dollars left, it doles out with stingy hand a few thousands of dollars for works of needed public improvement, imperatively demanded by the pressing necessities of the people. To procure the speedy completion of these necessary works of public improvement the hands of our Representatives in Congress, which has been so liberal to private corporations, some measure of that liberality for the benefit of the whole people. During the late canvass I suggested that in order to expedite the opening of the Columbia river the State should build a portage road from the Dalles to Celilo. The position I then assumed was taken upon the understanding that no other work between those points would ever be undertaken by the General Government but the building of locks and canal; that such government would not undertake the building of a ship railroad, and that such a railroad would be unfeasible. With this understanding, and with our experience as to the slowness with which the locks at the Cascades have progressed, I suggested the interference of the State. But since, that time I have learned that not only have the government engineers advocated the building of a ship railroad at the upper portage, but that Congress is in a mood to undertake such an enterprise; that such a work is risible; that it could be completed in about two years, and that its cost would not exceed one and one-third millions of dollars. With these facts before me, with the knowledge of the fact that it is the duty of the Federal Government, instead of the State, to do this work of public improvement, I am forced to the conclusion that it would be the best policy on the part of the State to use its utmost exertions towards co-operation with our representatives in Congress for the procurement of the necessary aid from the General Government. The session of Congress now being held is the short session, in which it would be almost impossible to secure such appropriation. But I have the assurance of Senator Mitchell that he will during this session procure the necessary governmental survey for such a road, so that at the first session of the next Congress such a measure can be introduced with some show of success. In order to show Congress how much we are interested in this matter it might be advisable that a special envoy of the State, charged with but the one specific duty of appearing in behalf of the State before the proper committee for the purpose of securing such appropriation, should be appointed. The State should put forth its best exertions towards one appropriation. But while the State is putting forth every effort to stimulate the Federal government to do its bounden duty towards the undertaking and speedy completion of proper facilities for overcoming the obstructions at the upper portage of the Columbia, it would at the same time be a most judicious step, in view of the uncertainty of procuring favorable Federal legislation where the people instead of corporations are concerned, for it to prepare itself to build a portage railroad between the Dalles and Celilo in case Congress should turn a deaf ear to our petition or adopt a policy which would postpone its completion for an indefinite period. A 1 mill tax for the next two years would raise a sufficient sum, which could be on hand at the next session of the legislature, with which to commence the building of such railroad by the State if then deemed necessary. If then it was not imperative on the State to proceed with this work the fund could be cornered into the Treasury to the common school fund or to be used for the completion of the Capitol. It is of more importance to the State to have the Columbia River opened to free navigation than it is to have a dome upon the Capitol. This measure of public necessity I would suggest, and it is worthy of your hearty endorsement.

## FREIGHT REGULATIONS

A law was passed by the last Legislature fixing the maximum rates of fare over railroads within the State, but establishing no maximum rate of freight. A law of this kind is absolutely needed. The people of Oregon and of the eastern portion of our State especially are subject to a most oppressive tariff rate of transportation on the products of the soil, so burdensome as to deprive them of the fair result of their hard, persistent and unremitting labor. It is the undoubted right and the imperative duty of the State to interpose its protecting care to that class of our fellow citizens who constitute the mainstay and support of the commonwealth. Under the law as it now exists rates of freight established by the railroads have to be posted

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publicly every six months. It would be proper that the rates established on the first of the year be taken into consideration by the Legislature, and that the rates on the main products of this country be fixed at a figure not exceeding the rates charges on railroads in the Atlantic States where there is health competition, while establishing reasonable rates on all other articles on the schedule. This is a feasible suggestion, but should the Legislature devise a better and more effective scheme, I would most cheerfully give my assent thereto.

#### SWAMP LANDS

The gift by the General Government of March 12th, 1860, to the State of Oregon of all the swamp and overflowed land within its limits was a Greek gift. The result of that gift has been, that some of the fairest and most productive portion of our State, susceptible of supporting a large population, have been monopolized by a few individuals; immigrants that would have helped build up our free institutions, have been turned away; and a few cattle barons claim the soil. A prompt and decisive step should now be taken by the State. It would be much better for the State if it was forced to accept the alternative that every single acre of swamp land grant, not now gone beyond its control, should be turned back at once to the Federal Government, to be taken up by settlers under the homestead and pre-emption act than that it should passing to the hands of a few large land owner, A thrifty enterprising yeomanry is richer endowment to the State than a few thousand dollars in the treasury, as the price of turning large areas of our most callable lands over into the possession of a few large alien stock raisers. But the State should secure all of its swamp lands to which it is entitled and parcel them out in small quantities to actual settlers.

It would be proper therefore the title to all the land claimed prior to the passage of the law approve October 17th, 1878, in regard to which a strict compliance with the act of October 26th, 1870, had not been made, and upon which the twenty per centum had not been paid prior to the time than the law of 1878 took effect, and all lands subsequent to the passage of said law that are claimed contrary to the provisions of that law limiting the amount to be purchased by one individual to 320 acres, be declared to be in the State and noting any individual who has filed thereon without any authority of law and that all certificated of such filings subsequent to the time at which the law of 1878 took effect, should be cancelled and declared to be of no force or effect whatever. The State then should provide a proper officer empowered to act with the agent of the General Government in determining what lands are swamp and overflowed lands, in order that the vexed matter may be speedily settled, the State secured of its rightful gift, and its lands secured, as now is provided by law, to actual settlers in quantities not exceeding 320 acres.

#### WAGON ROAD GRANTS

From the report of the investigating committee made at the special session of the last Legislature, in relation to the several wagon road grants, the belief is raised that those grants must have been secured by false affidavits and fraudulent representation made to the executive officers who accepted and certified to the construction of such roads, a great portion of which appears to have never been built. The last Legislature memorialized Congress, asking that those grants not already patented should, by act of Congress, be declared abolished, vacated, annulled and considered lapsed, and in regard to those already patented, that suits be instituted to vacate such lands, except those acquired in good faith. Instead of complying with the expressed wish of the Legislative Assembly to declare by act of Congress the land not already patented annulled and considered lapsed, and to institute suits in regard to those already patented, Senator Dolph introduced a bill providing for the determination of all the matter pertaining to such grants by suits in the Federal Courts. The question, therefore, comes before this Legislature as to whether the action of the last Legislature shall be sustained and our delegation in Congress instructed to carry out the will of the previous Legislature, or whether it will acquiesce in the plan of settlement proposed by the aforesaid bill. In either event, provision should be made by the Legislature, in case any suits are instituted by which the State could be represented in such suits for the protection of its interests. As this State has no Attorney-General suitable provision should be made by the Legislature for such contingency.

#### RIVER AND HARBOR OBSTRUCTIONS

There is no State of the Union that possesses nobler tide-water navigation than our own. For more than a hundred miles, large sea-going vessels can float upon tide-water rivers. These rivers are the pride of the State. They are the great natural thoroughfares of commerce made by the Almighty, for the benefit of all

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mankind, and the Legislature should take good care that they should not be impaired in any degree by other thoroughfares of commerce, builded by man mainly for the enrichment of private corporations. It would be eminently proper to pass a general law, preventing the obstruction of our tide-water rivers, in any manner, by locating itself just below a large city, might ask the privilege of bridging the river so as to leave the bulk of its own wharves below the bridge and the bulk of the wharves of the city above the bridge. To grant this privilege would be to give the that company the means of enhancing the value of its wharves at the expense of the wharves of the city. This would be a species of class legislation, which ought never to receive legislative sanction. For the last third of a century, corporations have come before our State and Federal Legislatures and have generally received what they desired, regardless of individual rights. It is high time that a cry of halt was made. It is high time that a change of policy should be had and that no longer should private rights be ruthlessly sacrificed at the shrine of corporate greed.

This is all I had purposed saying upon this topic but a recent event requires further attention. Senator Dolph on the second day of the present session of Congress, introduced in the Senate of the United States "a bill to authorize the constriction of a bridge across the Willamette river at Portland, Oregon." This bill authorizes the Willamette River Bridge Company, its successors and assigns to build a bridge "at a point between the cities of Portland and East Portland, to be selected and determined by the said Bridge Company of the Company constructing said bridge," and it requires a draw in such bridge of only about one hundred and twenty-one feet in the clear. Within two weeks after the introduction of such bill and without knowing whether it would become a law or not the War Department took steps to comply with such bill. The remarkable celerity of Senators and of the War Department in measures trust to their painful slowness in pushing works of public improvement. The people of Oregon can justly demand an explanation at the hands of our senior Senator in regard to this measure. It is proposed to build this bridge at the lower end of the city of Portland, and with a draw in the clear of only one hundred and twentyone feet. That Senator is aware of the fact that Government engineers have reported that a bridge built much further up stream should have a draw of not less than two hundred feet; that upon a judicial investigation forty-two persons, mostly navigators and pilots affirmed the same thing and that it was judiciously determined (7 Sawyer 127) that a "bridge, whatever the width of the draw, will be an obstruction, if erected in the midst of this (Portland) harbor."

With these grave facts before our Senator, he has introduced the foregoing bill, and is pushing it with bigger and swiftness. But his zeal in fathering the wishes of railroad corporations has outrun his knowledge of law. He proposes that Congress shall authorize the construction of a bridge across the Willamette river. Congress can give consent to, but it cannot authorized the construction of such a bridge. "The National Government possesses no powers but such as have been delegated to it. The States have all but such as they have surrendered. The power to authorize the building of bridges is not to be found in the Federal Constitution. It has not been taken from the States. It must reside somewhere. They had it before the Constitution was adopted, and they have it still." (3 Wallace, 713) While, therefore, Congress cannot authorize the building of a bridge, this measure seems to show that railroad corporations will resort to the extremist measures for the furtherance of their selfish greed, regardless of either public interests or of private rights. While the State Legislature should cheerfully grant them the right to bridge the Willamette where it would be no material obstruction to commerce, it should, by the passage of general law, as has been suggested, prevent them from obstructing commerce between a port on entry and the ocean. The people of the whole State are all equally interested in preventing the destruction of private rights by corporate power.

#### LEGISLATIVE APPORTIONMENT

A new apportionment of the number of Senators and Representatives for the Legislative Assembly is a

#### PILOTAGE

One of the most beneficial expenditures that was ever made by the Legislature, was that fore the building of a pilot schooner. The result of that action on the part of the State has been that the price of towage on the Columbia river bar is now not one0half what it was one year ago. This legislature should make the appropriations necessary for keeping such schooner on first-class condition, and should be most careful that

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the Pilot Commissioners selected by it should not be under the control of any monopoly that maybe be interested in driving the Oregon pilots from the river. The Oregon pilots should be sustained in the field.

#### THE SALMON INDUSTRY

During the last season, the law of Oregon relating to the time in which salmon should be caught and packed, on the Columbia river, has been openly violated by nearly all of the large canning establishments on the river, It has been suggested that a change in the law should be made, and that a Fish Commissioner should be appointed. Neither one is needed. The law is good enough and effective enough as it is. All that is needed is its strict enforcement. If, during my term of office, such a general and open attempt is made to violate the law, I shall consider it my imperative duty to bring, if possible, all offenders to punishment. The laws should be enforced against rich corporation as well as against poor individuals. Laws should also be passed preventing the catching of fish on the Oregon shore of the Columbia river by either seines, fish traps or fish wheels. As about forty thousand dollars are paid in duties on articles used in salmon fishing, the Federal Government should be petitioned to establish salmon hatcheries.

#### CONVICT LABOR

The employment of convict labor in competition to free labor is a grievance which should be remedied. In this State, however, this labor is under contract that has six years yet to run. At the expiration of that time the State should devise the means, if possible, whereby the labor of our prison convicts may not be brought any longer into competition with free labor.

#### LAWS REGULATING MONOPOLIES

A law should be passed fixing the maximum rates to be charged by all telegraph companies within the State; the maximum rates to be charged by the tug boats on the bar in regard to all vessels for Oregon ports, with restrictions as to discrimination of such vessels and also the passage of a general law, giving to the legislative bodies of all incorporated cities the r right to fix the charges of all gas, water, electric light and telephone companies. But this latter law should define the manner in which such charges should be fixed, so that the city Legislature should have neither the right to deprive the carious corporations of just compensation, or sanction that such legislative bodies should have the power to ascertain the exact amount of capital invested and then be compelled to fix the rates so as to afford a compensation amounting to a certain per cent. On the capital invested, and a fair remuneration for necessary expenditures.

#### RATE OF INTEREST

The merely casual observer cannot fail to notice that the most prosperous class of community is the money-lending class. The profit on money loaned our at the present legal rate of interest is much greater than is the profit on money invested in farming and other ordinary pursuits. And, as the law should allow no favored classes, it would be proper that the legal rate of interest on money be fixed so that the money-lenders profit may not be so much greater than the profit of men in other avocations. The law should endeavor to do something like equal justice to all classes. Money is clothed by law with an attribute which no other species of property possesses that of being a legal tender for debts and being thus favored by law, it is but just that its profits should b e controlled by law. The legal rate of interest should therefore be fixed at not over 7 per cent. Per annum, allowing contracts, however, at 9 per cent., but forbidding any stipulation in any transaction by which the borrower would be compelled to pay over \$10 as attorney fees in case of a forced collection.

#### CONSTITUTIOINAL AMENDMENTS

The last Legislature proposed three amendments to the Constitution, one relating to the salaries of State officers, one relating to prohibition, and one changing the time of our State elections from June to November. Action upon those proposed amendments is required of you at this session, and if they are agreed to by you, it will be you duty to submit the same to the voters of the Sate for final action. The suggestion has been made that a convention should be called to revise the Constitution. But it is not at all necessary that a convention should be called. We have a safe conservative Constitution now, and the necessary changes, if any, can be made by the slower and better way --- that of legislative suggestion.

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## ABOLISHMENT OF OFFICES

Inasmuch as the Federal Government has passed an oleomargarine law, the office of Dairy Inspector, created by the last Legislature, can be abolished. The vigilance of the United States revenue officers will doubtless be sufficient to prevent the fraudulent sale of oleomargarine as butter, thus making it unnecessary for the State to be at any expense in that regard. It is also an unnecessary expense to any longer retain a paid agent at Washington to act in reference to swamp land matters. The State Board can probably as well manage its own affairs by correspondence with the departments at Washington. It would also be proper to abolish the Board of Immigration. If the early pioneers of forty and fifty years ago could find Oregon without a trail through the forests or over the deserts, immigrants that desire to come here now can undoubtedly already, without artificial aid. And then, too, gentlemen of the Legislature, it is not in good conscience for us to invite immigrants here where, unless some change be made, they may be compelled to compete with coolie slaves for the support of themselves, their wives and their children. The best immigration scheme that can possibly be devised by this Legislature is to provide for the hardy immigrants of our own race will flock here without invitation and help build up our free institutions and enlarge the glories of our State.

## FREE SCHOOLS

Free schools are the chief bulwarks of free institutions. Our State stands in the very front rank in regard to educational facilities afforded to the young, and yet there is one grave defect. The apportionment of the school fund to the several districts in proportion to the number of children residing therein leaves the sparsely settled portions of our state without the means of maintaining school for the same number of months that schools are maintained. Where populations is more dense. This is unjust. The farmer on the frontier pay the same tax on his property that the resident in the city pays on his property, and it is but just that his children should enjoy something like equal privileges with the children in the cities. Some provision should be made by which at least six months schooling could be afforded to every district of reasonable size in the State. Instead of appropriating large and increasing sums of money for universities and other high educational schools the state should rather pay attention to the procurement of a good common school education to all the children of the State. That is its chief security.

## PAY OF COUNTY OFFICERS

It would be a practical reform if the pay of all county officers should be definitely fixed by law in the various counties according to the services rendered. A part of the county officers have fixed salaries for their services, and there is no good reason why all should not, and quite good reasons why all should be so paid. As the law is now, the Sheriffs and Clerks receive the fees of the respective sums collected. These emoluments are uncertain, variable, and sometimes exorbitantly high. Within the last four years the office of Sheriff in Multnomah county has been worth \$20,000 per annum. This enormously high stipend is not only an unnecessary burden on the taxpayers, but it is a prolific incentive for bribery and corruption in the efforts to secure such a bonanza position. The pay of all county officers should be definitely fixed by law, and the Sheriffs and Clerks should be compelled to account for and pay over the fees received by them into the county treasury. This is a very important matter, and the Legislature should make the necessary changes in the law.

## THE REGISTRY LAW

In obedience to the expressed will of every voter of the State, both parties having declared for it, the Legislature at its last regular session passes a general election law, among the provisions of such session passed a general election law, among the provisions of which was one requiring the registration of voters preceding each election. Was one requiring the registration of voters preceding each election. At the special session following, some imperfections in the law were remedied and another act was passed, definitely describing the manner in which such registration should be affected. Under, and in pursuance of this law the necessary steps were taken for carrying it into effect. A few days preceding the time mentioned in the law, in which such registration should be made, the various officers appointed to carry it into effect abandoned all further compliance with its provisions in regard to registration, and as a consequence that operation of the law in that regard was suspended, in plain defiance of that Constitutional provision which declares that "the operation of the laws shall never be suspended except by the authority of the Legislative Assembly." (Art. 1,

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Sec. 23) This anomalous and most extraordinary condition of affairs was the result of a suit which had been brought before the courts by a citizen of Multnomah County, in which it was demanded of the court that an injunction should be issued against the county Commissioners of that County restraining them from auditing and allowing bills against the County incurred in the execution of the registration law. The Supreme Court commanded the issuance of the injunction prayed for, for the reason, as alleged by the Court, that that part of the statute relating to registration, duly enacted by the Legislative Assembly of Oregon, was not the law of the State, it being, in the judgment of two of the three judges of that Court, in conflict with the provision of the State Constitution. There cannot be found in the constitution of Oregon any warrant whatever for such a proceeding. There cannot be found in the Constitution any provision by which the Judges of several Courts of Oregon are exempted from any warrant by which they can suspend. By an order, the operation of a law which that Constitution expressly declares that instrument they are bound to obey and enforce the law, and are not privileged to disregard and nullify the law. In that instrument there is no provision by which the unanimous will of the people in regard to this registry law, regularly expressed in a legislative enactment, can be thwarted by any two or three men in the State. Judges cannot make or unmake laws, but, like others, they must obey laws. But it is claimed that that provision of the statutes relating to the registration of voters was not a law, it having been held by the Court as being void because it was in conflict, as the court deemed, with a Constitutional provision. If this claim be correct then the duly enacted statutes of the State may not all be the laws of the State. If this claim be correct the people of the State are in ignorance's to the laws to which they must render obedience until they have passed the scrutiny of the Supreme Court and received its sanction. There is no warrant whatever for any such claim in the Constitution of Oregon. Such a doctrine is the doctrine of the Courts, and not the doctrine of the Contrition. A statute of the Legislative Assembly of Oregon. Duly enacted, is a law of the State until it is repealed by the Legislature. Its operation can be no more suspended by a decision of the Court than it can by an order from the Executive. There can be no mistake whatever about this proposition. The Constitution expressly declares that "every statute shall be a public law unless otherwise declared in the statute itself" (Art. 4, Sec.27), and therefore this registration act was "a public law," declared to be such by the Constitution, notwithstanding the Supreme Court declared it to be not a law. The State government of Oregon is composed of three separate departments --- the legislative, the executive and the judicial. Each is independent in its sphere and the action of each operating within such sphere is binding upon the others. The judicial branch can no more nullify a law of the Legislature by the decision, under our State Constitution, than can the legislative branch nullify a decision of the Court by a legislative enactment, or than can the Governor set aside both the decisions of enactment, or than can the Governor set aside both the decisions of the Courts and the statutes of the Legislature by an executive order. But the Courts have advanced the theory that it is their province, in case they are of the opinion that the Legislature has erred in regard to a Constitutional question, to nullify the Legislative act by a judicial decision. This doctrine has no foundation whatever in the Constitution, it has no foundation in the common law, it has no foundation in reason (for the common law is "the perfection of reason"), and it has no other foundation than the dictum of the Courts themselves. If the Courts possess the power to nullify a law of the Legislature by a judicial order, then the Legislative and the judicial branches are not co-ordinate branches --- but the legislative branch is subordinate to the judicial.; Such a doctrine "were to set the judicial power above that of the legislative, which would be subversive of all government." (1 Blackstone, 91) If the Courts, as claimed by them, possess the power to declare an act of their Legislature void, then no enactment of the Legislature can be a law without the ultimate consent of the Courts. If this doctrine be correct, if we are finally to look to the Courts and not to the Legislature for the law, the Legislature necessarily becomes an useless appendage of government. We might as well at once dispense with it and let the Courts at first declare the law. It would be productive of much less confusion. And if there be no Legislature there need be no Executive. The officers of the Court could enforce the law of the Court. Then we would have in name what we now have in truth, if this doctrine of the courts be the correct doctrine, not a constitutional government of three separate and co-ordinate branches, but that very work form of tyranny --- the government of a judicial oligarchy. The Courts have assumed that the question as to whether a statute was constitutional or not is a judicial question. This is very clearly a mistake. It is a legislative question. The members of the Legislature, as well the Judges of the Courts, before entering upon their duties take an oath to support the Constitution of the State. Hence, in obedience oath to support the Constitution of the State. Hence, in obedience to this oath, whenever a bill is presented, the question is at

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once raised in the Legislature as to whether it is constitutional or not. If it is a necessary measure, and if in the judgment of the Legislature it is constitutional they pass it and it becomes a law, and their judgment in regard to its constitutionality is a final judgment (subject only to the revision of the people who make the Constitutions), and it is conclusive upon the other departments. The common law doctrine, which recognizes as a legislative prerogative the determination of the constitutionality of laws in absence of the Courts, is the law of the land to-day, and hence the Legislature of the State like the Parliament in England is the rightful judge as to whether a law is Constitutional or now. The Courts have no appellate legislative power under the Constitution, to revise the judgment of the Legislature in this regard. And when they claim this right, it is in defiance of a rule which in regard to themselves they obey. It is a rule of law recognized by the Courts, that when a Court has jurisdiction its judgment is final and conclusive except where appeal is given by law. But in relation to the Legislature because it is its duty, to pass upon the constitutionality of every measure brought before it. It must necessarily do so. It therefore has justification of this very question and inasmuch as there is no appellate legislative power given by the Constitution to the Courts, the judgment of the Legislature is final, and according to their own rule, is conclusive upon them. The question as to whether a law is constitutional or not is a legislative question and the decision of the Legislature is a binding upon the Courts as it is upon the Executive or upon the people. In order to further show that under our Constitution such decision is final it is but necessary to consider that provision in regard to the passage of a law over the veto of the Executive. Let it be supposed that a bill is passed which in the judgment of the Executive is plainly and palpably in violation of the Constitution. He vetoes the bill and gives the reasons why, in his judgment it is unconstitutional and returns it to the Legislature. In the opinion of two-thirds of each house the bill is constitutional, and it is therefore passed over his veto, and thereupon the Constitution declares that "it shall become a law." Has the Executive a right to disregard this law and treat it as a nullity because in his judgment it is unconstitutional? There is no warrant for it in the Constitution. Have the Judges a right to disregard the law, and treat it as a nullity because in their judgment it is unconstitutional? There is no warrant for it in the Constitution. But suppose, as is the frequent custom, this question is brought before the Courts. They pass upon the statute, and declare, as is the increasing wont of the Courts, that it is contrary, in their judgment, to the Constitution and therefore that it is no law. In that event what is the duty of the Executive? Here is the plain mandate of the Constitution declaring that statute to be a law, and here is the decision of the courts declaring it to be a law, and here is the decision of the courts declaring it to be no law. His duty, under his solemn oath, is plain. The mandate of the Constitution is higher than the mandate of the courts. The Constitution must be obeyed and the law must be enforced. Its operation must not be suspended but by the act of the Legislative Assembly. Nor is there any warrant in the Federal Constitution for a the power assumed by the Courts to declare an enactment of the Legislative Assembly void. The second Section of Article III of the Federal Constitution, as presented to the Convention which framed it, by the committee of five declared that "the judicial power shall extend to all cases arising under the laws of the United States." When the motion was made to add the words "the Constitution," objection was raised because it was thought "it was going too far to extend the jurisdiction of the Courts generally to cases arising under the Constitution and that it ought to be limited to cases of a judiciary nature." The motion was agreed to nem con, "it being generally supposed that the jurisdiction given was constructively limited to cases of a judiciary nature" (5 Elliott, 483). The leading members of that Convention were common law lawyers, and when it was generally supposed that "the jurisdiction given was constructively limited to cases of judiciary nature," it is beyond all question that the jurisdiction referred to was the "jurisdiction" of the common law and was not broad enough to authorize the Courts to declare and act of the Legislature void, for at that time to Court where the common law prevailed, or no Court of any civilized country in all Christendom ever had deemed its jurisdiction ample enough to amend or nullify a law of the Legislature by a judicial decision. This doctrine, founded alone upon the decisions of Courts, which dates back only a hundred years, which is, as we have seen, without warrant either in the State or Federal Constitution, or in the common law, or in reason, is based by the Courts upon the supposed necessity in a Government limited by a written Constitution, of the lodgment somewhere of the power to correct and restrain any infraction by the Legislature, of the fundamental law of the land, and that necessarily it must inhere in the judiciary. But there cannot be discovered either in the Federal or State Constitution any incline of the theory that two of the three separate departments of Government are fallible and that the third is infallible and should therefore dominate over the other two. The Judges like Legislators are men, and as such are fallible. They are as liable to violate the Constitution as Legislators. In fact, in regard to this very act, decided by the Court



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to be unconstitutional, the best standard authorities sustain the Legislature and not the Courts. (Cooley of Constitutional Limitations, 601). And the history of our State and Federal Legislation for the last hundred years disclose no such bold and palpable infraction of the Constitution as has been recently exhibited by the Supreme Court of the United States in a remarkable decision, in which by a course of reasoning that would be ludicrous if the drift of it was not alarming, it ruthlessly broke down that Constitutional barrier which heretofore has prevented a State from being sued. (114 U. S., 269). There is a corrective for any disregard of the fundamental law by the Legislature, but it is with the people and not with either of the other co-ordinate branches of Government. If any Legislators violate the Constitution, the people which are sovereign, will retire them to private life and remedy the wrong which has been committed, by repealing the unconstitutional law. The people who make the Constitutions are its rightful interpreters. This is the true theory of our Government. It is far superior to the theory of the Courts that they can correct legislation and that their interpretation is final and the conclusive. This Court theory not only shackles legislative action but it is a throttle upon the popular will. By it the people can never give expression to their sovereign will as to a Constitutional question involved in a particular law. The Courts claim that they have the final decision, instead of the sovereign whose servants they are. This claim is an usurpation of power. It is tyranny.

Gentlemen of the Legislative Assembly of Oregon: You are entrusted by the people of this State, under the Constitution, with the sole power of making, altering and repealing the laws of this Commonwealth. You are under the solemn obligation of your oath of office to make those laws conform to the Constitution and you are under those laws conform to the Constitution and you are under the very same obligation to retain for the people of the State, in its complete vigor and scope. This highest and most sacred prerogative of a free people, the exclusive right in its Legislative Assembly of making, altering and repealing laws. Finding, therefore, no warrant, either in the State or Federal Constitution, for the Judicial Department to nullify and enactment of the Legislature, the conclusion is irresistible that the Registration Act as passed by the Legislature of Oregon is the law of the land to-day, and that the order of the Court suspending the operation of such law was in violation of Section 23, Article I., of the Constitution, and therefore that it was void and of no effect. Such being some modification. While it is absolutely necessary, in order to have a fair ballot, and in order that the constitutional provision entitling citizens "to vote at all elections authorized by law" may not be a worthless privilege, that a registration should be had in our large cities, yet such registration in country districts is not only not necessary to a fair ballot, but it is a positive hardship and an unnecessary burden. A change in the election law should be made by which registration may be had only where needed for a fair election say in counties containing cities of five thousand inhabitants and over. You have ample warranty for such a change in the law in Section 8, Article II., of the Constitution, and it is your duty to make the necessary amendment.

#### THE CHINESE QUESTION

The unanimity of the people of Oregon on the undesirability of the presence of the Chinese amongst us was very clearly demonstrated by the fact that both political parties at the last election avowed their hostility to any further immigration of that most undesirable population within our borders, and that one of those parties pledged itself to use all lawful means for the removal of these already here. At this stage of our experience in regard to this class of pauper slave labor, no argument need be used to stimulate the Legislative Assembly of Oregon to exhaust every constitutional means by which to rid the State from the corruption and paralyzing influence of their presence. A third of a century's experience tells one unvarying story. Irrevocably devoted to their pagan idolatry, superstition and practices, they are entirely unassimilative with our people, blind to the progressive spirit of our race, unappreciative of our institutions and deaf to the demands and influences of Christianity, and their presence amongst us is only corruption of society, debasing to morals and degrading to labor. Can the State do anything toward ridding itself of these undesirable aliens? The States when they formed the Federal Government were absolute sovereignties and they delegated to that government certain enumerated powers, reserving expressly delegated. One of the powers and attributes of sovereignty not so delegated but retained by the States, was that power which appertains to every sovereignty, of expelling from its borders any alien or class of aliens whose presence it might deem undesirable, with a limitation only in regard to those susceptible of naturalization, the States having delegated to the Federal Government the right to pass uniform laws in regard thereto. It therefore follows that if the Federal Government should refuse to extend to a particular class of aliens the right of naturalization it would have no control over that class within State limits, as the right to pass naturalization

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laws is the only power in regard to aliens delegated by the States to the Federal Government, all other powers in regard thereto deniable. It is also sustained by the decision of the highest tribunal in the land --- the Supreme Court of the United States. In the case of *New York vs. Miln*, 11 Peters, 102, the Court says: "A State has the same undeniable and unlimited jurisdiction over all persons and things within its territorial limits as any foreign nation where that jurisdiction is not surrendered or restrained by the Constitution of the United States. \*\*\* All those power which relate to mere municipal legislation, or what may perhaps more properly be called internal police, are not thus surrendered or restrained, and unqualified and exclusive. \*\*\* We think it is as competent and necessary for a State to provide precautionary measures against the moral pestilence of paupers, vagabonds and possible convicts as unsound and infectious articles imported" And this sound doctrine, promulgated by the Supreme Court, has since that time never been controverted by it. This opinion, which sustained the constitution of a law of New York throwing checks and limitations over the immigration of aliens, was the opinion of the whole Court, with the exception of Justice Story, who dissented on the ground that the law conflicted with the power delegated to Congress over commerce Subsequently (*Passenger Cases*, 7 Howard, 283) the Supreme Court held another and more stringent law passed by the State of New York as unconstitutional for the reason that it was in conflict with the control over commerce delegated by the States to the Federal Government. In this case the opinion of the Court as a Court was not given, but five Judges gave opinions holding the law to be unconstitutional and four holding it to be constitutional. But the position assumed by the Court in *11 Peters* remained unsoiled. Justice McLean, one of the majority in the *Passenger Cases*, in his opinion clearly defined the difference between the two cases, affirming therein his previous position. He said: "When the merchandise is taken from the ship and becomes mingled with the property of the people of the State, like other property, it is subject to local laws; but until this shall take place the merchandise is an import, and is not subject to the taxing power of the State, and the same rule applies to passengers. When they leave the ship and mingle with the citizens of the State they become subject to its laws." It therefore follows that while a State can do nothing to prevent the landing of aliens within its borders, for the reason that any such measure would be an interference with commerce, the control of which was delegated to the Federal Government, and while it can do nothing to rid the State of aliens susceptible of naturalization (except "vagabonds, paupers, and possibly convicts"), for the reason that it has given to Congress the right to pass naturalization laws, and such interference might conflict with such right; yet it does have, by virtue of its reserved police power --- that power of sovereignty not delegated --- as absolute and unquestionable control over all aliens within its borders not subject to naturalization "as any foreign nation." And this power, in the language of the Supreme Court, "is complete, unqualified and exclusive." It may order them to depart from within its borders, or it may tax therein a license tax to be paid by any person who gives them employment. It may choose any of the means it deems best. The right existing with the State to do with them just as it chooses, the choice of the means must necessarily inhere with it. But it is urged that such expressly guarantees to the State the full exercise of such measures. The first Congress of the United States, begun and held at the city of New York March 4th, 1789, for the reason that "the convention of a number of States having at the time of their adopting the Constitution expressed a desire, in order to prevent misconstruction or abuse of its powers, that further declaratory and restrictive clauses should be added," proposed eleven amendments to the Constitution, one of which declares that "the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people." This amendment was ratified by three-fourths of the States. It was proposed by the Federal Government and ratified by the States. It is therefore a treaty, to all intents and purposes, between the high contracting parties. Inasmuch, therefore, as the power of absolute control over aliens which inheres in every sovereignty was reserved by the States, except in relation to those susceptible of naturalization, they have the full exercise of the right guaranteed to them by this most sacred treaty with the Federal Government. Will now that Government, with a disregard for honor to that would shame even a pagan potentate, prove false to its plighted treaty faith? Will it now break its treaty obligations with the States and deny them the exercise of rights it sacredly pledged itself that they should exercise? It cannot, it dare not do it.

But it is urged that a treaty exists between the United States and China which guarantees to the Chinese within the United States the right enjoyed by the citizens of the most favored nations, that therefore they have the undisputed right to remain here as they choose and not as the States may choose (thus placing the will of a Chinaman above the will of a sovereign State) for the reason that by the Constitution "all treaties

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made or which shall be made under the authority of the United States shall be the supreme law of the land.” It is undeniable that all treaties “made under the authority of the United States” are the supreme law of the land. But it is as undeniable also that any treaty stipulations with China, can force within the territorial limits of a State, a numberless horde of pagan paupers and thus, by such treaty destroy the reserved rights of a State over such immigration, it could also, equally as well, by treaty stipulation with that empire, accord to the Chinese immigrants, within the territorial limits of the State certain portion of real property, and thus destroy the right of a State to control such property, on the self-same ground that the Constitution declares that a treaty shall be “the supreme law of the land.” Such a proposition is too monstrous and too absurd for any lawyer or any Court (except perhaps some minor Federal Court) in this country to entertain for one single moment. Upon this point Justice Taney in the passenger case said: “For if the people of the several States of this Union reserved to themselves the power of expelling from their borders any person or class of persons whom it might deem to be dangerous to its peace or likely to produce a physical or moral evil among its citizens, then any treaty or law of Congress invading that right and authorizing the introduction of any person or description of persons against the consent of the State, would be an usurpation of power which this Court could neither recognize or enforce. I had supposed that this question was not now open to dispute.” It is therefore undeniable that the States have reserved to themselves this inherent power of sovereignty over aliens not susceptible of naturalization, that there is no “authority” in the Federal Government to make any treaty stipulation would be absolutely void. The State then having full control of this matter and the people of the State being almost unanimously opposed to the presence of the Chinese here, it devolves upon the Legislative Assembly to devise the most peaceful and effective means towards procuring their removal from our State. There can be no doubt but that it is perfectly competent for the State to cause the deportation, by law, of all aliens not susceptible of naturalization. But this remedy would entail large expense, and would appear unnecessarily harsh to those who do not appreciate what a curse they are to the State. More peaceable, and yet fully as effective means, though not so speedy, can be devised, and means which are in perfect accord with a policy which the General Government has pursued for three-quarters of a century—the policy of protecting home industry against alien competition. This policy is to be highly commended when it protects labor. It has mostly been applied to the protection of rich manufacturing capitalists, which is unjust, because capital can always take care of itself, but if it can be applied only so as to protect the industry of our fellow-citizens who have no capital but the labor of their hands, it is most commendable and praiseworthy. A protective policy that will protect the laboring classes and will put the tax thus collected into the treasury of the Government instead of into the pockets of a favored few, is one which all good citizens must necessarily favor. And it is competent for the State to adopt such a policy, which will not only directly benefit the laboring man, but will indirectly benefit the people of the State at large. A license tax law can be enacted by which every individual or corporation in the State who employ or rent buildings or grounds to an unnaturalized alien shall be compelled to pay a license therefore, the proceeds of which should go to the Common School Fund. By this means our laboring fellow citizens would be protected from the ruinous competition of alien slave labor. By this means this undesirable class of aliens would be compelled from lack of employment to leave the State of their own accord. By this means, within a very short time, and in a peaceable and lawful manner, our State would be rid of their baneful presence, and the places they now occupy would be filled with laboring men of our own race and blood, who will help build up our free institutions and dot our hillsides and valleys with the happy homes of freemen. There is no one question before the Legislative Assembly of equal importance to this question. Let this remedy be applied, which the people demand. Let the will of the people, which is the supreme law of the land, be enacted and enforced.

#### A CONSTITUTIONAL MANDATE

Your attention must be called to Sec. 8, Art. XV, of our State Constitution, which provides that “no Chinaman not a resident of the State at the time of the adoption of the Constitution, shall ever hold any real estate or mining claim, or work any mining claim therein.” And your attention must be especially called to the last clause which provide that “the Legislature shall provide by law in the most effective manner for carrying out above provision.” You will observe that this is mandatory. When it declares that the Legislature shall so provide, it does not leave it optional either with your judgments or your inclination. You have sworn to support the Constitution, and you can only do so by obeying its behests. That you have ample power to do so, and that there is nothing in the Federal Constitution which inhibits you, are both very plain propositions.

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And that there is urgent need for your action in this matter is beyond all question. This class of aliens are now, as they have been for the last quarter of a century, swarming over our mineral districts and purloining the rich deposits which Providence has kindly placed there for the benefit of ourselves and our children, they have shipped them by millions of dollars out of the county. Let an effectual stop be put to these proceedings, in obedience to the Constitutional mandate.

#### INTERFERENCE WITH STATE LAWS

Within the last four years, in this State, a Federal Court has in one instance interfered with the collection of a county road tax (8 Sawyer, 384); in another instance with the collections of fines for the violation of a city charter (9 Sawyer, 333); in another instance with the collection of a school tax (10 Sawyer, 52); and in still another instance it nullified the provisions of the Hault law, regulating the conduct of common carriers (25 Federal Reporter, 52). In the first and second instances it rendered the State laws nugatory by an interpretation of them which made them void for the purposes intended by the lawmakers, while in the third and fourth cases it declared the law to be a nullity, and deliberately set forth its own opinion, in opposition thereto, as the law. Section 721 of the Revised Statutes of the United States expressly provides that "the laws of the several States, except where the Constitution, treaty, or statute of the United States otherwise require or provide, shall be regarded as rules of decision, in trials at common law, in the Courts of the United States in cases where they apply." In neither of these cases did the Constitution, or statute, or treaty of the United States provide otherwise than what the law of the State provided. And yet, instead of regarding the law of this State as a rule of decision, the Federal Court within this State a superior law to the solemn enactments of the Legislative Assembly? Can the deliberately expressed will of the people of this State, in a matter over which they have absolute control, be set aside at the arbitrary dictation of an United States District Judge. If so, our written Constitutions are a snare, the enactments of our Legislature are a fraud, and the government by the people a delusion. If so, the people of this State are not sovereign, but the Judge of the Federal Court for the district of Oregon is the sovereign. But it is not so. The will of the people rightfully expressed by the Legislature is the law of the State, and it must be respected, obeyed and enforced. There is growing up in this country a spirit of anarchy, a wanton disregard for law, a disposition for each man to be a law unto himself, that is dangerous to the perpetuity of our institutions. If we would preserve our Government, if we would have the law supreme, this spirit of anarchy must be effectually put down. Our only security as a free people is in maintaining the supremacy of the law. And the man who defies and overrides the law must be held to a strict accountability. The example of men entrusted with high office in disregarding the law of the land is most pernicious. Those whose duty it is to administer the law should be the most sensitive in regard to their respect for the law. I shall endeavor to rigidly enforce the laws of the State, and in case any further unwarranted interference is made therewith by the Federal Court, it will be the duty of the Legislature to memorialize Congress for the impeachment and removal from office of the offender.

#### SUITS BY FOREIGN CORPORATIONS

The privilege that foreign corporations now have of bringing their suits in the Federal Courts, has been a great source of annoyance to many citizens of the State. A law should be passed by the Legislature forbidding foreign corporations doing business in this State without taking out a license therefore, under efficient penalties, and authorizing the Secretary of State to revoke and annul such license in case any such corporation brought any suit in the Federal Courts. Our State Courts are good enough for our own citizens, and they should be good enough for foreign corporations; and if those should be compelled to abstain from doing business within the State. Our courts, in learning, integrity and ability, are fully the peers of any Federal Courts in the land, and there is no good reason why a foreign corporation should object to bringing suits therein. In case they do, the State should object to their doing business within its limits. That it has the right to do so is unquestionable (94 U.S., 535.)

#### GRANTS TO CORPORATIONS

It is absolutely necessary that great care should be taken by the Legislature in conferring grants upon corporations. American Courts have overturned that sound common law doctrine that acts of a previous Legislature cannot bind the acts of a subsequent one, and that it is competent for a subsequent Legislature to undo the wrongs of a previous one. They hold that the most vicious of all class legislation, which confers

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rights and privileges upon private parties, or corporations, is in the nature of a contract, and therefore irrevocable. This doctrine is repugnant to the common law and unwarranted by the Constitution, but it is the doctrine enforced by the Courts. As the necessary result of this doctrine and the practices of corporations in procuring franchises inimical to and destructive of the rights of the people, one right and immunity after another has been filched from the people and delegated to corporations; and as a further result corporations are becoming a greater power in the land than Legislatures. The Courts have had much to say about the sacredness of vested rights which corporations can receive and have received from Legislatures, but they have been silent as to the vested right which belongs to every free people—that of having the indestructible power in their Legislative Assembly of undoing any wrong which a previous Legislature might have done. Until the sound doctrine of the common law and of the Constitution, that Legislatures are always of equal sovereignty, is restored, it behooves you to be most careful as to any grant or franchise sought for by corporations. The Legislature should always stand as a faithful sentinel of the people's rights.

#### ADVISABLE LEGISLATION REGARDING REAL PROPERTY

It is a disgrace to any civilized Government to have one law upon its statute books and a conflicting law in its Court reports. There is a statute of the State providing for the obtainment of a judgment against a non-resident by publication of summons and for the sale of real property within the State for the satisfaction of such judgment against a non-resident by publication of summons and such judgment on execution following such service. It is an undisputed proposition of Constitutional law that the Legislature of a State has power to prescribe what mode of procedure shall constitute due process of law affecting real property within its limits and that such power was never delegated in any manner to the Supreme Court of the United States, yet such Court has usurped such power (95 U.S., 714), denied the efficacy of the mode of procedure fixed by the State Legislature, and laid down a rule of its own, not recognized by State law, as being necessarily essential to the obtaining of a valid judgment in such cases. It declared that there must be an attachment of the real property of a non-resident, in order to get valid judgment. This decision wrongfully deprived a large number of our citizens of their rightful property. Although such Court had not the shadow of a right to disregard State law and to make a rule of its own in defiance thereto, yet, inasmuch as it has done so, and as the change in procedure is a very trivial one, it perhaps would be advisable, in order to avoid conflict, to amend the statute by authorizing such attachment. A law should also be passed, providing that no judgment of a Federal Court should be a lien on any real property in the State unless such judgment is recorded in the county where such property is situated

#### A STATE CIVIL OFFICER

The Constitution of the State, referring to the duties of the Governor, declares that "he shall take care that the laws shall be faithfully executed." The only officers, by the laws of the State, that are under the control of the Executive, in case circumstances should require him to obey the foregoing mandate, are military. The Executive has no civil officers provided him by law for the execution of that law. This is a great oversight. It is not in accordance with the spirit of our institutions, the temper of our people, the traditions of our ancestors, or the instincts of freemen that laws should be executed by the bayonet. Such a mode of executing the laws befits a despotism, but is a stigma to the government of a free people. Among English-speaking peoples, a government cannot long survive that has to be propped up by bayonets. The exercise of military power for the enforcement of civil laws is always productive of more harm than good. American freeman will always obey just laws, and they cannot long be compelled to obey any other. Civil laws should always be enforced by civil officers. There is, therefore, a necessity for providing a State civil officer of the peace with control of all other peace officers and of the posse comitatus to be under the control of the Governor for the execution of the laws when necessary, and who will receive pay only at such times as he necessarily renders service.

#### STATE INTEREST IN FEDERAL LEGISLATION

Owing to the fact that our system of government is duped in its character, we cannot expect to remedy all the grievances which are the subject of popular complaint through the instrumentality of State legislation. In fact the worst abuses under which the people of this country now suffer are those caused by the vicious legislation of the Federal Government. The State Government affords protection to our lives and our

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property, its system of taxation is correct in theory and nearly so in practice, inasmuch as all property is subjected to taxation, and, being directly beneath the watchful eye of the people, its expenditures are kept within reasonable limits, and fraud, and speculation and favoritism, can find no safe or convenient lodgment in its administration. But the Federal Government, on the other hand, while charged with the care of neither the lives or property of the citizens of the several States, is becoming burdensomely oppressive to the people of the country. A half a century ago its existence was felt by the people of the States only by the blessings it bestowed and the honors it conferred. To-day it is mainly felt by the wrongs it inflicts and the burdens it imposes. It has granted donations of vast areas of the people's domain to private corporations and thus, instead of protecting the people of their property, it has despoiled them of their rightful heritage. Instead of making a fair and equitable taxation for its own support, it depends mainly for the collection of its revenue upon one of the most unjust and nefarious systems that could possibly be devised by the mischievous ingenuity of man; a system borrowed from the robber Moors, who, with cannon planted at Tariffe, collected forced tribute from the commerce of the Mediterranean; a system that can be used for the enrichment of the few and the impoverishment of the many; a system provocative of the crimes of fraud, theft, bribery and perjury, a system corruptive of officials, debauching to business men and extravagantly expensive; and a system under which every tariff adjustment in Congress has degenerated into a mere disgraceful squabble for protected pelf. Each favored interest tries to filch more than any other favored interest, and every such adjustment is invariably an infamous collusion of protected pilferers for the conjoined robbery of all the unprotected industries of the country. Besides about one billion dollar paid for protection, the Federal Government collects its revenue which amounts to over three hundred million of dollars yearly, chiefly from duties on imports. These are so arranged that they bear mainly upon the laboring the producing classes. Unlike the State governments, it does not collect any of its revenue from the wealth of the country. That wealth, which by the last census amounted to the enormous sum of over forty-three billions of dollars, does not pay a farthing for the support of the Federal Government. The man worth a million of dollars pay no more for its support than the man worth a hundred dollars, provided both eat and dress equally well.

An in consequence of this non-contribution of the country's wealth for the support of the General Government it follows that the tax for such support falls with unusual severity upon the poorer classes. Such gross injustice as this—the exemption of the Nation's wealth from taxation—is a more grievous hardship than any of which our revolutionary fathers complained. It is an injustice that no other country of the civilized world is guilty of. It is an injustice that is breeding discontent. It is an injustice that must be remedied. There must be justice or there will be revolution. One of the most apparent results of Federal legislation for the last quarter of a century has been the fattening of its favorite banking, railroad and manufacturing corporations. Especial privileges have been given to banking institutions, unlimited grants of moneys and lands have been given to railroads, tariff duties have been so arranged as to fatten favorite industries, the wealth of the country has been totally exempted from bearing the burdens of the government, thus enormously increased by its profligate expenditures and benefactions, and is it therefore to be wondered at that the great masses of the people, who are not the recipients of its royal bounty, upon whom the bulk of these burdens fall, are poorly paid for their arduous toils? Is it any wonder that all over the land the growing murmurings of discontent are heard?

Is it any wonder that the laborers and farmers are organizing for self-protection against the continuation of these shameful and crying wrongs? There is another fact that has still further tended to cause this spontaneous uprising of resistance to these flagrant abuses. The people of this country have witnessed with just cause of alarm the studious and persistent efforts of those corporations which have grown wealthy from the public bounty to control the Executive department, the Courts and the Upper House of Congress, in order that they may not only retain what they have got but procure still more favorable legislation. The Senate of the United States today is mainly a corral of corporation lawyers, placed there for the furtherance's of corporate interests. It is today, in great part, a house of railroad lords and corporation attorneys. That body is the slaughter pen of all corrective legislation originating in the Lower House. But the States have a remedy for this if they will but use it. Senators are but agents of the State, and it is not only the right but the imperative duty of State Legislatures to instruct their Senators upon any and every matter of public interest, and it is the duty of the agents to obey the behests of the principal. And there is no honorable

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Senator but what would do it or resign his office. If he could not conscientiously obey such instructions it would be his honorable duty to resign in order that the voice of the State may be obeyed.

I would therefore suggest that the Legislature should issue positive instruction to our Senators in Congress that they should support:

1st. A graduated income tax, in order that the wealth of the country should bear, as it ought, a share of the burdens of government, thus limiting duties on imports to fewer articles, mainly of luxury, or abolishing them altogether, and yet providing sufficient revenue by which necessary public works could be prosecuted, whereby needful employment could be given to needy labor. The best protective policy is to tax for revenue the wealth and not the industry of the country. And wealth should welcome such a tax, as affording a degree of justice conducive to its own security.

2d. A restoration of the habeas corpus jurisdiction of the Federal Courts to what it was under the judiciary act of 1789/ This, in nearly seventy years' experience, was sufficient for all purposes, and the application of the that jurisdiction under the reconstruction acts of 1867 and again in 1875 has produced endless confusion, and is in plain conflict with the Constitution, as it was a reserved right of State Courts after having obtained jurisdiction to retain such until the termination of the suit, which right is now unlawfully denied them. (117 U.S., 241).

3d. A forfeiture of all railroad land grants that were not earned within the time specified in the grant.

4th. An unlimited coinage of silver, and furnishing by the Government alone of the currency of the country. There should be no banks of issue, either State or National.

5th. The furnishing of the people with a postal telegraph system. They are now unmercifully robbed by private corporations doing a business which it is plainly the duty of the Federal Government to undertake. That government was entrusted by the people with the transmission of intelligence. It availed itself of all improvements in such t transmission except telegraphing, and that it has left for corporations to do, unbridled by it with any restrictive legislation as to charges.

6th. The passage of stringent inter-State commerce bill restricting the extortions and discriminations of railroads.

7th. The abrogation of the Suriname treaty.

8th. The speedy and complete improvement of our rivers and harbors in order that the people can be afforded relief from the onerous exactions imposed upon them by railroad corporations upon the industries of the nation.

And I would suggest in case you see proper to so instruct your Senators that it might not be amiss to ask the co-operation of the other States by the instruction of their Senators for the same necessary measures.

## CONCLUSION

In conclusion, gentlemen of the Legislative Assembly, allow me to express the confident hope that your deliberations during the coming session will be conducive only of the public good. Fortunately, you have no questions of a party character to distract your attention. Let then party feelings interests and ambitions be all forgotten and let men of both parties vie with each other as to which you will render best service to the State. When you enter these halls you no longer represent parties, you are the representatives of the people. Here, in you official action, let you only motive be, to care the interests of all classes; to make no expenditure but what is general in its benefactions; to adjust the burdens of State taxation so that wealth and dishonesty cannot shirk their just share; to be liberal in expenditures of a public character, while withholding any aid whatever form schemes of a purely local or private nature; to secure as far as possible the unsettled portions of the State domain to actual settlers in small quantities; to uncover and punish

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frauds, if any, upon the State; to avoid all class legislation, and, in short, to set, in you official position, and example worthy of all emulation, of managing the entire affairs of the State with honesty, economy and fidelity. Then you will win the approval both of your own consciences and of the people of this Commonwealth.

SYLVESTER PENNOYER

**Biennial Message, 1889**

Source: Journal of House of the Legislative Assembly, 1889, Governor's Biennial Message, Salem, Oregon, Frank C. Baker, State Printer, 1889.

BIENNIAL MESSAGE OF GOV. SYLVESTER PENNOYER  
TO THE LEGISLATIVE ASSEMBLY FIFTEENTH BIENNIAL SESSION 1889

Gentlemen of the Oregon Legislative Assembly:

In obedience to the constitutional mandate which requires that the Governor "shall from time to time give to the Legislative Assembly information touching the condition of the State, and recommend such measures as he shall deem necessary," the following information and recommendations are submitted. You are referred for more detailed information to the reports of the various State officers:

FINANCE

In order to show the growth of expenditures of the State, the subjoined figures are given for the fiscal terms of 1885-86 and 1887-88:

1885-86

Total amount of warrants drawn during term for expenditures \$970,472.24  
Total amount of warrants drawn subsequently for expenditures 45,740.70  
[subtotal] \$1,016,212.94  
Deduct expenditures previously incurred, \$127,460.16  
Expenditures for public buildings 260,376.64  
Expenditures on account of trust funds and funds arising from special tax 47,643.49  
[subtotal] 435,480.29  
Ordinary expenditures \_\_\_\_\_ \$580,732.65

1887-88

Total amount of warrants drawn during term for expenditures during term \$760,656.53  
Deficiencies January 1, 1889, for which warrants are yet to be drawn 16,372.66  
[subtotal] \$777,029.19  
Deduct expenses previously incurred \$45,740.70  
Expenditures for public buildings 85,629.66  
Expenditures on account of trust funds and funds arising from special tax 65,466.99  
[subtotal] 196,837.35  
Ordinary expenses \_\_\_\_\_ \$580,191.84

The expenditures for 1887-88 were swollen by the outlay of about \$25,000, on account of the Railroad Commission and the Fish Commission, with the outlay hereunder, to which the previous term was not subjected.

EDUCATIONAL FUNDS

Following is a statement of the total amounts of the Common School fund on January 1st of the following years as mentioned:

1885 \_\_\_\_\_ \$868,735.16  
1887 \_\_\_\_\_ 1,059,409.01



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1889 \_\_\_\_\_ 1,756,700.90  
 Increase of funds 1885-6 \_\_\_\_\_ 190,637.85  
 " " 1887-8 \_\_\_\_\_ 697,291.89

The interest arising from such fund during the past few years has been distributed in amounts as follows:

Year /Per Capita/ Total  
 1885/\$75/ \$50,046.75  
 1886/90/74,571.30  
 1887/100/87,217.00  
 1888/125/108,217.50

There are also, on the first of this year, in the other trust funds, amounts as follows:

Agricultural College fund, notes and cash \_\_\_\_\_ \$100,511.80  
 Agricultural College fund, due on certificates of sale \_\_\_\_\_ 12,627.57  
 [subtotal] \$113,139.37  
 University fund, notes and cash \_\_\_\_\_ \$ 80,733.71  
 University fund, due on certificates \_\_\_\_\_ 1,472.32

\_\_\_\_\_ [total] \$ 82,206.93

The total amount in the several trust funds on the 1st of the present month is \$1,951,041.92.

The money belonging to the foregoing trust funds is loaned with the utmost regard to its perfect security. Careful attorneys have been selected in the several counties to make appraisement of the lands offered as security and only one-third of such appraised value is loaned on such lands. In order, however, that the board itself could also exercise its judgment as to the advisability of all loans to be made, every applicant is required to accompany his application, in answer to definite interrogatories, with a full and detailed statement concerning the property on which he desires to secure a loan.

#### STATE INDEBTEDNESS

The following is a statement of the indebtedness of the State of Oregon on the first day of the following years on account to warrants drawn for various purposes on the swamp land fund:

1887  
 Principal \_\_\_\_\_ \$ 53,671.99  
 Interest \_\_\_\_\_ 42,671.57  
 \_\_\_\_\_ \$96,343.56  
 Less available funds in treasury \_\_\_\_\_ 1,125.87  
 \_\_\_\_\_  
 \$ 95,217.69

1889  
 Principal \_\_\_\_\_ \$ 35,705.96  
 Interest \_\_\_\_\_ 25,058.24  
 \_\_\_\_\_ \$ 60,763.20  
 Less funds applicable to its payment \_\_\_\_\_ 31,351.54  
 \_\_\_\_\_  
 \$ 29,411.66

All other indebtedness is merely nominal and fully provided for. It is confidently expected that within six months' time the entire indebtedness of the State will have been extinguished.

#### SWAMP LANDS

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During the past two years every effort has been made to reach a finality in swamp land matters. During the summer of 1887, two federal and two State agents were in the field engaged in the examination of lands, and during the fore part of last summer a federal and a State agent continued such examination. In order to thus speedily close up such examination in expense was incurred slightly in excess of the appropriation, for which it is hoped the legislature (when it considers the great importance of a speedy adjustment of the matter) will make the necessary appropriation. IN October last, however, in order to avoid any further indebtedness, a proposition was made by the land commissioner of Oregon to the Interior department changing the stipulation existing between the State and federal government, so that for the remaining small lists of land to be examined, the reports of the federal agent would be taken as conclusive, This proposition was accepted, and the small balance of swamp lands will hereafter be examined and reported upon with on further expense to the State.

Acres swamp land patented to the State\_\_\_\_\_ 34,087.14  
Acres swamp land certified and not patented \_\_\_\_\_ 97,946.66  
Acres swamp land examined and not certified (approximate)\_\_\_ 150,000  
Acres swamp land unexamined (estimate) \_\_\_\_\_ 50,000

#### RIVER IMPROVEMENTS

There cannot be a more effective regulation of freight rates than that afforded by free competition. Whenever and wherever this is had there is no need of legislative interference. It was recommended to the last legislature that a one-mill tax be levied for the purpose of building a State portage railroad between The Dalles and Celilo, for the purpose of opening the Columbia river to comparatively free navigation. If this recommendation had been carried out by the legislature, the sum of \$170,000 would have been available with which to now commence such work. It is again recommended that such tax be levied for the ensuing two years, which will give to the next legislature a fund with which to provision for opening the Columbia between the two points mentioned. The State government ought to move in this matter. The people of the Willamette valley have had for a decade and a half the benefit of low rates consequent upon the building of the canal and locks at the falls of the Willamette, and it is no more than just and fair that the State should now provide for low rates to the people of Eastern Oregon by opening the Columbia to comparatively free navigation, by the building of a [portage railroad, with moderate charges thereon, for reimbursing the State for its outlay until such time as the general government shall make the improvements it ought long since to have made. Let this tax then be levied, and if in the meantime the general government shall have commenced its improvements the money could be diverted to the common school fund.

#### ASSESSMENT AND TAXATION

A change is needed in our laws relating to assessment and taxation. Under the present law the burden of taxation is quite unequally borne. Under it the honest men of the State have to bear the brunt of taxation, while the dishonest man, who, though the aid of the banks, returns a fictitious indebtedness, is rewarded by a belief from just taxation. The law, as it now stands and as it is now enforced, is really a law to punish by tax a man for honesty, and to reward, by exemption from tax, a man for dishonesty. Such a law is a disgrace to any commonwealth. A change should be effected. Everything should be taxed, property of all kinds, both real and personal, and no deduction whatever for indebtedness should be allowed. It is urged by these who favor deduction of indebtedness that without such deduction there will be in certain cases a double taxation. Granting this to be true, it is equally true that with deduction if indebtedness the honest man who pays on all of his property is doubly taxed also, because his neighbor throws the extra burden upon him by avoiding taxation himself through fictitious indebtedness. It is impossible to secure absolutely just taxation, but it can be nearest arrived at by taxing everything at its full value, and making no deductions whatever. But there can be any near approach to equal taxation in this State until deduction for indebtedness – that race behind which rogues can hide – is removed from our statute books. In order to secure assessment of property at its full value throughout the State, some supervision over the county assessors should be and either by a State officer or by the county commissioners. It would be advantageous also to provide for a meeting of the various county assessors each year just prior to the time for making assessments, by which a degree of uniformity could be arrived at by consultation and agreement. A tax on all incomes in excess of \$5,000 would be a most just and equitable provision of law.

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## FREIGHT REGULATIONS

At the last session of the legislature a Railroad Commission was created with power to make investigation and report, the law declaring that the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made \* \* \* shall in all judicial proceedings be deemed prima facie evidence as to each and every fact founded. A case in which the commission had made its recommendations as to the amount of reparation which should be made in such case by a common carrier to the person aggrieved, was carried to the Supreme Court of the State, where it was held that the legislature had conferred no express authority upon the board of commissioners to regulate the price of freight, or to determine when aggrieved was therefore dismissed. This decision, as the board of commissioners says in its report, "leaves the commission with the simple power to investigate, make recommendations and report to the legislature." As the commission has made such report, and is powerless of effecting any further good, the commissioners have, for cause, been removed from office, in order to emphasize to the legislature the necessity of some change in the law, if any effective regulation is intended of the freight rates of common carriers. The recommendation made to the last legislature that a maximum rate undoubted right to enact a law regulating freight rates, but it is very questionable indeed if it can delegate such legislative power to any other body of men. *Delegatus non potest delegare* is a sound maxim of law, and therefore, the power that the legislature possesses in this regard being a delegated power, given to it by the people of the State under the constitution, cannot be delegated by it without express authority in the constitution.

## FISHING INTERESTS

Positive prohibitory enactments should be made against the taking of salmon in the Columbia river and its tributaries by either fish traps or fish wheels. There ought to be but one mode provided by law for the taking of salmon, and that mode should be the one open to all classes, and by which no monopoly or undue advantage can be had. It is due to those who will come after us that the fishing interest of our State should not be entirely destroyed by the greed and avarice of those now engaged in it. The records of the Supreme Court of our State (15 Oregon, 330) disclose the fact that a paid lobby was employed by those interested in the monopolies of traps and fish wheels during the last legislature, and although such a lobby may again be employed, it is to be hoped that the legislature will change the law by which the monopoly of the men owning fish traps and fish wheels may be destroyed. The last legislature created a board of three fish commissioners, one of whom is denominated president, and the law creating such board declared that "it shall be the duty of the president to see that all laws for the public waters in the State of Oregon, whether entirely or partially within the State boundaries, are enforced." The constitution of the State declares one of the prerogatives of the Governor to be that "he shall take care that the laws are faithfully executed." If the legislature can thus rightfully invest a commission of its own creation and selection with the powers conferred upon the Governor by the fundamental law of the land, then our constitution is a mere wanton fraud, and your supporting oaths a hollow mockery. The commission has been rather a detriment than an aid in the enforcement of the law. No further need for its existence remains since the government, and no other suitable location in Oregon, and the board asserts, can be found. Besides, it can be questioned if it is any more just for the State to expend money in the establishment of fish hatcheries in order that cannery men may have plenty of fish for future use than it would be to furnish seed wheat to the farmer in order to insure him future great harvests.

## COMMISSIONS

Our State constitution, which in Article 3<sup>d</sup> declares that "the powers of the government shall be divided into three separate departments - the legislative, the executive, including the administrative and judicial," absolutely precludes the creation of any commission endowed with any powers whatever pertaining to the management or control of any of the affairs of state. If the commission is entrusted with the enforcement of the law, that is a function conferred by the constitution upon the executive department; if it is entrusted with the regulation of freight rates of common carriers, that is a function of the legislative department from time immemorial; if it is entrusted with the power to adjust questions with them or between any other parties whatever, that is a function of the judicial department confided to it by the constitution. There is no provision of the constitution by which any power or function of the State government can be delegated to a

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commission, while on the other hand the express distribution of all the powers of the State government to the three designated departments absolutely inhibits the delegation of any such powers to any other body or class of men. Furthermore, if the fixing of freight rates is a legislative function, which is true beyond all cavil, then, under the 3d article of our State constitution, which declares that all the powers of the government shall be divided into three departments, the courts cannot interfere in any manner with such rates, as that article further expressly declares that "no person charged with official duties under one of these departments shall exercise any of the functions of another." The multiplication of commissions, without authority either in the federal constitution or the constitution of any State (excepting California) is one of the most mischievous innovation in our system of government. It has the inevitable tendency to divide the responsibility in the administration of State affairs, and just to that extent it is both hurtful and confusing. And when, as in the case of California, the sole responsibility is imposed upon the commission, the result is still more to be deprecated. In that State the railroad commission has the power conferred upon it by the constitution "to establish rates of charges for the transportation of passengers and freights by railroads, etc.," "and enforce their decisions and correct abuses through the medium of the courts," and it is further provided that "in all controversies, civil or criminal, the rates of fare and freight shall be deemed conclusively just and reasonable." In that State, therefore, upon one of the most vital matters within the State, all of the three departments of State government are shorn of all power whatever and the full control thereof has been given to a board of three commissioners, thus putting it within the power of the great corporate interests of that State, by the securing of the favor of only two men within the commonwealth to defy the wishes of the people and the power of the legislature and the courts. The control of important interests by a commission endowed with such powers is inimical to good government and the rights of the people. Our old and well established form of government is much superior in all respects to a government by commissions.

#### STATE CHARITABLE AND PENAL INSTITUTIONS

The attention of the legislature is called to the reports of the superintendents of the State Insane Asylum and of the Penitentiary, and the reports of the Deaf Mute School, the Blind School, and the Orphans' Home for the necessary information in regard to such institutions. The State is to be congratulated in having the control of the Insane Asylum and the Penitentiary under such faithful management as is bestowed by the two gentlemen who have charge of those institutions. Without any disparagement whatever of those institutions. Without any disparagement whatever of previous administrations, it can be truthfully asserted that the management of those institutions under the present supervision has never been equaled or excelled. The Deaf Mute school is under a superintendence practically independent of the State. To be sure the officers of the State Board of Education have been by law "constituted visitors to said school," whose duty it shall be to visit the school "twice in each year, and file with the Secretary of State a report as to the condition and working of the same," without having really any authority whatever to inquire into the supervise its management in any regard whatever. While no taxpayer of the State begrudges the expenditures for the Deaf Mute school and Orphans Home, yet it is indeed to be seriously doubted whether the State has any more right to tax the people for the support of those charitable institutions, independent of State superintendence and control, than it has to tax them for the support of other charitable institutions, like the Good Samaritan or St. Vincent's hospitals in Portland, which are also not under State control. All charitable, penal and reformatory institutions supported by the State ought by right to be under the control of the State. The State is the owner of some fifty acres of ground in South Salem, where a suitable building might be erected, in which both the blind and deaf mute school could be kept under State control and under one supervision, until such time as the number of pupils would require separate management. Steps should be taken by the legislature towards the establishment of a reformatory school. The association of youths who have violated the law with hardened criminals should be presented. If provision for the establishment of a reform school made by which a complete separation of the youths and less hardened criminals from old offenders now confined in the penitentiary should be consummated.

#### STATE UNIVERSITY

From the report of the President of the Regents of the State University it will be ascertained that this university now has, besides the Villard fund of \$50,000, an endowment of over eighty thousand dollars, arising from the sales of university lands, and that there yet remains over fifteen thousand acres of such lands

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unsold. The question will therefore present itself to the legislature as to whether the people of the whole state should any longer be taxed for an institution the benefit of which can be enjoyed by but comparatively few. The taxation of the whole people for the support of the common schools is just, because the whole people can and do have the benefit of such taxation, but the taxation of the whole people for the support of a school of which but a few have the benefit is not just and should not be continued. Of the 110 pupils in attendance at the university during the present year, 56 paid tuition and 54 had free scholarships. Free scholarships constitute another injustice that should be abolished. There is no justice whatever in allowing one-half the pupils free scholarship in a school endowed and supported by the State, while the other half are compelled to pay for their tuition. With its present endowment, and with the abolition of free scholarship, the State University can no prosper without imposing any further tax upon the people. It will also be learned from the report that certain funds belonging to the State University at Eugene have been diverted for the support of a law school at Portland. There is no authority of law whatever for such diversion of the funds of the State University, and it can well be doubted as to whether pupils can gain a proper respect for the law who receive their law education in a school supported by funds diverted without authority of law. It is also suggested in the report that the State should provide fund for the support of a school of medicine at Portland. There is now in the city a college of medicine, built by the generosity of private individuals, at the cost of \$25,000, and it would not be either just or politic for the State to establish a rival school in opposition thereto in a city hardly Large enough to give good support to one such institution. An appropriation by the State for such purpose would get an at of injustice to the liberal minded men whole build up that private institution, which the legislature cannot and ought no to sanction.

#### THE AGRICULTURAL COLLEGE

This State institution has now an endowment of more than one hundred thousand dollars, the proceeds of the sale of Agricultural College lands donated by the general government to the State. It also receives \$15,000 pre annum from the federal government under the Hatch Act. It has commodious building, erected by the generosity of the citizens of Corvallis. All that is now needed to give it a fair start is to furnish it with the necessary land for its farm. It would be proper, therefore, for the legislature to appropriate \$10,000 for such purpose. When this shall have been done, together with the abolition of free scholarships, the Agricultural College at Corvallis, like the State University at Eugene, will be able with frugal management to enjoy a prosperous existence without being perpetual pensioner upon the taxpayers of the State. And the great fact should be impressed upon the legislature that it will be compelled, sooner or later, to choose between the alternative of supporting no higher schools at all than our common schools by taxation of the people, or that the number of such high school, supported by tax, will be indefinitely increased. The people of other sections of the State will argue, and with justice, too, if high institutions of learning are supported by the public treasury at Corvallis and Eugene City, that it is no more than just or proper that normal schools should be supported by the public treasury in other cities in different parts of the State. This latter course would open the door of the treasury to an unlimited expenditure of money fore the support of an unlimited number of indifferent schools, The safe course to pursue is the just course. No general tax should be levied for the support of any school but those of general benefit.

The fear that the State, which is now in possession of the Agricultural College building and grounds, may lose such possession is entirely without foundation. By authority of law the Governor has accepted the college buildings and grounds for an in behalf of the State, and as such property is under State control, and in the peaceable possession of the State by virtue of deeds of title and possession, no suit can be maintained against the State in regard to it, because, as no subject or officer of the sovereign can command the sovereign, so no court can have the jurisdiction (which work implies superiority of power) over the State requisite t oust the State from such possession. As no provision has been made by general law for bringing suit against the State, as might have been permitted under our State constitution, any party aggrieved by the State's possession of the Agricultural College will be compelled to appeal, as every other party having claims against the State must, to the legislature in order to persuade the sovereign to do that which no subject or officer of the State has power to compel it to do. If there be any justice in their demand the legislature should grant it; if there be none. It should deny it.

#### ENFORCEMENT OF THE LAW

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The constitution of the State of Oregon requires of the Governor that "he shall take care that the laws are faithfully executed," and yet there is no statute of the State giving him any authority whatever to carry out this constitutional provision, to do which he gives his solemn oath. The law has conferred upon him no authority over the sheriffs of counties or prosecution attorneys of the State, or any other civil officers, and consequently in case of a State, or any other civil officers, and consequently in case of a palpable infraction of law, the Governor, as an officer, is absolutely powerless to enforce that constitutional mandate which requires him to see that the laws are faithfully executed. During the past two years positive information was imparted to the Governor at different times that the fish laws of the State were being wantonly violated, and as he could exercise by the law no authority over the fish commissioners, the only recourse left for him was to proceed as any private citizen could, and not as the chief executive officer should, in securing the arrest and punishment of the offenders. Provision should be made by law by which authority should be conferred upon the Governor, in case of the violation of any State law affecting public interests, to employ a person who can ascertain the fact of such violation, and thereupon commence as public prosecuting witness proceedings in the courts for the enforcement of the laws of the State.

#### THE EXCLUSION LAW

The people of the commonwealth of Oregon, as well as the people of the whole country, have great cause for congratulation over the passage of the Chinese exclusion act by the fiftieth federal congress. A joint memorial of both houses of the Oregon legislature should be presented to congress praying for adequate appropriations and additional legislation, if necessary, in order to secure the rigid enforcement of the law along our frontier borders. A strong patriotic public sentiment should also be evoked, sufficient in force and purpose to secure for the exclusion law that proper respect from the federal courts which they did not accord to the restriction law. A joint memorial to congress would also be proper, asking for the enactment of a law making other evidence that Chinese necessary to substantiate any fact in the federal courts. Such a law would, to a very great extent, prevent the alien Chinese from using such courts as an instrument through which they could, by their easy and uniform habits of perjury, both evade and defy the laws of the land.

#### BRIBERY AT ELECTIONS

Thoughtful persons of all political parties cannot view but with deep concern the increasing systematic bribery of voters at nearly all of our general elections. It is one of the most dangerous portents of the times and one of the most formidable menaces to the perpetuity of our free government. Our statute laws now hold both the bribe giver and the bribe taker as equally guilty. This is wrong. The great crime is the crime of the bribe giver, and the poor man who, impelled perhaps by the necessities of his family, accepts the bribe, ought rather to be pitied than punished. It is therefore recommended that section 1844 of the laws of Oregon be repealed, which section provides for the punishment of those who accept bribes, for the reason that with this unjust menace removed, the punishment of the bribe giver will be rendered more easy and certain.

#### ELECTION OF UNITED STATES SENATOR

No more important duty devolves upon the present legislature than the election of an United States Senator. It is a fact, patent and confessed, which fact is the shame of our country and the scandal of the civilized world, that corporate power dominated the federal senate. The great masses of the people of Oregon of all political parties are opposed to such domination. The legislature, therefore, should take extreme care that in the election of a senator it shall reflect the wishes of the people and not the behest of corporations.

#### RECOMMENDATIONS

- 1st. The levying of a one-mill tax for two years for the building of a State portage railroad between The Dalles and Celilo.
- 2nd. A change in the laws relating to assessment and taxation, by which no deduction for indebtedness shall be allowed, and by which large incomes will be subject to taxation.
- 3rd. The abolishment of the railroad commission and the passage of a just maximum rate freight law.

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- 4th. A law fixing maximum rates to be charged for Columbia river bar towage of all vessels bound to or from Oregon Ports.
- 5th. A general law empowering the legislative bodies of all incorporated cities to fix maximum rates to be charged by gas, water, electric light or telephone companies.
- 6th. The establishment of maximum rated to be charged by the railroad bridge at Portland, and by telegraph companies within the State.
- 7th. The repeal of the law creating the fish commission, and the passage of a law preventing the use of fish-traps and fish-wheels.
- 8th. The levying of no tax upon the people for the support of any other institutions of learning than our common schools.
- 9th. The passage of a law authorizing the Governor, in case of violation of State laws, to employ a person to commence prosecution in the courts for the punishment of the offender.
- 10th. A registration act applicable to cities of 5,000 inhabitants and over.
- 11th. The enactment of a law, similar to a provision of the Rhode Island constitution, requiring the judges of the supreme court to give their written opinion upon any question of constitutional law when required to do so either by the legislature or the Governor.
- 12th. A change in the laws of the State by which all county officers shall have fixed salaries, and providing that all fees collected by them under the law shall be paid into the county treasury.
- 13th. An addition to our lien laws, giving to laborers employed by corporations of any and every character a first lien for their wages upon whatever property of such corporations they may have labored.
- 14th. A change in our laws by which the punishment for vote buying at our election will be rendered more certain.

#### CONCLUSION

Gentlemen of the Legislative Assembly of Oregon: A kind Providence has given to the people of this common wealth a goodly heritage and has vouchsafed to them innumerable blessings. Let it be to you aim to add to these blessings the great benefits accruing from the administration of a wise and frugal government and from the enactment of just and equal laws.

BIENNIAL MESSAGE, 1891

**Source:** Journal of House of the Legislative Assembly, 1891, Governor's Biennial Message, Salem, Oregon, Frank C. Baker, State Printer, 1891.

#### BIENNIAL MESSAGE OF GOV. SYLVESTER PENNOYER TO THE LEGISLATIVE ASSEMBLY SIXTEENTH BIENNIAL SESSION 1891

Gentlemen of the Oregon Legislative Assembly:

You have convened and duly organize the sixteenth regular session of the legislature of Oregon, and now, in pursuance of a duty imposed by the oath of office just taken, the following information touching the condition of the State and recommendations of necessary measures are submitted for you consideration. For more detailed information you are referred to the reports of the various State officers:

#### STATE INDEBTEDNESS

January 1, 1887, principal and interest_____	\$95,217.69
January 1, 1889, principal and interest_____	29,411.66
January 1, 1891, principal and interest_____	2,335.35

The money for the payment of the indebtedness now existing is in the treasury. The outstanding bonds and warrants comprising it have been advertised, interest on them has been stopped years ago, and the probability is that they will never be presented for payment. The State of Oregon is there fore practically free from debt.

## STATE EXPENDITURES

	1885 -6	1887-8	1889-90
Governor's Office	\$6,800.00	\$6,800.00	\$6,800.00
Secretary's Office	7,850.00	9,651.11	10,450.00
Treasurer's Office	4,200.00	5,220.00	6,187.50
Superintendent of Public Instruction's Office	4,508.85	6,541.25	6,600.00
State Printing, Including Binding and Paper	32,092.08	31,072.99	36,660.85
Library, Code and Reports	9,783.52	17,203.23	10,644.59
State Land Office	7,005.50	8,423.48	8,209.13
Legislature	49,159.29	41,089.63	41,990.63
Judiciary	66,434.12	77,034.53	86,462.44
Penitentiary	56,060.47	69,786.37	73,347.85
Asylum	133,920.26	148,137.42	176,168.91
Penitentiary Improvement	133,920.26	148,137.42	176,168.91
Asylum Improvement	51,506.00	62,791.54	109,803.23
Capitol Improvement	96,429.56	36,343.75	14,087.58
Mute School	12,000.00	15,458.76	17,848.99
Blind School	11,115.51	10,121.67	8,742.76
Orphan's Home	6,000.00	8,000.00	11,000.00
Agricultural Board	10,000.00	10,000.00	19,000.00
Health Officers	2,800.00	3,545.54	3,993.53
Pilot Commissioners and Schooner	14,204.09	5,089.87	5,349.98
Dairy and Food Commissioner	3,901.49	2,112.50	3,356.99
Fish Commissioners	-----	12,192.82	6,538.93



Railroad Commissioners	-----	12,575.56	19,000.00
Agricultural College	14,644.49	21,125.11	64,475.14
University	29,063.76	26,921.00	34,471.47
Conveying Convicts	10,137.13	13,182.95	14,128.51
Conveying Insane	14,800.75	13,182.95	20,287.37
Incidental	17,942.66	24,990.88	25,150.00
Fugitive	6,984.32	3,000.00	5,139.21
Indigent	11,360.51	2,338.46	10,000.00
Wagon Roads	25,000.00	-----	116,000.00
Private Claims	7,584.38	2,149.75	2,088.00
Oregon National Guard	-----	16,805.49	33,823.56
Reform School	-----	-----	46,000.00
Horticultural Board	-----	-----	7,000.00
Domestic Animal Commission	-----	-----	4,888.00
Weather Bureau	-----	-----	1,8000.00
Total	\$815,253.34	\$738,405.04	\$1,071,128.36

The amount for the last biennial term includes estimated deficiencies.

#### EDUCATIONAL FUNDS

Following is a statement of the total amounts of the common school fund on January 1st of the years as mentioned:

1885	\$ 868,735.16
1887	1,059,409.01
1889	1,756,700.90
1891	2,203,554.86

The interest arising from such fund during the past few years has been distributed in the following amounts:

Year/Per Capita./Total
1885 \$75 \$59,046.75
1886 90 74,571.30
1887 100 87,217.00
1888 125 108,217.50
1889 140 130,337.20
1890 145 144,372.75

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There are also on the first of this year in the other trust funds amounts as follows:

Agricultural college funds, notes, cash, and due on certificates of sale\_\_\_\$130,289.82  
 University fund, notes, cash, and due certificates of sale\_\_\_\_\_102,106.18  
 Total amount in the several trust funds on the first of this year:

Common school fund\_\_\_\_\_ \$2,203,554.86  
 Agricultural College\_\_\_\_\_ 130,289.82  
 University\_\_\_\_\_ 102,106.18

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Total\_\_\_\_\_ \$2,435,950.86

The money belonging to these trust funds is loaned with scrutinizing care. A list of interrogation has to be answered by each applicant, thus giving a full description of the land and improvements. Careful attorneys are employed to pass upon the title and appraise the land. Only one-third of the amount of such appraisal is loaned. The board of land commissioners also invariably examines each application and supplements the judgment of the attorney with its own, and in repeated instances has, as their judgment dictated, reduced the amount applied for. No loans are made except on improved farm property. Under these conditions, and with these safe guards, these fund are as secure as it is possible to make them. During 1889 and 1890 they have increased to the amount of \$484,908.94

**SWAMP LANDS**

Swamp lands patented to the State in 1889 and 1890\_\_\_\_\_ 100,719.92 acres  
 Swamp lands certified to the State in 1889 and 1890\_\_\_\_\_ 90,437.10 acres  
 Whole amount patented\_\_\_\_\_ 134,807.36 acres  
 Whole amount certified and not patented\_\_\_\_\_ 87,664.54 acres  
 Whole amount examined and not certified (approximate)\_\_\_\_\_ 60,000.00 acres

There has been no examination of swamp lands by a State agent during the last two years, as by and agreement between the State and the interior department the report of the federal agent was to be considered as a final determination of the character of the land examined by him. The law relative to the sale of certain swamp lands passed by the legislative assembly and approved February 16, 1887, has been declared void by a decision of the federal court for the district of Oregon. From such decision an appeal has been taken to the supreme court of the United States, and as stipulation has been made to present the case on printed briefs, it is expected that a final decision will be soon reached.

**STATE CHARITABLE AND PENAL INSTITUTIONS**

There can be no doubt but that the State of Oregon can be congratulated on the very excellent management of the State penitentiary and insane asylum. The assertion can be made without fear of successful contradiction that these institutions were never better managed than now. For the necessary details as to such management, reference can be had to the reports of the superintendents. The \$30,000 appropriated by the last legislature for the purpose of purchasing an asylum farm have been most judiciously expended. Six hundred and forty acres of the finest of the farm lands of Oregon have been secured, about four miles from the capitol. The recommendations from the superintendents of both institutions as contained in their reports are worthy of your consideration. The trust confided to the board of education by their act of the last legislature in the expenditure of \$30,000 for the purchase of a reform school farm and the erection of a necessary building, has been faithfully executed. A farm of over 380 acres of land, upon which is a valuable water power, has been secured and the most attractive building in the State has been erected thereupon. IN order to secure the erection of such building a deficit of about \$16,000 was necessarily incurred. It is now incumbent upon the legislature to make further enactments as to the management of such school. Steps should be taken to have the deaf mute school, which is an expensive mendicant upon the State treasury, placed under State control. It was formerly so. But through the manipulation of interested parties it was placed independent of it, and now, while it is supported by State funds, its managements entirely beyond the control of State officers, and the State auditor, whose duty under the constitution is to audit all accounts,

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has no control whatever over the expenditures of that institution. All institutions supported by the state should be under the control of the State.

### **STATE UNIVERSITY AND AGRICULTURAL COLLEGE**

The recommendation made to the legislature, to the effect that no further taxation of the people in behalf of these educational institutions should be permitted, is renewed. No general tax should be levied which is not for the general benefit. It is proper to levy tax for the support of our common schools, as all classes of people in all localities can be benefited thereby. But it is different with the higher institutions. But comparatively few of the children of the State can be educated therein, and it is most unjust to tax the parents of those children who can not be educated for the benefit of those who can. Furthermore, there are other high institutions of learning in this State, which have been erected and are now sustained by the generosity of some of our most liberal citizens, and it is cruelly unjust to tax those public-spirited individuals for the very purpose of building up rival institutions to those for which they have spent their money and in the success of which they are deeply interested. Besides this, these two institutions are now richly endowed and are quite well able, with proper management, to succeed without further appeal to the State treasury. The State university has now on interest more than \$100,000, arising from the sale of university lands, while the agricultural college has an endowment of over \$130,000, arising from the sale of agricultural college lands donated by the general government of \$30,000 per annum, and which is to be increased \$1,000 per year, until it reaches \$40,000.

It will thus be seen that these institutions are now liberally provided for. That they are abundantly able, by the entire abolition of free scholarship – species of pernicious class legislation – and by the collection of a reasonable tuition fee, together with frugal management, to successfully compete with other high institutions that possess no other endowments than their just merits. It is urgently recommended that a change should be made in the formation of the board of regents of the agricultural college. As the law now stands, the Governor has the appointment of the members of this board and is also ex officio a member thereof. This is clearly wrong. A change in the law which would omit the Governor and Secretary of State as members of the board, and require that all of the members to be appointed should be practical farmers or business men, would be wholesome one.

### **RIVER IMPROVEMENTS**

The board of United States engineers designated for the purpose of suggesting improvements at the Dalles of the Columbia have estimated the cost of a portage railroad between The Dalles and Celilo, on the Columbia river, which, it says, would be adequate for the present commerce of the river, and which could be built in one year, at \$431,500. It has also estimated the full cost of a broad railway at \$3,575,356. If the building of the boat railway, instead of the portage railroad, should be determined upon, and if congress should make appropriations for it in the same manner that it has made appropriation for the canal at the cascades of the Columbia, it would take over thirty-four years – more than a third of a century --- to witness its completion. The board of engineers recommended that the portage road should first be built, as it would open the river upon speedily to commerce and would furnish a necessary auxiliary to the improvement of the river between the two points mentioned by other more extensible and more permanent improvements. But our delegation in congress, regardless of the suggestions of the engineers as to the advisability of a portage railroad, if a speedy opening of the river to commerce be desired, and apparently unmindful of the needs of our people for it, are laboring for appropriations for the boat railway instead of the portage railroad. No more suicidal policy in regard to the interests of Eastern Oregon in particular, and the whole State in general, could be prosecuted.

To enter upon a method of improvement yet in its experimental stage, and which, if successful, will probably take a third of a century to secure its completion, when another mode can be adopted which would speedily open up that great thoroughfare to free commerce, is the very reverse of sound business policy. The great paramount interests of the whole State imperatively demand that this legislative assembly should issue positive instructions to our delegates in congress to procure and appropriation of \$431,500 for the building of a portage railroad around the dalles of the Columbia. Instructions should also be given for the appropriation by congress of about \$250,000 for the permanent deepening of the channel of the lower

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Columbia, as well as for the improvement of the upper Columbia and Willamette rivers. The breakwater at the mouth of the Columbia has effected a just marvelous change, and the expenditure of a quarter of a million of dollars in breakwaters along the lower Columbia, where its width now permits shoaling, would give a good and sufficient channel for large ships from Portland to the sea. This is a matter in which every wheat-grower and producer in Oregon is deeply interested, and it might not be amiss if the legislature should instruct Senator Dolph to forego the advocacy of his bill appropriation one hundred and twenty-six millions of dollars for coast defenses not needed, and to urge the expenditure of a quarter of a million of dollars for the improvement of the lower Columbia, which would add, for the farmer, at least one dollar to every ton of wheat exported.

### **THE WILLAMETTE CANAL AND LOCKS**

The State of Oregon, by an act of its legislative assembly, approved October 21, 1870, appropriated two hundred thousand dollars to aid a private corporation in building a canal and locks at the falls of the Willamette river, upon the express condition that the said corporation shall pay to the State of Oregon, for the benefit of the common school fund, ten per centum of the net profits arising from the toll collected for passing freights and passengers through said canal and locks, the rates of which were therein designated, and upon the further condition that "at the expiration of twenty years from the time said canal and locks are completed, the State of Oregon shall have the right and privilege to take and appropriate to its own use forever, the said canal and locks, upon the payment to the said corporation the actual value thereof at the time of taking and appropriating the same, which value shall be ascertained in such manner as the legislative assembly may hereafter prescribe." The twenty years will expire in the latter part of the year 1892. It is therefore incumbent upon this legislature to take the necessary steps in order to have the State avail itself of the great privilege guaranteed to it by the above provisions of law. Under State control no higher rate of toll should be collected than would be necessary to operate the locks and keep them in good repair. In fact, by utilizing and leasing the very valuable water power now controlled by the locks, or which could be controlled by the just exercise of the right of eminent domain, if necessary, the State could receive sufficient revenue to open the locks to free commerce, besides furnishing a surplus for the State treasury for the benefit of the common school fund. The legislative assembly, as the law provides, shall prescribe the manner of fixing the sum to be paid to the company for the locks. Probably the fairest method, and one to which the company could certainly make no objection, would be to take the value fixed by the company itself, in its dealings with the State, under the law.

### **FISHERY INTERESTS**

At the last session of the legislature, three bills, passed at the instance of the board of fish commissioners, received the Executive veto and will come before you for consideration. Of that number, senate bill 135 reduces the fine for violation of the fishing law of the State from five hundred for the first offense and one thousand for the subsequent ones to "a sum not less than fifty dollars nor more than two hundred and fifty dollars." This would be a change by which the opulent canneryman owning his own traps or fish-wheels could disregard the law on account of the small fine, and it would deter only the poor man who fished with nets. There is also omitted in this bill that necessary provision in regard to the size of the mesh of nets and the regulation of traps. The conclusion is irresistible that the bill is in the interests of the opulent cannerymen, and the law, as it now stands with its stringent provisions, is much more just and efficient. The recommendation made to the last two legislatures for a law prohibiting the use of seines, fish-traps, and fish-wheels, is again urgently renewed. The legislature of Oregon should see to it that the greed of the present generation should not be allowed to ruin the fishing interests of our State. It should provide that but one mode of catching the salmon of the Columbia river should be allowed, and that mode should be by nets, available alike to the poor as well as to the rich. To allow the taking of the Columbia river salmon by seines, traps and fish-wheels is to virtually turn over the fishing industry to a monopoly of a few persons, some of whom, by having secured some eligible points along the river, have been enabled to take out over ten tons of salmon in one day by one wheel. No such undue privilege should be allowed by law. The hatchery and Clackamas having been turned over to the United States government and the State board of fish commissioners having examined the Columbia and its tributaries without finding a place "that will hold any comparison with the Clackamas" for hatching purposes, obviated any further need of that expensive board

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and any further outlay for hatchery purposes. It is no more just to make special outlay for the fishing interests of the State than for any other particular interest, but if such outlay is to be made, and appropriation of five thousand dollars for a fish ladder at the falls of the Willamette is far more meritorious than the retention of an useless fish commission.

### **ASSESSMENT AND TAXATION**

One of the most important matter to engage your attention is the absolute necessity of a through and in some respects a radical change in our laws relative to assessment and taxation. As the law now stand, with but a mere nominal penalty and one difficult to enforce for a failure on the part of a taxpayer to give to the assessor a sworn statement of all his property, real and personal, it is impossible to reach but the merest fraction of personal property, thus allowing those possessed of money and other species of personal property to escape this share of the burden of taxation, thereby throwing a double a burden upon the owner of real property. No amendment of our laws should be made without containing a provision that would secure beyond all peradventure the sworn listed statement from every taxpayer of his property, real and personal. Provision should also be made by which the State revenue could be raised directly from the people, entirely independent of county taxation. This would prevent that condition of affairs which now prompts a low assessment in each county, in order to prevent an unjust share of State taxation, and would also obviate the necessity of a State board of equalization – an expensive instrumentality, which, as it would be entirely impossible for it to examine each piece of property which has been passes upon by the county assessors, would be necessarily important of performing fully and satisfactorily the duties assigned to it. A sufficient State revenue, independent of any county levy, could easily be secured by requiring to be paid in the Sate treasury a poll tax of \$2 on every male person over 21 years of age, a graduated income tax on all incomes exceeding \$1,000, and a tax upon the gross receipts of express, telegraph, telephone and insurance companies. The law can be made so as to secure the full payment of all these taxes by making the production of a poll tax receipt for the current year at the polls a required proof of the residence of the voter, and by the imp9osition of a heavy fine by the courts for a failure to give a sworn statement of the taxpayer's income, or a various companies sought to be taxed. The law should be fixed also in all of its details so as to enforce that constitutional provision which requires the securing of a just valuation of all property, real and personal, and for its uniform and equal rate, both of assessment and taxation. The exemption now allowed by law to every householder is apparently a reasonable one, and that provision which requires the taxation of money loaned on mortgages to be made in the county where it is so loaned is a just one.

There is the most grave doubt as to whether, under that provision of the fundamental law requiring an equal rate of taxation, the legislative assembly of this State can rightfully give authority to municipal governments, in charters greeted to them, to impose any license tax whatever upon any business or vocation. An equal rate of taxation can be had upon all property, real and personal, and incomes, but a fixed license tax, demanded for the privilege of conduction business in certain callings, cannot be an equal tax, unless all other callings ore equally taxed, and for the further reason that some persons paying the same license as others in the same calling may not be able to transact the same amount of business or derive the same amount of profit. And the experience has also shown that these taxes are not placed where there is the best ability to pay and where justice demands that the should be placed, but as a rule the wagon of the poor expressman is taxed, while the carriage of the gentleman of wealth is untaxed, and the pawnbroker who deals with the most unfortunate classes of the community pays, while the banker who deals with people of means is exempted.

If the provision of law allowing deduction for indebtedness be retained, it would be well to inquire whether such deduction should be allowed for debts owing to national banks, No deduction is now allowed for debts owed to parties outside the State for the good reason that the corresponding credits cannot be taxed For a like reason debts owed to national banks should not be deducted, under the law of congress the State is permitted to assess only the shares and real property of such bank. No permission is given to assess the notes and accounts owned and held by them. The State assessors are there fore precluded from making the inquiry as to whether claims for indebtedness to such banks as may be made are real or fictitious. To deduct such claimed indebtedness would therefore leave the door wide open to fraud. If, then, deduction for

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indebtedness is allowed, the law should of only exclude all indebtedness owed outside the State, but also all that is non-assessable within the State.

### **RATE OF INTEREST**

If there be any change in the statute prescribing the legal rate of interest on money loaned, and forbidding usury, it should be only changed by fixing a lower rate with more rigorous provisions for its observance. The law ought not be repealed. If money was on an equal footing with other property, it would be unjust to pass any laws regulating its use which did not equally apply to all other property, but so long as it is clothed by law with an attribute which no other species of property possesses – that of being a legal tender in payments of debts --- just so long it is no more than just that the law should regulated its use. Property favored by law should be controlled by law.

### **ABOLISHMENT OF OFFICES**

More than one hundred offices were created by the legislative assembly of the State at its last two sessions, exclusive of the officers necessary to put in operation the new counties made. There is no need of multiplying officers to prey upon the people. Instead of creating commissions for every conceivable purpose for each particular interest, and as representing the State, to exercise supervision over and as representing the State, to exercise supervision over each one of our manifold industries and occupations, as is each one of our manifold industries and occupations, as is the tendency of modern legislative action, there should be at once a return to the old rule established by the wisdom at once a return to the old rule established by the wisdom at once a return to the old rule established by the wisdom and experience of centuries, of governing the various industries and interests of the commonwealth by well established general laws, administered by the authorities designated by the constitution. The commonwealth should be governed by duly enacted laws and not by the edicts of unconstitutional commissions, and the law should be administered by the officers created by the constitution. All commissions for the enforcement of State laws ought to be abolished. If there be laws fixing the freight rates on railroads, there is no need of a railroad commission; the necessary laws regarding our fishing interests can be enforced by the executive and judicial departments, dispensing with all necessity of fish commissioners; the Federal government having passed an oleomargarine law, dispenses, to a certain extent, with the necessity of a State food inspector, which officer, if so disposed, which the present faithful incumbent has not been, under the law as it now stands, like all commissioners endowed with power, could reap a private fortune without doing any material public good, and the negligence of fruit-growers could be punished as well without as with an itinerant inspector. The law creating a court reporter should also be repealed because of its tendency to monopoly. The various industries and occupations of our people should be controlled by general law, administered by the duly constituted authorities, and the swarm of special officers for special purposes, which are becoming as big a plague to our people as the frogs and lice were to the people of Egypt, should be abolished. The executive and judicial departments created by the constitution can administer the law, thus saving the extraordinary expense of these multiplied commissions. Let the laws creating the various commissions be repealed, and an enactment made authorizing the Governor, like in the event of a violation of law affecting public interests, to appoint a prosecuting witness to bring the offender into court for punishment, and the law can be administered more thoroughly than it is now under a divided responsibility, In order to still further reduce the taxation imposed upon the people in favor of office holders, it would be well to pay all county officers fixed salaries, and compel them to turn all fees paid under the law into the county treasury.

### **SETTLED QUESTIONS**

Two very important questions were definitely settled by the people at the last election in this State, one of which was that the issuance of non-taxable bonds should never be authorized by the legislative assembly, and the other was the adoption of the Australian ballot system. All three political parties declared in favor of the ballot law as proposed by the ballot reform league of the State, and good faith will require of this legislature the speedy and unanimous passage of such law.

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A registration law should be passed in connection with the Australian ballot law. The ballot law provides for the free expression of the voter, and a registration law should be passed in order to prevent a repetition of such expression by any one voter at the same election.

### **APPROPRIATION FOR FAIRS**

Under the law providing for the organization not a State board of agriculture, approved February 20, 1885, there is given to such board the possession and care of the property of the State agricultural society and the management of its entire business and financial affairs. There is now an encumbrance of about ten thousand dollars on the State fair grounds, the title of which is in the old agricultural society. It would be extremely advisable for the State to provide for the liquidation of such indebtedness upon the condition of the transfer of the title of such property to the state by the society aforesaid. By virtue of another provision of the act before mentioned, an annual appropriation of \$5,000 is made payable to the State board of agriculture, to be used in payment of premiums awarded by such board. At the last session of the legislature, upon the argument that the disbursement of such sum for premiums was, of necessity, somewhat local in its character, as the residents from the extreme portions of the State were not able to compete for them, and, as a matter of apparent equity, provision was made by law for the holding of two district fairs in Eastern Oregon and one in Southern Oregon, and an annual appropriation of \$1,500 was made for each of such fairs. There is now, therefore, \$9,500 appropriated from premiums annually, and yet there is nearly the same reason for complaints as before. For instance, the report of the board of the First Eastern Oregon district agricultural society for the present year discloses the fact that the entire \$1,500 was distributed to only fifty-two persons in the vicinity of Baker City. It will thus be seen that the equitable distribution of money appropriated for premiums by the State has not even been attained by the multiplicity of fairs. Is it just that the citizens of Clatsop, Coos or Lake counties should be taxed for the purpose of raising the sum of \$1,500 to be paid to the fifty-two persons residing near Baker City as premiums on articles perhaps inferior to what they might have presented if equal opportunity had been afforded them: The plain rule of right demands that no tax should be laid by the government upon the people for any other purpose that whenever this just rule is departed from, and taxes are laid upon all for the purpose of giving bounties to the few, it will sooner or later meet with popular disapproval. It cannot be denied that if the legislature of a State makes appropriations for such purposes, there is no power that can gainsay it, not is there any special constitutional inhibition against it, but that law of justice which forbid that any one man should be taxed for the benefit of any other man, and which is equally as sacred as are the provisions of any constitution, ought to control the action of the legislature in this matter.

An effort, sanctioned by the State board of trade and by very many of the leading journals of the State, will be made to secure at the present session of the legislature an appropriation of \$250,000 to be expended in advertising the State at the Columbian Exposition, to be held at Chicago two years hence. Can such sum, or can any sum whatever be right fully appropriated for such purpose from money collected by taxation of the people? If it is unjust to tax the whole people to raise money to be expended at fairs within the State, would it not be much more unjust to raise money by taxation to be expended for fairs without the State?

In this day, when the people are taxed for almost every conceivable purpose, Oregon would gain a wide and well earned popularity among the over-taxed people of other States if it would refuse to levy any tax for any purpose except and economical administration of government. Such a refusal would be calculated to induce a large immigration thitherward.

### **LOCAL IMPROVEMENTS**

While there is no provision of the constitution forbidding the appropriation of money collected from a general tax for special and local purposes, yet the proposition that the people of one locality should be taxed for the benefit of the people of another locality, is so manifestly unjust as to merit the most positive disapproval. No general tax would be levied for any other purpose than the general welfare. And when money collected from such a tax is appropriated for local improvements, such appropriation should only be made upon the express condition of a compensation by the collection of a sufficient toll or revenue from the improvements so made as to insure to the public treasure a fair interest upon the investment.

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## **RAILROAD COMMISSION**

One of the first acts which should be performed by this legislature should be the repeal of the law providing for a board of railroad commissioners. As the law now stands sinecure positions at fat salaries are furnished to formant with not other duty of any practical result than a quarterly visit to the State treasury for their stipends. The law should be at once repealed. There is no place under our State constitution in the discharge of any State duty for a railroad commission or any other commission. Under our constitution all the powers of government are conferred upon the three departments --- legislative, executive and judicial --- created by it. There is, therefore, no provision or excuse for a railroad commission. The power to regulated right rates on railroads cannot be conferred upon it because that is a power delegated to the legislature by the people under the constitution, and it is a well-established rule of law that delegated power cannot be again delegated by the agent. Nor can the power be given to it to enforce the law in regard to railroads. Section 10 of article 5 of our State constitution, referring to the prerogatives of the Governor, expressly declares that "he shall take care that the laws be faithfully executed."

The power therefore to execute the laws is given to the Executive, and cannot rightfully be taken from him. Nor can a commission be endowed with any power to adjust questions at issue between railroads as common carriers and others, for the reason that such adjudication would be an exercise of judicial power, which under our fundamental law is "vested in a supreme court, circuit courts and county courts." There is therefore no place whatever for a railroad commission in our State government, and that expensive and useless board should be at once abolished. The recent railroad disaster when the State discloses the utter uselessness of such a board. The testimony gathered by such a board in to such a matter is of no avail, inasmuch as the testimony which will be hereafter taken in our regular courts of justice --- the tribunals designated by law for such purposes --- will be taken without any regard to any action held by any board. And, finally, if it be desired that an examination by authority of the State by made annually or semi-annually of the bridges and roadbeds of the carious railroads of the State, an expert in such matter to be appointed by the Governor, who would make on foot a through examination of such roads, would be much more effective of good than the examination of a dozed railroad commissioners made for the windows of palace cars.

## **LAW REGULATING MONOPOLIES**

Laws should be passed fizing the maximum rates to be changed by the railroad and telegraph companies within the State, and the legislative bodies of all incorporated cities should have the power conferred upon them to fix the rates to be charged by all monopolies within corporate limits, such as gas, water, telephone, and electric light companies. Laws should also be passed preventing by the imposition of heavy penalties any discrimination whatever by common carriers, in either freight or passenger transportation, or in the charges of telegraph, telephone or other monopolies.

In order to secure reasonable charges for he towage of vessels from the open sea into the Columbia river, by which the commerce of our State would be increased, and the cost of the transportation of our exports to foreign markets would be materially lessened, to the direct benefit of the producers of the entire State, it would be extremely advisable before the State itself to provide by law for he building of two steam tugs, to be operated by the state in connection with the pilot schooner now owned by the State, charging only for the towage of v vessels such rates as would merely pay the interest on the investment, the current expenditures and the other necessary outlays for keeping the tags in good repair, Let this be done, and let the Columbia at the cascades and the dalles and the Willamette at the falls be opened to free commerce, and all monopolies upon our transportation facilities would be completely disarmed and removed by open and free competition. Such methods are much more effective of reasonable charges than are the rates fixed either by the statute law or railroad commissions, and the necessary outlay for such provisions for the cheap transportation of our products to foreign markets, uncontrolled by monopolies, would be much more effective n inducing immigration than twice or thrice the amount expended in advertising our State in any fair to be held beyond its borders.

The enactment of another statute in regard to corporations engaged in railroad transportation is emphatically demanded by every instinct of American manhood. It has become a too frequent occurrence, in the event of a difference between railroad corporations and their employees, as to the matter of wages or of



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just treatment, for such corporations to surround themselves with a hireling soldiery, unknown to the law, at variance with the law and defiant of the law, In controversies of all kinds between such corporations and their employees, arbitration is the fairest mode of settlement, and it ought to be provided for by statute law; but where it is not so provided for, where the parties are compelled to settle their difficulties with out legal arbitration, a stringent law should be passed for placing them both on an equal footing by preventing the one party from pointing the rifles of its hired assassins at the stomachs of the other party pending the settlement of such difficulties. Such unfair advantage is liable to secure an unfair adjustment. The law should intervene in behalf of justice. There can be no doubt whatever but that the presence of armed forces within the State other than the forces recognized by the laws of the State would be an invasion within the meaning of the constitution which would amply justify the Governor, as commander-in-chief, in pursuance of the provisions of our fundamental law, in calling our the military force of the State to disarm and deport them, but it would much better become a civil government to provide by the enactment of proper statutes for the arrest by civil officers and the punishment by the courts of any wanton invasion of a free government by the armed forces in the employment of corporations.

The recommendation that a maximum rate law in regard to freights on railroads should be enacted, which was made at the last two sessions of the legislature, securing justice alike to the railroad corporations and people, is again earnestly renewed. Recent events showing a tendency to a great consolidation of railroad interests in one gigantic trust controlling all of the principal roads of the country, and thereby destroying all hopes of that healthy competition which alone is conducive of fair rates, much convince the most skeptical, if past experience has not already done so, that the time have at length arrived when the legislative assembly of Oregon should exercise itself and not by any illegal proxy the plain duty imposed upon it of protecting the people of this commonwealth against the unjust exactions of common carriers. Nor is this at all a difficult task, as experience has furnished a safe guide. The rates established in Iowa and acquiesced in by both the railroad companies and the people will furnish and approximate basis upon which to frame the proposed law. Both the passenger and freight rates within the States should be fixed at figures very nearly corresponding with general rates in other States, and any and all discrimination in either should be effectually prohibited. In case of a violation of such a law on the part of the corporations, the Governor should be authorized to enforce the law by bringing the violators before the courts, through the instrumentality of a prosecuting witness of behalf of the State.

A most stringent law should also be enacted compelling all contractors and sub-contractors on any work for railroads or other corporations to make weekly payments to their employees and laborers, either in cash or by orders on the corporations, which orders shall be promptly paid in cash upon their presentation. The great necessity for the passage of such a law has been emphasized within the last month by the cruel and shameless treatment of laborers upon a railroad in a neighboring State, who in mid winter were not only without notice suddenly deprived of employment, but were compelled to wait for weeks for the pittance due them or suffer ruinous discount upon the scant returns of their hard labor. Such flagrant injustice merits the most condign punishment that the law could possible inflict.

### **INTERFERENCE WITH STATE LAWS**

Within the last six months a judge of the inferior Federal court for the district of Oregon, in a case brought by a citizen of California against the board of land commissioners for the State, which board consists of the Governor, Secretary of State and State Treasurer, has presumed to have and to exercise the power to declare a statute law of the State, passed in pursuance of the forms and requirements of the State constitution, to be void and of no effect within the state, and has had the further presumption to attempt to prevent the officers of the State from obeying the law, by an injunction forbidding them from so doing. The proper thing for the board to have done in the dilemma when the statute law of the State bade it to pursue one course and the mandate of a inferior federal court bade it to disregard the law, would have been to obey the law of the State, but as the board was not unanimous in this regard, no action had been taken in the premises further than an appeal from that decision to the supreme court of the United States. A subsequent decision was rendered in the same court within the last two months by which an offender against the laws of the State, who was held under arrest by virtue of a process of the State, who was held under arrest by virtue

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of a process of the State courts, was taken from its custody on writ of habeas corpus and set at liberty, the Federal judge passing upon the facts and holding that they did not justify his arrest by the state courts.

There is now no longer any use in shutting our eyes to the great present and impending peril which threatens our free and constitutional form of government. The nice balance of powers between the State and the federal government has become nearly destroyed by the usurpation of power and jurisdiction on the part of the federal courts. This usurpation, although becoming more burdensome and unbearable, has to a certain extent been exercised for nearly a century, and rests upon the unfounded claim of the supreme court of the United States that the power to declare a law void was a judicial power, when in fact it is nothing else than a purely legislative prerogative. The power to repeal an enactment of the law-making power by a decision of a court declaring it to be void, in all the history of all civilized peoples has never been claimed or exercised until it was usurped by the federal supreme court. And that the claim of such power as judicial was clearly without foundation no careful student of constitutional history can for one moment deny. By reference to the debated in the convention which framed the federal constitution (5 Elliott, 483) it is clearly demonstrated that the jurisdiction of the federal court, under article 3, section 2 of such instrument, upon which this unfounded claim alone rests, was intended by the framers of the instrument to be limited to "cases of a judiciary nature." It was not then even supposed by any member of that body, many of whom were able common-law lawyers, that under such provision the court could exercise the purely legislative prerogative of repealing or nullifying either an enactment of congress or of a State legislature by declaring it to be void. And the exercise of this usurped legislative power of the courts, becoming more and more frequent with each recurring year, is bringing inextricable confusion in our jurisprudence; it is subversive of that order which is the fair consequence of well established law; it is inimical to the peace of society and the security of property; it is a reproach to an intelligent people and justly subjects a nation acquiescing in it to the derision of the civilized world.

The danger and confusion arising from the claim on the part of the federal courts of the power to not only set aside the law of the State within the limits of the State, but also to wrest from the jurisdiction of the State courts persons clearly held under such jurisdiction by virtue of State laws and turning loose upon the community untried criminals, has become more than doubly increased within the last year, for the reason that within that period the supreme court of the United States, by virtue of the power to negative laws claimed by it, and the exercise of which power has been acquiesced in by the other departments of the government and the people, has to all intents and purposes radically changed our form of government. Within the last year that court has reversed its own decision in the granger cases, and now holds that the federal courts, rather than the legislatures of the several States, have the power to fix as reasonable the rates to be charged by common carriers within State limits (134 U.S., 418); it has also reversed its own decision in another respect and now denies the right of a State to exercise its reserved police power to prevent the sale within State limits of articles deemed inimical to the public welfare, which has heretofore been held sacred (135 U.S., 100); it has again reversed for the second time its own decisions in the celebrated Virginia coupon cases, and now holds that the State officers in the enforcement of State laws are liable to punishment by the federal courts, if in the judgment of such courts such laws are not as they ought to be (135 U.S., 162), and worst and most infamous of all, is its decision that the State is to be denied the exercise of its police power for the punishment of a certain class of murderers within its limits, by setting at liberty the secret, armed assassin, who accompanied a federal judge in California, and who shot down in cold blood and unarmed citizen of that State, declaring the startling doctrine that "any duty of the marshal to be derived from the general scope of his duties under the laws of the United States" is "a law," thus placing it within the power of the president or his attorney-general, without authority of a statute law of congress, to keep body-guards for every federal official, which guards can wantonly shoot down the unarmed people of the State, and through the exercise of the writ of habeas corpus by the federal courts, can be shielded from the punishment of their crimes. --- (135 U.S., 1)

The plain and undeniable deduction from these decisions of the supreme court of the United States is that if the inferior federal courts are to be retained to exercise power and jurisdiction within State limits, the further continuance of State governments is entirely unnecessary, and is really a fraud upon the people. The

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logic of these recent decisions is plain and conclusive, and it is to the effect that State governments should be abolished or that the law creating federal courts within State limits be entirely repealed, or so changed as to limit them exclusively to cases of admiralty and maritime jurisdiction. To leave such inferior courts within State limits to exercise the jurisdiction now claimed by them is simply to acquiesce in a virtual annihilation of State governments. This result will never be tolerated by the free people of this country. There is then only one logical alternative. The inferior federal courts are not the creatures of the constitution, but of congress. Congress made them and congress can unmake them, and the bold and wanton usurpation of power by them is a startling warning to the people that the time has fully come when congress should unmake them. The legitimate powers that they exercise could be well exercised by the State courts, with appeals as now to the supreme court of the United States, and this confusion arising from a clashing of jurisdiction between the federal and State courts and between the federal court and the legislature, which is now making us the laughing-stock of the whole world, could be obviated.

Gentlemen of the Legislative Assembly of Oregon: There is no duty so imperative upon you as is the duty to instruct our delegation in congress to labor either for the entire abrogation of the federal inferior courts or for their restriction to cases of admiralty and maritime jurisdiction. That there is urgent necessity for this, you cannot for one moment doubt. The people expect you to change our laws in respect to assessment and taxation. Of what advantage will be the most equitable enactments in that regard if the federal court will, as it has done three times within the last few years, interfere and declare certain portions of such laws to be void. The legislature of Oregon, at its fourteenth regular session, enacted a law authorizing the board of land commissioners to sell certain lands. The federal court has declared the law void, and has assumed to enjoin the three highest administrative officers of the State from obeying and enforcing the law. Previous legislatures have attempted, and it undoubtedly is your purpose, as it is your duty, to pass laws regulating monopolies, but of what avail will such laws be, if the federal courts, as it is claimed, can set them aside at their pleasure? The people of this State are guaranteed protection under the constitution in the courts for life and property by the punishment of criminals, but such guarantee is of no purpose of the federal court within the State, by writ of habeas corpus, can take such criminals from our of the jurisdiction of the State courts, and set them at liberty.

The humiliating spectacle of an utter disregard by an inferior federal court of the enactments of sovereign State, and the processes of its courts, has already offended a free people too long. One hundred and fourteen years ago our patriotic forefathers declared that the American colonies "are and of right ought to be free and independent States," and yet at threat time those colonies were not subjected to the humiliating tyranny by the British crown that the States now suffer from the federal courts. It is your duty to declare again in favor of the freedom and independence of the United States under the constitution, by demanding that congress shall, by law, materially restrict the jurisdiction of the federal inferior courts, or, what is much better, entirely abolish them.

#### **NECESSARY FEDERAL LEGISLATION**

AS the people of Oregon are as materially affected by federal as by State legislation, it is perfectly proper that the legislative assembly, by joint resolution, give instructions to our delegation in congress concerning measures of federal legislation affecting the people of this commonwealth, especially in regard to the following matters of great importance; More stringent legislation for the exclusion of the pauper hordes of China; the imposition of a graduated income tax by which the wealth of the country, now entirely exempted, will be compelled to bear its just share of the public burden; the further adjustment of our revenue laws by which all tariff taxation shall be removed from the necessities of life and placed alone upon luxuries; the forfeiture of all railroad land grants not redeemed within the time required by law; provision for the forfeiture of the charters of the several bond-aided Pacific railroad companies for their non-compliance with law, and for either the sale of such roads to realize payment of the debt owing to the United States or for the assumption of ownership and management thereof by the government; a postal telegraph by which the government in the exercise of its constitutional functions can relieve the business of its own departments and the business of the country fro the exactions of a most unscrupulous monopoly; unalterable opposition to the granting of subsidies upon any pretext whatever; unyielding resistance to the

control of the ballot box by federal judges; the abolition of the federal inferior courts, or the very material restriction of their jurisdiction; the free coinage of silver ; the issuance by the government direct of all money of the country; the denial to the national banks of the special privilege now granted them to being furnished with money without interest; the discontinuance of the unjust policy adopted by the last federal administration and followed by the present one of placing with the banks a large portion of the surplus, wrung from the people by unnecessary taxation, without any charge for interest; the providing for the loaning of money by the government upon the improved farm property of the country, as is now successfully done with more than two millions of the educational funds of Oregon, at a low rate of interest, for the benefit of the many, and the discontinuance of loans to the banks upon what the government owes, without interest, for the enrichment of the few.

**CONCLUSION**

There can be no more commendable way for us who have been entrusted with the law-making power of this commonwealth to show our gratitude to our constituency for the trust confided to us than by the enactment of wise and necessary laws. Let us act in the fear of God and without the fear of man, always mindful of the cardinal rule, that no tax should be laid upon the people that is not equal, or for any purpose other than a frugal administration of the government in its full conservation of the general good.

SYLVESTER PENNOYER

**BIENNIAL MESSAGE, 1893**

**Source:** Journal of House of the Legislative Assembly, 1893, Governor's Biennial Message, Salem, Oregon, Frank C. Baker, State Printer, 1893.

**BIENNIAL MESSAGE OF GOV. SYLVESTER PENNOYER  
TO THE LEGISLATIVE ASSEMBLY SEVENTEENTH BIENNIAL SESSION 1893**

Gentlemen of the Oregon Legislative Assembly:

Pursuant to the requirement of the Constitution, the following information touching the condition of the State, and recommendations, are submitted for your consideration. For more detailed information you are referred to the report of the various State officers:

**STATE EXPENDITURES**

	<b>1887-88</b>	<b>1889-90</b>	<b>1891-92</b>
Governor's Office	\$6,800.00	\$6,800.00	\$8,588.90
Secretary's Office	9,651.11	10,450.00	13,364.75
Treasurer's Office	5,220.00	6,187.50	7,800.00
Superintendent of Public Instruction's Office	6,541.25	6,600.00	8,095.45
State printing, including binding and paper	31,072.99	36,660.85	50,374.62

Library, code and reports	17,203.23	10,644.59	15,443.62
State land office	8,423.48	8,209.13	9,201.88
Legislature	41,089.63	41,990.63	46,681.87
Judiciary	77,203.23	86,462.44	89,093.97
Penitentiary	69,786.37	73,347.85	82,409.82
Asylum	148,137.42	176,168.91	216,489.65
Penitentiary improvement	10,992.81	4,630.21	16,942.80
Asylum improvement	62,791.54	109,803.23	83,258.08
Capitol improvement	36,343.75	14,087.58	11,643.31
Mute school	15,458.76	17,848.99	15,316.42
Blind school	10,121.67	8,742.76	11,355.00
Orphans' home	8,000.00	11,000.00	15,000.00
Agricultural boards	10,000	19,000.00	19,000.00
Health officers	3,545.54	3,993.53	4,090.00
Pilot commissioners and schooner	5,089.87	5,349.98	5,380.55
Dairy and food commissioner	2,112.50	3,356.99	3,204.95
Fish commissioners	12,192.82	6,538.93	6,205.35
Railroad Commissioners	12,575.56	19,000.00	19,888.69
Agricultural college	21,125.11	64,475.14	46,338.50
University	26,921.00	34,471.47	44,289.15
Conveying convicts	13,182.95	14,128.51	22,961.93
Conveying Insane	17,706.57	20,287.00	24,961.93
Incidental	24,990.88	25,150.00	27,995.96
Fugitive	3,000.00	5,139.21	6,338.04
Indigent	2,338.46	10,000.00	7,626.73
Wagon roads	-----	116,000.00	-----
Private claims	2,149.75	2,088.00	11,031.16
Oregon National Guard	16,805.49	33,823.56	65,566.18
Reform School	-----	46,000.00	40,671.21
Horticultural board	-----	7,000.00	7,000.00

Domestic animal commission	-----	4,888.00	8,093.60
Weather bureau	-----	1,800.00	1,954.72
Miscellaneous	-----	-----	22,201.81
Boatman at Astoria	-----	-----	1,000.00
Resources of Oregon	-----	-----	5,659.89
Charities and correction	-----	-----	6,866.98
Portage railroad	-----	-----	60,000.00
Capitol Building	-----	-----	73,520.00
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Totals-----	\$738,405.04	\$1,071,128.36	\$1,242,227.43

**EDUCATIONAL FUNDS**

The total amounts of the Common School Fund on January 1 of the years mentioned are as follows:

1889_____	\$1,756,700.90
1891_____	\$2,203,554.86
1893_____	\$2,418,636.71

The interest arising from such funds during the past three years has been distributed in the following amounts:

year Per Capita Total	
1890-----	\$1.45 \$144,372.75
1891-----	1.45 153,151.90
1892-----	1.45 162,066.50

The following is the total amounts on January 1 of this year in the other trust funds:

Agricultural College_____	\$133,905.94
State University_____	102,229.67
Interest has been paid during the past two years on such fund:	
Agricultural College_____	\$22,778.38
State University_____	16,258.37

**LAND DEPARTMENT**

Swamp lands patented in the State in 1891 and 1892_____	20,967.47 acres
Swamp lands certified to the State in 1891 and 1892_____	22,393.18 "
Whole amount patented_____	154,874.83 "
Whole amount certified and not patented_____	89,990.72 "
Whole amount examined and not certified_____	40,607.00

The difficulties pertaining to swamp land matter are approaching a final if not a satisfactory conclusion. Although the State may be a slight gainer from the gift of swamp lands from the Federal Government, so far as money is concerned, yet it is an open question whether it would not have been much better, all things considered, if it had never received the gift.

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The Legislature of Oregon, by Act approved February 21, 1887, directed the sale of all unsold State lands at the uniform price of one dollar and twenty-five cents per acre. The argument used in favor of that law was the fact that all of the choice State lands has been sold, and that it would be better to dispose of the remaining lands at a low figure and place the proceeds at interest. Congress, however, by and Act approved February 28, 1891, allowed the States to select lieu lands where sections sixteen and thirty-six were mineral lands or where they are embraced in by Indian or other reservation. This Act opened the door to the selection of some of the very best of the remaining unsold land within the State at the low price fixed for State lands. And to add to this privilege, the Land Department at Washington permitted lieu lands to be selected outside of the land districts embracing such tracts. The State land Board, by furnishing public information of the facts pertaining to the selection of such lieu lands, did all that was in its power to prevent a few persons from reaping rich advantages as the result of State legislation and the subsequent unexpected Congressional legislation. Under the circumstances as they now exist, it perhaps would be advisable to fit the price of State lands at two dollars and fifty cents per acre.

### **STATE, PENAL, AND CHARITABLE INSTITUTIONS**

The State will be called upon to increase the accommodation in nearly all of its penal and charitable institutions. Additional building will be required on the Insane Asylum and Reform-School farms, and the Penitentiary and Blind-School buildings must be enlarged. The directors of the Deaf-Mute School propose to turn its property and management over to the control of the State, which is proper, as all institutions supported by the State should be controlled by the State. One of the most important questions before the Assembly will be n regard to the future employment of convict labor. The contract heretofore existing for the employment of convicts has now expired. Hereafter the State should work its own convicts, so as to interfere in the least with free labor, and to that end there is probably no better way than to follow the example of California and Washington in the erection of a jute manufactory. As the establishment of such a manufactory would occupy nearly two years, it will be necessary to furnish employment in the meantime to the convicts. This can be done by renewing the present contract for two years, or by the State assuming control of the foundry and making stoves on its own behalf. All the institutions mentioned are most creditably and efficiently managed. Some change in the law relating to convicts when they are released form confinement should be made. As they are now sent forth into the world with only a very cheap suit of clothes and five dollars in their pockets, it is indeed a great wonder that more of them do not soon return. A more just and liberal provision should be made.

### **STATE UNIVERSITY, AGRICULTURAL COLLEGE, AND NORMAL SCHOOL**

The State University received in 1891-92 from the one seventh of one mill tax, as now fixed by law, \$21,671.45. This law should be repealed. To tax the people for the whole State for the support of any high institution of learning is both unadvisable and unjust. The tax for the support of common schools is cheerfully borne for the reason that the children of the whole State can be benefited by it. A general tax for high institutions of learning is quite a different thing. Only a small portion of the children of the State can avail themselves of its advantages, and its support therefore by a general tax is most unjust. With the liberal aid already received from the State, and with the interest secured from the University Fund, it ought now to be able to keep abreast of the University Fund, it ought now to be able to keep abreast other high institutions of the State, which have been built up by private benevolence, and which are in the possession of no other endowments than those of their merits, It is indeed the most cruel injustice to tax the benefactors of several of the high institutions of the State for the support of rival institutions.

There is a law of the State providing for an annual appropriation of \$2,500 for the Agricultural College. This also should be repealed. That institution is now in receipt of \$31,000 a year from the Federal Government, which will be increased by the sum of \$1,000 annually until it reaches \$40,000, where it will remain. This, with the interest on the proceeds of the sale of the Agricultural College lands, should be sufficient for its support without aid from the taxpayers of Oregon. It would be well, however, for the Legislature to memorialize Congress for permission to use the interest accruing from the Agricultural College funds, now restricted, to the maintenance of the school, for betterments to the College property. If congress would so give its permission, as it undoubtedly would upon request, this institution would require no further aid from the State.

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By the provisions of a law passed at the last session of the Legislature, the State assumed control of the Normal School at Monmouth. The Board of Regents, created by law, accepted on behalf of the State the College property, and was authorized to appoint and employ teachers. By this law the State became morally and legally bound to extend aid to some extent to that institution. It should at least extend sufficient aid to offset the gift it accepted. Besides, this institution, by education teachers for the public schools, might be considered as a part of the common school system, and thus have a claim upon the State not possessed by the two other high institutions which have received State aid. At all events, the State having received property built up by private benevolence, should in return expend for the support and improvement of that College and amount equal to the value of the property.

### **THE CASCADE PORTAGE ROAD**

The last Legislature authorized the construction of a State Portage Railroad at the Cascades of the Columbia, appropriated sixty thousand dollars therefore, and empowered the Governor, Secretary of State, and State Treasurer, as a Board, to build and operate such road. The road was constructed within the appropriation, and although operated under some disadvantages, its operation has resulted in an excess of \$956.67 from November 4, 1891, to December 31, 1892, of receipts over operating expenses. It is the purpose of the Board to adjust the rates so that not only the operating expenses, but a fair interest on the cost, will be paid by the business of the road, as otherwise the sum expended in such work would have been an outlay from the General Fund for local benefit, which would be clearly unjust. Owing to the very high rate assessed to the State for the ground condemned for the railway purposes, a small deficiency exists, which it will be necessary to meet.

### **THE DALLES PORTAGE**

That it is the duty of Congress to overcome the obstructions at The Dalles of the Columbia, thereby opening that great inter-state river to free commerce, no one can deny; and that it would be grievous hardship upon the people of this State to construct that which should be done by the General Government, is equally clear. It was proposed, at a time when it was the general belief that Congress would make no other improvement than locks and canal at that point, that the State should build a portage road until such time as such canal and locks were completed; but since the Board of Engineers appointed for the purpose will recommend the building by Congress of a portage road, the great necessity for action on the part of the State does not now exist. In fact, but for the opposition of our Representative in the Lower House and of our senior Senator, work by the General Government on a portage road would in all probability be now under way. Pursuant to an urgent request from the Oregon Executive office, the Chairman of the River and Harbor Committee, at the last session of Congress, moved that the sum of \$431,500 be inserted in the bill for a portage road at The Dalles of the Columbia. Our own Representative opposed the motion, and thereby prevented that most necessary appropriation. Efforts were then made by him and by our senior Senator to secure an appropriation for a boat railway, but without success. A Board of Engineers, however, was appointed by Congress to examine the obstructions at The Dalles and report upon the best method for overcoming the same.

It is reported upon what is deemed reliable authority that such Board will recommend a portage road as a preliminary work of improvement. Thus the assertion that the General Government would never under take the building of such a road, made only in the interest of private railroad corporations which did not desire it, is not only completely refuted by the action of the Chairman of the River and Harbor Committee in the Lower House, but by the action of the 'board of Engineers appointed to consider the matter. The declaration of Holy Writ that "a man's foes shall be they of his own household" has been completely verified to the people of Eastern Oregon by the action of its own Representatives in Congress regarding the portage road; and it therefore devolves upon this Legislative Assembly that it shall instruct its Representatives in Congress to secure the needed appropriation for such road, which, with their aid, can easily be procured. The present being the short session of Congress, no appropriations for rivers and harbors will be made, and therefore the people of Oregon, thanks to its own Representatives, will be compelled to wait another year for such aid. The legislature, can, however, meantime afford the people of this State great relief by the enactment of a maximum railroad freight law, by which the excessive charges on our State products and



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upon our general commerce will be replaced by rates just alike to the carrier and the producer. This is what the people of the whole State, and especially of Eastern Oregon, imperatively demand, and this is what this Legislature should not fail to do.

### **THE WILLAMETTE CANAL AND LOCKS**

The Legislature of Oregon in 1870 appropriated \$200,000 to a private corporation in aid of the construction of a canal and locks at the Falls of the Willamette River, upon the express condition that "at the expiration of twenty years from the time said canal and locks are completed, the State of Oregon shall have the right and privilege to take and appropriate to its own use forever the said canal and locks, upon the payment to the said corporation the actual value thereof at the time of taking and appropriating the same, which shall be ascertained in such manner as the Legislative Assembly may hereafter prescribe." The twenty years have already passed. The State should now avail itself of its option. A just mode of ascertaining the value of the canal and locks would be to take the tonnage for the last year, and find out that sum which at six per cent interest would bring the amount represented by a reasonable charge on such tonnage, less the cost of operating the locks and less the amount, if any, which would be required to put the canal and locks in ordinarily good and complete working order. There can be no objection to this method of ascertaining their value. It is a fair and just business proposition.

The canal and locks are worth only that sum on which the business through them, subject to reasonable charges, pays a fair interest. Neither will the State, in ascertaining the value of such locks and canal, be required, either in law or morals, to take into consideration any other question than that of their value as the means of transporting freight and passengers. If there be an additional value to them, arising out of a facility which they may have of furnishing water-power, that is an incident which attaches to the property, and not to the ownership, and which having alone been created by the State through its gift of \$200,000 to the private corporation building them, really inures to the State, and not to the corporation, limited in time as to its ownership. Such corporation is therefore precluded from asserting any lawful or equitable claim against the State on account of any supposed value other than that of their earning facilities in the transportation of freight and passengers.

### **FISHING INTERESTS**

Salmon fishing has been for years one of the most prominent industries of Oregon, and the Legislature should provide by law against its complete destruction by the greed of those at present engaged in it. When the industry was first established, gill-nets were alone employed, with meshes sufficiently large so that the smaller salmon were allowed to pass undisturbed. Within the last few years, however, traps and fish-wheels have been brought into quite general use, and salmon of all sizes, and by the ton, have been caught by them. This has seriously interfered with gill-net fishing, which formerly gave employment to a large number of brave men, who plied this calling with their gill-nets, manned at the peril of their lives, only to find themselves competing in market with the owners of fish-traps and wheels, who in a favored locality, and without danger, caught hundreds of fish to the poor fisherman's one. Against the monopoly of fish-traps and fish-wheels, and the wholesale destruction of fish, and, as a consequence, the ultimate extinction of this great industry, the attention of the last three Legislatures has been directed in vain.

The protest is again most urgently renewed. To allow any owner of a favored locality the privilege that cannot be exercised by other citizens, of erecting fish-traps or fish-wheels, thereby securing salmon by the ton while other citizens cannot, is a monopoly that should no longer be tolerated. We boast of our free government, and of our equal laws, and yet we are permitting a monopoly that no monarchical government on the face of the earth allows. In the Magna Charter granted by King John, A. D. 1215, it is stipulated that "all kydells (weirs) for the future shall be quite removed out of the Thames and the Medway, and throughout all England." This guarantee was renewed in the first, second, and third charters of King Henry the Third and in that of King Edward the First, and was really a fragment of the old common law which prevented any person from appropriating to themselves a fishway on the rivers, which were deemed common property. Every public river, Lord Coke declared to be the King's highway, which could not be privately occupied. Kydells were dams having a narrow cut in them, and furnished with wheels or traps for catching fish. It will

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thus be seen that this monopoly, which in England was destroyed nearly seven hundred years ago, is flourishing defiantly in the latter part of the nineteenth century in this country, with boasts of its equal laws. Let all fish-traps, fish-wheels, and seines be abolished, confine the fishing to gill-nets alone; and then all citizens have an equal chance, and the wholesale destruction of fish and the speedy extinction of one of our chiefest industries can be avoided.

The Supreme Court Reports of Oregon disclose the fact that a paid lobby in the interests of these monopolies has heretofore swarmed around the purlieus of the Capitol during legislative sessions, and it will undoubtedly reappear here during the present session. The board of Fish Commissioners has maintained in all of its reports a complete and most significant silence in regard to the effect of these most destructive methods of destroying our fishing interests. The grave duty is therefore imposed upon this Legislature of abolishing all these monopolistic instrumentalities – seines, fish-wheels, fish-traps, and Fish Commissioners.

### **FUNDS AVAILABLE FOR APPROPRIATION**

There is now in the State Treasury the sum of \$65,355.92, which has been received from the General Government, being the five per centum of the proceeds of the sale of public lands in this State. By the Act of Congress [passed at the last session repaying to the States the direct tax levied by Congress in 1861, Oregon is entitled to the sum of \$35,140.67 less 15 per cent, which was refunded under Act of Congress passed at the last session repaying to the States the direct tax levied by Congress in 1861, Oregon is entitled to the sum of 29,869.57. By the Act of Congress making the repayment it is provided, however, that “no money shall be paid to any State or Territory unless the legislature there of shall have accepted by resolution the sum therein appropriated and the trusts imposed in full satisfaction of all claims against the United State on account of the levy and collection of said tax, and shall have authorized the Governor to receive said money for the use and purposes aforesaid.”

AS the direct tax was not paid directly by the State, and as it was collected by the General Government as set-offs against moneys due the State from the sale of public land, there is no private claim upon said funds, which are therefore now available for appropriation so soon as the Legislature shall have accepted them in the manner designated. It is to the extremely regretted that the joint resolution of Congress of February 9, 1897, which allowed the diversion of the 500,000 acres of land to the Common School Fund, which has been five per centum of the sale of the public lands appropriated for the same purpose. These two amounts, therefore, cannot be poured into the School “Fund without the assent of Congress. If the Legislature desires such use of the money, it should ask Congress for its permission.

If it is to be used for the purposes of internal improvement, the purchase of the Willamette Falls Canal and Locks would furnish a fitting opportunity, as by their purchase at their really value a return to the State to the amount of the interest on the investment could be assured by the collection of sufficient tolls for that purpose, thus rendering a general benefit. If, however, the Legislature should see proper to appropriate the money for the building of roads, there is only one just mode for such appropriation, and that is to distribute the money to the various counties of this State in proportion to their miles of the highway, exclusive of villages and cities.

### **ASSESSMENTS AND TAXATION**

The urgent necessity for a change in our laws relative to assessment and taxation has existed for years, and such change should be effected at this session. The law as it now stands is a penalty on honesty and a reward for rascality, by affording an immunity from taxation to those who will trump up a fictitious indebtedness. No deductions whatever for indebtedness should be allowed; and in order that personal property may not longer shirk its share of public burden, it should be provided that if judgment is procured upon any note which has not regularly been handed in to the Assessor, as proven by his required stamp, one half the amount recovered upon such note shall be forfeited to the Common School Fund, and shall be paid thereto by the Sheriff, as a penalty against the holder for evasion of law.

It is claimed that without deduction for indebtedness there will be in some cases double taxation; but it is equally true that with such deduction there is double taxation, as the honest man is now compelled not only to pay taxes for himself, but for the rogue who escapes by hiding behind spurious claims of debt. If a State revenue could be secured independently of any county levy, there would be no incentive whatever for undervaluation, and hence there would be no obstacle in the Way of a fair valuation at full values. This could be procured by a tax upon the gross receipts of railroad, express, telegraphic, telephone, and insurance companies, and by a poll-tax of \$2 on every male person over twenty-one years of age, the receipt for which latter tax should be demanded at he polls as proof that the holder thereof who claimed the privilege of citizenship had fulfilled one of its required obligations. Fixed charges, such as those for school, university, and military purposes should be abolished, and provision should be made for collecting all taxes at one time and place.

### THE RAILROAD COMMISSION

The Board of Railroad Commissioners for the State of Oregon, in its Third Annual Report, has given an account of its transactions during the past biennial term. The last Legislature gave such Commission the power to adjust and regulate the freight rates of railroads, and, as it will be seen, it approached its task with the greatest timidity, and quit it with the most unsatisfactory results. Pursuant to a request from the Executive Office a comparative statement of rates of Oregon, Iowa, and Illinois roads were made. From the tables furnished are taken the following rates in cents per 100 pounds for 200 miles:---

	Southern Pacific	Union Pacific	Illinois	Iowa
Merchandise (a)	\$ 83	\$1.10	\$48.86	\$40
Merchandise --- car loads (a)	43	72	15.98	15.9
Wheat --- 100 pounds	26	22	11.58	10.8
Cattle --- Per Car	59.00	51.00	25.20	29.50

The Commission has furnished a table of the deductions made by it from its former rates of the Union Pacific and the Southern Pacific: ---

	Southern Pacific Former Rates	Southern Pacific Commissioners Rates	Union Pacific Former Rates	Union Pacific Commissioners Rates
Wheat --- 100 pounds	\$ 26	\$ 23.4	\$ 25.5	\$ 22
Lumber --- 100 Pounds	16	14	20	-----
Cattle --- Per Car	59.00	53.00	60.00	51.00

From the above figures it will be seen that on wheat, the great staple commodity of Oregon, the Commission has succeeded in securing a reduction of ten per cent from the former rates, leaving the rate as established by it over 100 per cent greater than is charged on the Iowa roads. The Board in its report asserts that it "had all the rates of the different companies before it for consideration, together with all the facts bearing upon the subject, and after weeks of diligent study and calculation proposed such r reduction as it deemed would be reasonable and just." The Commission may be satisfied that its rates are just, but will the farmers of Oregon be satisfied that it is just for them to pay more than twice as much for the transportation of wheat as the farmers of Iowa pay?

### JUST RATES

It is to be extremely regretted that the Railroad Commission did not see proper to prepare, as requested, a maximum rate law based upon the Iowa law, with perhaps a reasonable additional percentage. With its experience it could have formulated a bill that would have been both just to the railroads and to the people. The Commission cannot reasonably expect that either the Legislature or the people will be satisfied with its slight changes, which appear too much like mere love strokes. Instead of its trifling reductions, which afford

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no material relief, if the Board had adopted the Iowa rates, even with fifty per cent additional on distances in excess of 150 miles, it would have been of great benefit to the people and no harm to the railroads, for the reason that such rates would have stimulated increased production and a marked development of our resources, thereby furnishing by the great growth of their business a very material enlargement of their revenues. This Legislative Assembly ought not to adjourn without affording the needed relief to the agricultural and commercial interests of Oregon by a marked reduction of railroad freight rates.

By reducing the passenger rates on the railroads within this State from four to two and one half cents per mile, and by the absolute prohibition of all passes except to railroad employees, a great act of justice would be performed, and no hardship would be imposed upon the railroads. As it is now, men of wealth and influence are allowed to ride free, and then in order to give the railroads sufficient compensation, the poor are unduly charged. This is an act of great inequality and injustice. No common carrier should be permitted by law to exercise any such unjust discrimination.

### **MAXIMUM RATE LAWS**

The enactment of a maximum railroad freight law is urged again, for the fourth time, upon the Legislative Assembly of Oregon. The unwarranted interference of the Federal Courts with the rates established by Railroad Commissioners renders such a law an absolute necessity. During the last summer a Federal Court has nullified the action of the Railroad Commission in Texas, following the example of such Courts in other States and of the United States (143, U.S. 517) has recently reaffirmed the doctrine laid down in the Granger cases (94, U.S. 113) that "it is within the power of the Legislature to declare what should be a reasonable compensation for the services of persons exercising a public employment, and to fix a maximum beyond which any charge would be unreasonable;" and that "for protection against abuses by the Legislature the people must resort to the polls, and not the Courts," while at the same time it adheres to the doctrine laid down in the Minnesota case (134, U.S. 418) that the reasonableness of the rates fixed by a Railroad Commission can be inquired into by the Courts.

The inconsistency of these decisions is in part remedied when they are tested by that sound doctrine of law that a delegated authority cannot be redelegated which has not yet been stumbled upon by the Supreme Court. The power to fix maximum rates is an authority delegated by the people under the Constitution to the Legislature, and, therefore, cannot be delegated by it to others. The right to declare what are just and reasonable maximum rates is an undoubted and an exclusive legislative prerogative, which cannot validly be delegated to commissions, nor can it be exercised by the Courts without a wanton usurpation of legislative power.

Maximum telegraphic rates should also be established. While the postal facilities have been greatly cheapened by the Government, the telegraph companies, which, to the disgrace of a professed free and just government, are allowed to exercise a purely governmental function, are taxing our people that most unconscionable rates for the transmission of intelligence. With their cheap poles and wires strung over the country, their gross revenues are nearly one third as large as those of the entire Postoffice Department, with its most expensive and complicated machinery. The postmaster-General of the United States gives it as his opinion that "a telegraph company could make a great deal of money on a uniform twenty-five-cent twenty-word message to all parts of the country." It is recommended that a maximum rate for telegraph messages within the State be established. If Congress will not do its duty to the people by giving them governmental telegraphic facilities, it is incumbent upon the States to protect their citizens from unjust charges, by fixing lawful rates controlling that powerful monopoly.

All municipal governments, by general law, should be given the power to regulate the rates of all monopolies, such as gas, water, telephone, electric lights, and street-car companies.

### **BOARDS AND COMMISSIONS**

One hundred and forty-two offices have been created in this State, exclusive of those pertaining to newly-created counties, by the Legislature at its last three sessions. The multiplication of offices, and the distribution of the functions of government among various boards and commissions, is one of the vicious

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tendencies of modern legislation. It appears to be contagious evil, and has become epidemic. The Governor of New York, one year ago, called the attention of the Legislature to the growing abuse, and furnished a table of the permanent commissions and bureaus established since 1879, numbering twenty-one. The cost to the State in 1880 of the few then created was about \$3,500, while the cost of them all in 1891 exceeded \$842,000, making a total cost for the eleven years of \$4,640,125.

This mania for the creation of commissions, and for the distribution among them of some of the powers belonging to one of the regularly constituted departments of the State Government, has become widespread, and has at last infected the Legislatures of even our own conservative State. They are an excrescence on the body politic, and are entirely alien to the spirit as well as the letter of our State Constitution, which declares, article 3, that "the powers of the government shall be divided into three respective departments --- the Legislative, the Executive, including the administrative and judicial" --- thus precluding the bestowment elsewhere of any power pertaining to the management of State affairs.

If a commission is entrusted with the enforcement of the law, that is a function belonging to the Executive Department, and should be exercised by the Governor, or those under his entire control; if it is entrusted with the regulation of the rates of common carriers, that is a prerogative of the Legislature from time immemorial; and if it is entrusted with the power to adjust matters between common-carriers and persons having dealings with them, or between any other parties, that is a duty confined to the Judiciary. Under our constitutional form of government, there is neither place nor need for either commissions, boards or bureaus. The departments of government are entirely adequate for its complete management, either by themselves, or by and through their directly appointed officers.

While it is indeed true that the Judicial Department has sanctioned the legality of commissions armed with power stolen from the Executive and Legislative Departments, there is no case on record where such sanction has been given to any commission filching its own department of its own prerogatives. The fine discriminating sense of American judiciary can readily perceive the flagrant unconstitutionality of such a procedure when its own ox is to be gored.

### **THE STATE MILITIA**

The expenditures on account of the State Militia for the last biennial term were \$65,566.18. It is claimed, in order to maintain such organization in a condition of proper efficiency that the tax of one fifth of a mill now levied will have to be doubled. The legislature, therefore, will be called upon to determine whether to double the taxation, leave it as it is, or abolish it. About half a century ago, as some of us can well remember, militia training fell both into contempt and complete desuetude. The country was prosperous, its laws were equal, every man seeking employment could find it, taxation was not burdensome, because the people were not then taxed for private gains as well as public need, the partnership heretofore existing between a private banking corporation and the Government had been annulled, and neither banking, railroad, telegraph, manufacturing, or other monopolies then enjoyed any special privileges by which the people were allowed to be unduly taxed and the Federal Government unduly controlled.

Under such an administration of affairs there was no discontent among the masses, for the reason that there were no governmental abuses, and hence there was no need of military organizations. Militia musters became obsolete, and all classes looked hopefully for the time when wars should cease, and all difficulties, either internecine or international, should be settled by arbitration, in consonance with the progress of civilization, and in accordance with the humane dictates of an exalted patriotism. It is now maintained, however, that there is need all over the country of a well-trained military force to quell the spirit of riot and unrest that now exists. Does it not, however, comport with good statesmanship to examine into the causes of such disquietude, and if found real, to remove them?

Will it not be found upon examination that these disturbances, to quell which military power is evoked, are the direct consequences of need of employment, the unjust exactions of corporations, and the lack of sufficient money, consequent upon the changed policy of the Government, by which silver is no longer a full

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legal tender, resulting in the stagnation of business, the prostration of industries, and the decline in all values except gold, and obligations payable in gold? If so, it devolves upon the Legislatures of the several States, and upon Congress, to determine the lines of policy to be pursued. Shall these corporate exactions continue; shall private banks be allowed to issue the money which the Government should; shall refusal still be made to restoring silver to its former place, thus perpetuating the giant crime of the nineteenth century, and thus unclothing the people in still multiplied difficulties, and our national industries in still further depression? And then, when our of employment, our of money, and in despair the laborer, prompted by the contemplation of his starving wife and children, rebels against these grievances, shall imprisonment be given him instead of employment, and bullets and bayonets be put into his stomach instead of bread, thus bolstering up wrong by force? Or rather, shall not these great abuses be abolished, equal laws again prevail, sufficient money be furnished by the Government whereby industries may again revive, labor find employment, and the Government be supported, not by the strong arm of military power, but by the affectionate devotion of prosperous, industrious, and contented citizenry?

### **LEGISLATIVE INSTRUCTIONS**

At this time, as every member of the Legislature is well aware, a person of business depression has befallen our industries. The prices of the great staple products of Oregon are quite low; business of all kinds is stagnated, except that along of loaning money; and labor finds fitful employment, with declining rewards. This, in our comparatively young State, with manifold undeveloped resources, and capable of the most wonderful and gratifying progress and development, is a condition of affairs which demands your graves consideration. There can be no difficulty whatever in ascertaining the real reason for this most untoward condition, so adversely affection the welfare of our people. There can be no reasonable doubt whatever that the denial of the free use of silver reasonable doubt whatever that the denial of the free use of silver as money by Congress, and the permission given by it to the money-loaners to demand gold coin in payment of loans, thus really dwarfing the business of the country to a narrow gold basis, is the great overshadowing cause of our present monetary stringency and business depression.

Unfortunately, you have no direct control over this matter. Under the Constitution, the State were restricted to the use of gold and silver alone as a legal tender, and to Congress was give the sole power to coin money. If the framers of the Constitution had ever contemplated the possibility that Congress, after having been empowered with this most important prerogative, would refuse to fulfill its full duty (for bestowment of the right imposed the performance of the duty), the States would most certainly have refused to delegate such power. But the grave fact now confronts us that Congress has probed recreant to the great trust imposed upon it to freely coin both gold and silver on equal terms, and that a depression of the industries, a general business stagnation, and a steady decline in values, follows as a direct legitimate result.

The Legislature, however, can and ought to use its influence to remedy this great wrong, both by a memorial to Congress demanding that it should perform the great duty imposed upon it by the Constitution, and by positive instruction to the Representatives of Oregon in both Houses that they should labor to secure the full and equal coinage of both gold and silver. The right of a State to instruct its Representatives or agents in Congress is unquestioned, and after having been exercised by it in regard to a matter of so serious import to our people as the one under consideration, any honorable Representative would either obey instructions or resign.

The legislature, however, can directly aid somewhat in relieving the people of the State by repealing the specific contract law, and by the passing of an Act declaring that any stipulation in any contract discriminating against any lawful money of the United States shall be considered as detrimental to sound public policy and shall be void.

### **RETRENCHMENT AND REFORM**

The largely increasing expenditures of the State, as well as the unnecessary increased army of office-holders, should admonish the Legislative Assembly that no service could be rendered more acceptable to the people than to apply the pruning knife of reform wherever necessary. By the passage of a maximum rate law the Railroad Commission could be abolished and the law effectively enforced by granting to the

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Governor the power to employ, in the event of any infraction of the law, a prosecuting witness who could be abolished and the law effectively enforced by granting to the Governor the power to employ, in the event of an infraction of the law, a prosecuting witness, who could collect the necessary evidence and bring suits in the courts for the enforcement of said law. With such an officer, to be paid only when employed, the various other commissions created to enforce the law in regard to particular matters would be superfluous. Thus the Fish Commission, the Board of Horticulture, the Domestic Animal Commission, and the Food Commission could be well dispensed with, saving quite an expense to the State.

The Fish Commission was never of any practical benefit; the Board of Horticulture is working in the same field in which the Experiment Station of the Agricultural College is doing much better and more scientific work, and is therefore unnecessary; the province of the Domestic Animal Commission is simply to endorse the action of the Veterinary Surgeon, as his judgment, and not theirs, is exercised, and therefore there is no need for the Commission; while the Food Commissioner is really the fifth wheel to the coach, inasmuch as the Federal Government has control of the sale of oleomargarine throughout the State, while the city of Portland, where nearly all his efforts are spent, has now a Food Commissioner of its own. The Board of Charities and Correction, by calling attention to abuses in public institutions in this State, where all such institutions of all kinds are open to the public, can do only what each citizen and the public press can well perform, and its services are therefore not required.

Laws should also be passed making all offices within the State salaried, and compelling such as receive fees to pay into the Treasury all in excess of said salaries. It would afford a very great saving to the State if it possessed its own plant for public printing, as in California, and paid to the State Printer a fixed salary. The expensive printed pamphlets, what the weather was in May, is really more ornamental than useful, and should be dispensed with. The State Board of Equalization, which has really proven to be a Board of Inequitable Assessment, has been of more harm than benefit, even under our present assessment law, while under a good law there will be no necessity for its continued existence.

The time has now arrived when a State Audition Board would be advantageous. The Secretary of State is, under the Constitution, the State Auditor, while he is at the same time, to quite a great extent, is the state purchasing agent, thus becoming the auditor of his own accounts. While it is never to be presumed that any thing but the strictest course of honesty would be pursued, yet the affairs of the State should be conducted on the same business principles that men conduct their own private affairs. An auditing Board, to consist of the three principal State Officers, should be created, and it should be provided by law that any claim on sanctioned by all the Board should remain unpaid until acted upon by the Legislature, to which it should be referred.

A change in the law relative to the conveyance of the insane and convicts should be made, by which an officer should be detailed from the Insane Asylum and Penitentiary to convey all persons to be committed to such institutions, thus saving a very great expense to the State.

Another urgent reform is demanded in regard to the benefactions of the State in regard to agricultural fairs. It is really not the province of any State government to tax one man for the benefit of his neighbor, who possesses a faster horse, a fatter steer, or bigger vegetables; yet if such taxations are had, every citizen should have an equal show of winning premiums. Nine thousand five hundred dollars is now paid yearly by the State to agricultural societies, \$5,000 to the State Fair Society and \$1,500 each to the two eastern and one Southern Oregon district societies. Even with this distribution, a large portion of our people cannot avail themselves of their advantages. If money is to be paid by the state for the support of such societies, justice demands that it should be so distributed that all citizens may have equal advantages, and to that end the law should be changed, apportioning the money now given to the four societies mentioned equally among the several counties of the State in support of county fairs.

## **RECOMMENDATIONS**

1. A change in the assessment law.
2. The abolition of useless commissions.
3. A law fixing maximum rates for railroad and telegraph companies.

4. A law empowering municipalities to fix maximum rates on al monopolies.
5. A law authorizing the Governor to employ a prosecuting witness.
6. A law giving to all State and county officers a fixed salary.
7. A general municipal incorporation law.
8. A change in the road laws so as to secure good roads.
9. Providing for the arrest and punishment of armed men in private employ.
10. The passage of an inheritance tax law.
11. The enactment of a law similar to that of Washington, exempting homesteads from execution and attachment.
12. Authority to the School Land Commissioners to withhold from any County its School fund until all the State taxes from said County have been received.
13. The creation of a State Auditing Board.
14. No further illegal appropriation of money by joint resolution.
15. Appropriation for a fish ladder at Oregon City.
16. A change in the law relating to the conveyance of criminals and insane persons.
17. Instructions to our Representatives in Congress to procure appropriation for a portage road at The Dalles of the Columbia; to secure the passage of a joint resolution allowing Oregon to use the interest on the Agricultural College Funds for betterments on the college property; to secure and extension of time in which payment may be made by settlers for lanes within the forfeited limits; to vote for the free coinage of silver; the issuance of the paper money of the country by the Government alone, and the enactment of an income tax law.

## BIENNIAL MESSAGE, 1895

**Source:** Journal of House of the Legislative Assembly, 1895, Governor's Biennial Message, Salem, Oregon, W.H. Leeds, State Printer, 1895.

### BIENNIAL MESSAGE OF GOV. SYLVESTER PENNOYER TO THE LEGISLATIVE ASSEMBLY EIGHTTEENTH BIENNIAL SESSION 1895

Gentlemen of the Oregon Legislative Assembly:

The following statements concerning the condition of the State are furnished for your consideration. For more detailed information regarding the State institutions and State affairs you are referred to the reports of the various officers and boards: ---

#### STATE EXPENDITURES

	1889-90	1891-92	1893-94
Governor's Office	\$ 6,800.00	\$ 8,588.90	\$ 10,891.20
Secretary's Office	10,450.00	13,364.75	19,107.87
Treasurer's Office	6,187.50	7,800.00	9,800.00
Superintendent of Public Institution	6,600.00	8,095.45	9,185.20
Attorney-General	-----	-----	6,000.00



State printing	36,660.85	50,374.62	81,708.19
Library, Code and Reports	10,644.59	15,443.62	15,195.10
State Land Office	8,209.13	9,201.88	9,004.01
Legislative	41,990.63	46,681.87	54,901.01
Judiciary	86,462.44	89,093.97	107,100.00
Penitentiary	73,347.85	82,409.82	87,124.64
Asylum	176,168.91	216,489.65	239,965.46
Penitentiary Improvement	4,630.21	16,942.80	12,549.38
Asylum Improvement	109,803.23	83,258.08	91,360.09
Capitol Improvement	14,087.58	85,163.31	10,362.11
Mute School	17,848.90	15,316.42	19,885.46
Mute School Improvement	-----	-----	32,947.00
Blind School	8,742.76	11,355.00	12,883.12
Blind School Improvement	-----	-----	12,226.25
Orphan's home	11,000.00	15,000.00	34,500.00
Agricultural Boards	19,000.00	19,000.00	30,415.00
Health officers	3,993.53	4,090.00	4,327.49
Pilot Commission, Etc	5,349.98	5,380.55	5,395.78
Food Commission	3,356.99	3,204.95	3,046.64
Railroad Commission	19,000.00	19,888.69	19,654.31
Agricultural College	64,475.14	46,338.50	44,889.00
State University	34,471.47	44,289.15	77,839.00
Conveying Convicts	14,128.51	22,275.88	23,728.35
Conveying Insane	20,287.37	24,961.93	29,905.61
Incidental	25,150.37	27,995.96	27,277.01
Fugitive	5,139.21	6,338.04	8,738.33
Indigent	10,000.00	7,626.73	706.51
Private Claims	2,088.00	11,031.16	4,474.03
Wagon Roads	116,000.00	-----	-----
Militia	33,823.56	65,556.18	99,043.97

Reform School and Improvement	46,000.00	40,671.21	122,115.83
Weather Bureau	1,800.00	1,954.72	929.06
Fish Commission	6,538.93	6,205.35	4,794.90
Horticultural Board	7,000.00	7,000.00	7,000.00
Domestic Animal Commission	4,888.00	8,093.60	6,962.86
Miscellaneous	-----	22,201.81	13,475.12
Uniform School Blanks	-----	-----	7,719.55
Astoria Boatman	-----	1,000.00	1,000.00
'Resources of Oregon'	-----	5,659.89	2,678.43
Charities and Correction	-----	6,866.98	-----
Portage Railroad	-----	60,000.00	485.35
Eastern Oregon Asylum	-----	-----	25,381.05
Jute mill	-----	-----	2,466.08
Normal Schools	-----	-----	51,382.76
World's Fair	-----	-----	40,585.83
Electric Lighting	-----	-----	24,647.21
Soldiers' Home	-----	-----	38,667.89
Fish Ladder	-----	-----	848.27
Equalization Board	-----	-----	6,456.20
Soda Spring	-----	-----	500.00
Siuslaw Hatchery	-----	-----	1,939.85
Common School, Principal	-----	-----	2,578.52
Swamp land	-----	-----	10,907.93
State Foundry	-----	-----	64,955.87
Deficiency, 1891-92	-----	-----	117,595.12
	-----	-----	-----
	\$ 1,071,128.38	\$ 1,242,227.43	\$ 1,820,278.57

The amount for the last biennial term includes deficiencies on file.

#### APPROPRIATIONS AND EXPENDITURES

Following are the appropriations made by the last legislative assembly, and the expenditures thereunder :---

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BIENNIAL TERM

	Appropriated	Expended
Governor	\$3,000.00	\$3,000.00
Governor's Secretary	3,600.00	3,600.00
Secretary of State	3,000.00	3,000.00
Secretary's Clerk	3,600.00	3,600.00
Treasurer	1,600.00	1,600.00
Treasurer's Clerk	4,000.00	4,000.00
School Superintendent	3,600.00	3,600.00
Attorney-General	6,000.00	6,000.00
Librarian	2,000.00	2,000.00
Prison Inspector	1,000.00	1,000.00
Pilot Commissioner	1,200.00	1,200.00
Commissioners' Clerk	1,200.00	1,200.00
Health Officers	4,400.00	4,327.49
Janitor and Assistant	3,240.00	3,240.00
School Superintendent, traveling expenses	1,600.00	1,585.00
Capitol Watchman	2,400.00	2,400.00
Library Expenses	500.00	500.00
Deaf-Mute School	20,000.00	19,885.46
Blind School	12,000.00	12,000.00
Blind School Improvements	1,200.00	1,200.00
School Superintendent's Clerk	3,100.00	3,100.00
Secretary of State, Clerks	10,360.00	10,106.67
Educational Printing	7,520.00	7,520.00
State Board of Agriculture	10,000.00	10,000.00
Fair Ground Improvements	11,415.00	11,415.00
State Food Commissioner	3,500.00	3,046.64
Pilot Schooner	5,000.00	2,995.78

Railroad Commission	20,000.00	19,654.31
Fish Commission	8,000.00	4,794.90
Electric Lighting Public Building	10,000.00	10,000.00
Rewiring Capitol	2,000.00	2,000.00
Advertising State Warrants	600.00	495.55
Supreme Court Reports	9,600.00	7,200.00
Portland Industrial Fair	1,000.00	1,000.00
Eastern Oregon Fairs	6,000.00	6,000.00
Southern Oregon Fairs	3,000.00	3,000.00
State Board of Horticulture	7,000.00	7,000.00
Astoria Boatman	1,000.00	1,000.00
State Animal Commission	12,000.00	6,962.86
Books, State Library	5,000.00	4,602.10
Board of Equalization	8,000.00	6,456.20
Portland Orphans' Home	5,000.00	5,000.00
Salem Orphans' Home	5,000.00	5,000.00
Albany Orphans' Home	5,000.00	5,000.00
Portland Refuge Home	5,000.00	5,000.00
Portland Baby Home	5,000.00	4,000.00
Portland Magdalen Home	4,000.00	4,000.00
Beaverton Home	4,000.00	2,000.00
Joseph Emery, fees	2,000.00	102.00
Pioneer association	102.00	500.00
Compiling Records	500.00	375.00
Rewards for Arrest	800.00	900.00
Wiring and lighting Insane Asylum	1,200.00	7,499.65
Asylum Improvements	7,500.00	32,540.43
Asylum Building	32,600.00	41,700.00
Fencing Asylum land	41,700.00	1,181.87
Purchasing Asylum Land	1,300.00	10,602.95

Capitol Ground Improvements	11,000.00	4,916.23
Capitol Drain	6,000.00	-----
New Roof, Capitol	3,600.00	5,445.88
Heating Capitol Building	5,400.00	4,564.57
Hill's Code for Legislature	893.00	893.00
'Resources of Oregon'	2,678.43	2,678.00
Insane Asylum Repairs, (deficiency)	25,588.15	25,588.15
Fire Protection for capitol, (Deficiency)	4,259.30	4,259.30
Water Supply Cottage Farm	524.22	524.22
Deficiency, Blind School	1,391.00	1,391.00
Deficiency, Food Commission	204,95	204.95
Land for Portage Road	3,811.38	3,801.97
Deficiency, Incidental Fund	3,845.36	3,843.41
Deficiency, School Blanks	229.62	229.62
Deficiency, Representative Hall	623.70	623.70
Deficiency, Conveying Convicts	6,438.23	6,438.23
Deficiency, Conveying insane	3,020.92	3,020.92
Deficiency, Penitentiary	6,556.78	6,556.78
Deficiency, Insane Asylum	6,907.28	6,907.28
Deficiency, Legislature, 1891	1,881.87	1,881.87
Deficiency, Reform School Improvement	13,758.59	13,758.59
Penitentiary Water Ditch	1,048.36	1,048.36
Monmouth Normal School	22,382.76	22,382
Printing Paper (Deficiency)	4,997.71	4,997.71
Election Blanks	1,351.29	1,351.29
Printing for Agricultural Societies (deficiency)	16,104.95	16,104.95
Attorney-General (Deficiency)	5,151.03	5,151.03
E. M. Croisan (Deficiency)	8.00	8.00
J. J. Dalrymple & Co. (Deficiency)	15.68	15.68
Arrest of Fugitives	1,107.75	1,107.75

Equalization Board, 1891-92	8,927.48	8,927.48
E. M. Croisan	6.30	6.30
Railroad Commission Suit	1,484.90	974.90
Briefs for such suit	262.00	262.00
Wasco County Poor	490.15	490.15
Stock Portage Road	1,000.00	488.35
D. D. Neer, Architect's fees	117.15	117.15
G. C. Fulton, Attorney's fees	600.00	600.00
Rent of Pilot commission	240.00	240.00
Compiling War Records	152.00	152.00
Penitentiary Improvements	52,500.00	12,549.38
Cleaning Mill Creek	5,000.00	-----
Land for Penitentiary	2,500.00	2,500.00
Weather Bureau	1,000.00	926.06
Portland Aid Society	2,500.00	2,500.00
Portland Patton Home	2,000.00	2,000.00
Dormitory, State University	25,000.00	25,000.00
Reform School	36,000.00	36,000.00
Reform School Improvements	78,000.00	78,000.00
Judicial Fund	107,000.00	107,100.00
Incident Fund	28,000.00	27,277.07
Expenses of Asylum	275,000.00	239,133.36
Library Books	5,000.00	497.60
Returning Insane	800.00	334.50
Printing	60,000.00	60,000.00
Conveying Insane	28,000.00	28,000.00
Conveying Convicts	23,000.00	23,000.00
Arrest of Fugitives	10,000.00	8,738.33
Arrest of Fugitives (deficiency)	1,215.58	8,738.33
County Support of Poor	10,000.00	8,738.33

Penitentiary Fund	99,850.00	706.51
Clerk, Land Board	3,000.00	84,327.84
Incidentals, Land Board	6,000.00	3,000.00
Attorney's Fees, Land Board	500.00	5,981.51
Treasurer's Clerk, Land Board	3,000.00	-----
F. S. More	22.50	3,000.00
Incidentals, University lands	300.00	22.50
Purchase of Prison Foundry	300.00	-----
Compensation, State Board	5,000.00	-----
World's Fair	33,000.00	2,578.52
Legislature	65,000.00	10,907.93
National Guard	3,000.00	64,955.87
Jutemill	60,000.00	3,000.00
Fish ladder	55,000.00	40,585.53
State University	100,000.00	54,901.01
Agricultural College	190,000.00	99,043.97
Weston Normal School	10,000.00	2,466.08
Soldiers' Home	52,894.00	848.27
Eastern Oregon Asylum	30,226.00	52,839.00
Siuslaw Hatchery	24,000.00	44,889.00
Sodaville Spring	39,000.00	24,000.00
Lakeview School	165,000.00	29,197.49
Deaf-Mute School Improvements	25,000.00	25,000.00
Canceling light contract	10,000.00	5,147.56
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	\$2,274,036.17	\$1,749,222.85

#### EDUCATIONAL FUND

The total amount of the Common School Fund was as follows on January 1st of the years mentioned: ---

1885	\$ 868,735.16
1887	1,059,409.01
1889	1,756,700.90
1891	2,203,554.86

1893 \_\_\_\_\_ 2,418,636.71  
 1895 \_\_\_\_\_ 2,450,521.19

The interest from such funds has been distributed as follows:---

	Per Capita	Total
1890	\$ 145	\$ 144,372.75
1891	145	153,151.90
1892	145	162,066.50
1893	140	168,903.00
1894	87	107,693.82

On January 1, 1895, the total amount of the other trust funds were as follows:---

Agricultural College \_\_\_\_\_ \$ 129,752.12  
 State University \_\_\_\_\_ 105,345.80

Interest has been paid during the past two years on such funds:---

Agricultural College \_\_\_\_\_ \$ 16,751.79  
 State University \_\_\_\_\_ 12,673.61

The amounts loaned from the school funds for the last three biennial terms are as follows:---

1889-90 \_\_\_\_\_ \$ 911,243  
 1891-92 \_\_\_\_\_ 711,160  
 1893-94 \_\_\_\_\_ 536,239

From the above figures it will be seen that the very same cause which is stagnating our general industries and impoverishing our people, is laying its impious hand on the school fund of the State by lessening the values of the securities on which it is based, and diminishing the amount apportioned to the common schools for their support.

#### LAND DEPARTMENT

Swamp land, patented to the State in 1893-94 \_\_\_\_\_ \$ 1,998.47 acres  
 Swamp land, certified to the State in 1893-94 \_\_\_\_\_ 2,038.32 acres  
 Whole amount patented \_\_\_\_\_ - 156,873.15 acres  
 Whole amount certified and not patented \_\_\_\_\_ 90,030.72 acres  
 Whole amount examined and not certified \_\_\_\_\_ 38,568.68 acres

#### LIEU SCHOOL LANDS

In the Cascade Reservation there are about 200,000 acres of land embraced in sections 16 and 36 for which the State is entitled to that amount of lieu land, which may be selected from the best portions of the public domain. The price of school lands, under the law, is \$1.25 per acre, and as these lieu lands are really worth more, I have steadily refused to allow one single acre of school lands in that reservation to be used as a bases for lieu lands until the legislature can change the price of such lands to \$2.50 per acre. If this change is made,



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about \$250,000 will go into the school fund, which amount, if the law is not changed, will go into the pockets of speculators.

### **PUBLIC IMPROVEMENT**

During my incumbency of office the State of Oregon has most materially lengthened its cords and strengthened its stakes in regard to all of its public institutions. The capitol has been entirely completed and newly roofed, and all of our public institutions are fully equipped for all requirements, not only for the present, but for the immediate future. The asylum now owns 1,200 acres of land, the penitentiary 169 acres, the reform school 600 acres, the deaf-mute school 100 acres, and the Eastern Oregon Asylum 620 acres of valuable land. During the last eight years there have been expended for land and improvements the following amounts:---

Penitentiary Improvements_____	\$ 47,615.20
Asylum Improvements_____	341,815.10
Capitol Improvements_____	147,956.75
Reform School Improvements_____	168,816.59
Agricultural College Improvements_____	88,709.80
State University Improvements_____	25,000.00
Mute School Improvements_____	32,497.00
Blind School Improvements_____	12,226.25
Eastern Oregon Asylum_____	25,381.05

\_\_\_\_\_  
\$890,017.74

Of this amount \$304,164.33 were expended during the last two years.

All of the public buildings are first class, and a levy of \$80,000 has been made, which will be sufficient to start the Eastern Oregon Asylum on the cottage plan and furnish additional cells for the penitentiary. All these improvements have been made during these hard times, and the State of Oregon is out of debt, although there is due, on January 1, 1895, and unpaid to the State from the several counties the sum of \$242,597.89.

But this is not the full extent of public improvements. During the last eight years, there have been expenditures for wagon roads and portage road, and the five per cent and direct tax funds have been distributed among the several counties, so that the total amounts of expenditures on account of public improvements is as follows:---

Public land and buildings_____	\$ 890,017.74
Wagon Roads_____	116,000.00
Five per cent and direct tax funds_____	111,576.76
Portage Road_____	63,801.97

\_\_\_\_\_  
\$1,181,396.47

### **THE STATE FOUNDRY PLANT**

Sixty-five thousand dollars was appropriated by the last legislature for the purchase of the foundry plant at the penitentiary. Forty thousand dollars were paid for it and the balance was put into stock for the business. Close following the purchase came the business depression which affected all industries, and which very naturally depressed the demands for the foundry products. As a result the foundry was run on limited time and with limited profits. The business since the State assumed control up to the first of the year shows a profit of \$16,872.80, and allowing forty cents a day for convict labor, it still shows a profit of \$4,028.24,

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which is a much better exhibit than a very large portion of business firms in Oregon can show which have been doing business outside the penitentiary walls.

### **THE PARDONING POWER**

Some criticism has been made in regard to the exercise of the pardoning power and it has even been asserted that such power should not exist. That power is the highest and most necessary prerogative in a civilized government. If courts and juries were infallible there would be no necessity for its exercise, but so long as they are not infallible, so long there is an absolute necessity for the lodgment somewhere of that very necessary power. In the great majority of the cases in which I have exercised executive clemency, aside from those earning time as trusties, it has been upon the recommendation of the judge, jury, or prosecuting attorney. I have endeavored in all cases to exercise that high prerogative conscientiously and without any regard whatever for newspaper cavil or popular clamor.

### **FORMER RECOMMENDATIONS**

While I shall not presume to make any recommendations what ever to this legislative assembly, I will, however, mention those recommendations which I have formerly made, and concerning which no legislative action has been taken.

1. A change in the assessment law compelling, under penalty, all notes not annually given to the assessor and stamped by him, to be one half forfeited to the school fund.
2. The abolition of all unnecessary commissions.
3. A law establishing maximum rates for railroad and telegraph companies, fixing passenger rates at 2.5 cents per mile, and prohibiting the use of free passes.
4. A law allowing municipalities to fix maximum rates on all local monopolies.
5. A law authorizing the governor, in case of violation of State laws, to employ a person to secure evidence and commence prosecution in the courts for the punishment of offender.
6. A law giving to all State, district, and county officers a fixed salary, or establishing a maximum compensation.
7. A general municipal incorporation law applicable to all cities.
8. A change in the road law so as to secure good roads.
9. A law providing for the arrest and punishment of armed men in private employ.
10. The passage of a inheritance tax law.
12. Authority to the school commissioners to withhold from any county its school fund until the State taxes from said county have been paid.
13. The creation of a State auditing board consisting of the three principal State officers.
14. No further illegal appropriation of money by joint resolution.
15. A change in the law relating to the conveyance of criminals and insane persons.
16. No State appropriation for the militia, leaving to the several counties the support of their own companies.
17. Enactment of a registration law for cities of 5,000 inhabitants and over.
18. Purchase of the Willamette locks or reduction of toll fifty per cent.
19. No appropriation for State or district fairs or a just distribution of moneys now appropriated to the several counties.
20. Repeal of the specific contract law, and making void all contracts discriminating against any lawful money.
21. Abolition of all traps, wheels, and seines.
22. Fixing the price of school lieu lands at \$2.50 per acre.
23. No further appropriation for other than common schools.
24. Instructing our delegation in congress to secure a restriction of the jurisdiction of the inferior federal courts to what it was under the judiciary act of 1789, or to confine it exclusively to admiralty and maritime cases; or, better still, to abolish those courts entirely.

### **CONCLUSION**

Grateful to the people for their bestowed confidence, thankful to all my associates for their uniform

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courtesies, and wishing for the incoming administration abundant success, I now relinquish, with a conscience void of offense, the great trust assigned me, sincerely imploring the blessing of Almighty God upon our beloved Commonwealth.