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GOVERNOR GEORGE E. CHAMBERLAIN ADMINISTRATION

January 15, 1903 to February 28, 1909

Inaugural Message, 1903

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Inaugural Address Of Governor Geo. E. Chamberlain
To the Twenty-second Legislative Assembly Of the State of Oregon.
1903



Gentlemen of the Senate and House of Representatives:

I would be recreant to my duty if I did not in the very beginning of what I have to say, express to you, and through you to the people of the State, my high appreciation of the great honor which has been conferred upon me in electing me Chief Executive. When a convention of my party put me in nomination for this exalted place, it was with one voice and without solicitation on my part. I feel and know that I am indebted for my election to that generous spirit of political independence which has characterized the people of this State from the earliest pioneer times, and fully realize that it was not because of any superior merit in me. Under such circumstances, I enter upon the performance of the high trust that has been imposed upon me with a deeper sense of the great responsibilities that devolve upon me, with a greater fear that I may not be able to meet the expectations of those who have so honored me, and with a firmer determination to do all in my humble power to best subserve and protect the interests of the State. I have no higher ambition than to win the encomiums of my fellow citizens when my term shall have expired, for duty faithfully and honestly performed.

With absolute consciousness of, and faith in, the rectitude of my own intentions, keeping in view the oath I have taken to support the constitution and laws of the State, I place my trust in God and appeal to him to direct and guide me in all that affects the welfare of the people of the whole State, irrespective of race, religion or party.

While the mandate of the constitution requires the incoming as well as the outgoing executive to embody in a message to you such suggestions as may seem proper with reference to legislation, in the very nature of things the suggestions of the retiring executive deserve and will receive at your hands more attention than any I can make. Many years service as a legislator and four years as executive have not only familiarized him with the business affairs of the State, but peculiarly fit him to point out for your consideration needed legislation to meet existing conditions. Still, I cannot but take advantage of the opportunity afforded me by the constitution to call to your attention in a general way some matters which seem appropriate to be considered at this session of your body, and to them I will refer.

ASSESSMENT LAWS

It is to be expected that as a State grows in population and in wealth there must be a proportionate increase in expenditure to successfully administer its affairs. But it does not follow that the general rate of taxation should, continue to increase. The steady growth in wealth, constantly adding to the aggregate assessed valuation, ought to keep down the rate of the tax levy. This has not been the case. With an increased and

steadily increasing expenditure, the rate of the levy has not only not remained stationary, but the tendency is to increase each year. The responsibility for this condition of things lies primarily in a defective assessment law, and secondarily with the assessors of the several counties.

Notwithstanding the acknowledged fact that there has been a large increase in our population since 1892, and in consequence a proportionate increase in wealth, the returns made to the Secretary of State by the assessors of the several counties show that the aggregate assessed valuation of all the property in the State in 1892 was \$160,263,646.00, while in 1899 it had decreased to \$120,828,879.00, reaching in 1900 the sum of \$117,804,874.13.

The decrease has been steady each year since the date first mentioned with the exception of 1893, when there was a slight increase in the total valuation. If this condition continues, the result is inevitable under the present system of taxation that the fixed governmental charges remaining the same and other expenses continuing to increase, the rate of taxation must correspondingly increase. An examination of the assessment rolls will disclose that a majority of the counties have decreased their aggregate valuations, when every man in the State knows that there is not a single county in the State but has increased in both population and wealth.

The record made would seem to indicate that the assessors were vying with each other as to who can place the lowest valuation upon the properties of their respective counties, with the evident end in view to escape a just proportion of the expenses of the State.

The constitution requires that "the Legislative Assembly shall provide by law for uniform and equal rate of taxation." As a step to that end, the law provides that all property shall be assessed at its true cash value. In order to be uniform it is not essential that property should all be assessed at its true cash value. This requirement would as well be attained if all property were assessed at the same proportionate part of its value. But the law is violated in letter and in spirit where no uniform basis for assessment is fixed in any of the counties. In some it is assessed at one-quarter, in others at one-third, in others at one-half of its cash value, and knowingly done in open violation of the law, and no means has yet been found to compel a proper observance of the statute.

Attention has been called to this matter by every executive before me, but it seems that prior legislative bodies have either not had the time or the inclination to do anything to correct existing evils in the plan of assessment.

This subject is so difficult to properly adjust that I do not believe it possible in the bustle and confusion of a short session to frame a law revisory of present statutes and meeting the many obstacles in the way of a consistent assessment and taxation plan. Attempts at each session have proven abortive, and have but made confusion worse confounded.

I therefore earnestly urge that you provide for the appointment by the executive of a commission to prepare a general assessment law, to be reported to the next legislature for adoption or rejection. This has been done in other States, and wherever it has been tried it has resulted in partially correcting the evils of inequality and non-uniformity.

TAXATION OF CORPORATIONS

A large proportion of the taxes of many of the States is derived from sources other than the general land and property tax. Real estate here is bearing an unjust proportion of the taxes for both State and local purposes. Personal property and money largely escape taxation. This is not as it should be, and some remedy ought to be found and applied for carrying into effect the letter and spirit of the constitution, which requires all taxation to be equal and uniform. The period through which we are now passing is characterized by combinations of capital, as well as of men. Individual initiative in the larger enterprises is almost unknown. Corporations with large capital, organized in other States are constantly coming into and doing business of all kinds here, and in most cases cannot be or are not reached for the purposes of adequate taxation. Our efforts in the past have been, and should continue to be, directed to the securing of the investment here of

capital, corporate and individual, from other States. The efforts that have been made in this direction are being rewarded, and from every State of the Union men of wealth and managers of vast corporate enterprises are coming among us, lured hither by the richness of our mines, forests and fields and the salubrity of our climate. It should not be the purpose of legislation intended to tax this wealth to be discriminating and unjust. Such a course would nullify the efforts we are making toward commercial advancement and industrial development. But that this wealth should contribute fairly, equally and uniformly with other property of the State, all must concede, and those who come here to assist us in our own upbuilding as well as for their own betterment, claiming the equal protection of our laws, cannot oppose an objection to such a course.

What might be done in this State by a conservative system of taxation of corporations is indicted by the amount of revenue derived for State purposes from insurance companies alone. Under the statutes, they each pay a license fee and an annual tax of two per cent upon gross premiums less losses and premiums returned. For the year 1899 these companies paid \$26,371.48 in taxes and \$3,860.33 in license fees; for 1900 they paid in taxes \$31,248.84 and in license fees \$4,277.36, and for 1901 they paid in taxes \$33,988.40 and in license fees \$4,396.34.

No objection is urged against these taxes and license fees, nor are they considered unjust, and the system which has been applied in the cases of these companies ought to be gradually extended to other corporations doing business in the State.

The Secretary of State in his report to the legislature in 1901 shows that for the two years ending December 31, 1900, there were filed the articles of incorporation of 678 corporations, with a capital stock aggregating \$127,283,450.00, whilst he estimated that there were at least 2500 corporations doing business in the State. Between December 31, 1900, and September 30, 1902, there were filed the articles of incorporation of 866 corporations with a capital stock of \$281,569,981.00.

Why may not a system be devised for making each and all of these corporations, organized as they are under the laws of the State, contribute directly to the expense of State administration, either by license fees or taxation proportioned to capitalization or both? Telephone, telegraph, express, surety and railroad companies, whether organized abroad or under local statutes, could be brought with the same category as insurance companies, and so the burden now borne by real estates measurably lightened.

All corporations organized outside of the State and doing business here ought to be compelled by law to file copies of their articles of incorporation with the Secretary of State, disclosing the amount of their capital stock, their officers and directors, and designating an agent upon whom service of summons could be had.

I realize the difficulties in the way of the enactment of a law at one session that will bring to the State a revenue from all these instrumentalities of our business life and material prosperity, but I earnestly recommend that some step or steps be taken now having that ultimate end in view.

INHERITANCE TAX

In New York and other States, statutes have been enacted imposing taxes upon inheritances. Such a system of taxation ought to be essayed in Oregon. It has been objected that there are no such colossal fortunes here as would warrant or justify the imposition of taxes upon inheritances either direct or collateral. This is in part true, and for that very reason there would be less opposition to such legislation now than there would be if it be postponed to a later date. The records of the County Courts in every county in the State will disclose the astounding fact, that many, if not all of the estates going through probate, escape a just share of the burdens of taxation during the lifetime of the testators or intestates.

The tendency of modern times is to bring about as near as possible a divorcement of local and State taxation inheritances and local and foreign corporations doing business in the State, as well as the valuable franchises which they enjoy, Oregon may not, following in the footsteps of other States, raise the greater part, if not all, the revenue necessary for State purposes.

A FELLOW SERVANT LAW

The law imposes upon every person the obligation of regulating and governing his own actions and business in such a manner as not to cause injury to others. This rule is applicable to employers, so that an employer is responsible for his personal negligence occasioning injury to his employee. But while a man is responsible for the consequences of his own wrongful acts, he is not responsible for the acts of others, except that a master is liable to third persons for the wrongful acts and negligence of his servant performed while engaged in the pursuit of the master's business within in the scope of his employment. The exception to the general rule, while holding an employer responsible to third persons for the wrongful acts of his servants, has no application in certain cases where a servant seeks to hold his employer responsible for an injury resulting from the tortuous acts of another servant. This restriction is incorporated in what is known as the "fellow servant rule," which may be succinctly state as follows:

"Where a master uses diligence in the selection of competent and trusty servants furnishes them with suitable means to perform the service in which he employs them, he is not answerable, where there is no countervailing statute, to one of them for an injury received by him in consequence of the carelessness of another, while both are engaged in the same service."

The Supreme Court of this Stat in *Mast vs. Kern*, 34 Or., 247, in amplification of this rule, held that "It is the personal and absolute duty of the master to exercise reasonable care and caution to provide his servants with a reasonably safe place to work, reasonably safe tools, appliances and instruments to work with, reasonably safe tools, appliances and instruments to work with, reasonably safe material to work upon, suitable and competent fellow servants to work with them, and to make needful rules and regulations of the safe conduct of the work; and he cannot delegate this duty to a servant of any grade so as to exempt himself from liability to a servant who has been injured by its non-performance. Whoever he entrusts with its performance, whatever his grade or rank, stands in place of the master, and he is liable for the negligence of such employee to the same extent as if he had himself performed the act, or been guilty of the negligence. But when the master has performed his duty in this regard and provided competent employees, a reasonably safe place to work, suitable materials, tools and appliances to work with, and needful rules and regulations, and the like, he has discharged his whole duty in the premises and is not liable to a servant for the negligence of another servant while engaged as an operative."

The doctrine enunciated by our court is the commonly accepted common law rule of this country and Great Britain, and from which the courts have not appreciably departed in the absence of statute. But the rapid growth and development of railroads and the extremely hazardous occupation of those engaged in railroad work, have induced the legislatures of many States to modify the fellow servant doctrine as applicable to railroad corporations. Such laws have been assailed as being violative of both State and Federal constitutions, but they have been uniformly sustained by the State as well as by the Federal courts. *Chicago, etc., R Co. vs. Pontius*, 157 U.S., 209; *Mo. Pac R. Co. vs. Mackey*, 127 U.S., 205; *Dithermer vs. Chicago, etc., R Co.*, 47 Wis., 138; *Herrick vs. M., etc., R Co.*, 31 Minn., 11; *Pierce vs. C.I.R. Co.*, 73 Ia., 140; *G.R. Co. vs. Miller*, 90 Ga., 571.

One of the latest acts upon the subject is that of the State of Virginia, approved March 27, 1902. It provides that every corporation operating a railroad in that State, whether such corporation be created there or elsewhere, shall be liable in damages for any and all injury sustained by any employee of such corporation in the following case: "When such injury results from the wrongful act, neglect or default of an agent or officer of such corporation superior to the employee injured, or of a person employed by such corporation having the right to control or direct the services of such employee injured, or the services of the employee by whom he is injured; and also when such injury results from the wrongful act, neglect or default of a co-employee, engaged in another department of labor from that of the employee injured, or of a co-employee on another train of cars, or of a co-employee who has charge of any switch, signal point, or locomotive engine, or who is charged with dispatching trains or transmitting telegraphic or telephonic orders. Knowledge by any employee injured of the defective or unsafe character of condition of any machinery, ways, appliances, or structures of such corporation shall not of itself be a bar to recovery for any injury or death caused thereby.

When death, whether instantaneous or otherwise, results from any injury to any employee of such corporation received as aforesaid, the personal representative of such employee shall have a right of action therefore against such corporation and may recover damages in respect thereof. Any contract or agreement, express or implied, made by any such employee to waive the benefit of this section or any part thereof shall be null and void, and this section shall not be construed to deprive any such employee or his personal representative of any right or remedy to which he is now entitled under the laws of this state."

I commend the general scope and purpose of this law to the legislature of Oregon, and earnestly urge the enactment of a similar statute at this session. Legislation upon this subject was defeated at the last session, but it seems to me that the demands of the thousands of men engaged in railroad employment here, are entitled to be heard as they have been heard, and favorably acted upon, in other States not more progressive than Oregon.

The strict application of the fellow servant law as it has been adopted by the courts of this and other States, virtually defeats recovery by a railway employee, or his personal representative, against the employer in case of death or injuries received in performance of duty, no matter how deserving or meritorious, for the defense is invariably interposed that the injury or death was due to the negligence of a fellow servant, and nearly always successfully. The corporations hedge their employees about with rules and regulations which they expect and intend shall be more honored in the breach than in the observance. To obey them in their entirety would be impossible, and to disobey them places a weapon of defense in the hands of the corporations, whenever accidents occur resulting in injuries and death to old and faithful employees.

SALARIES FOR STATE OFFICERS

The platforms of both parties prior to the last election declared in favor of putting all the State officers on fixed annual salaries, and the payment of all fees earned by them in the performance of official duties into the State treasury. These platform declarations were the result of a demand on the part of the people and the press for further economy in the administration of State affairs. If platform utterances mean anything at all, if they are enunciated in good faith and with the intent that those nominated and elected thereon shall be bound thereby, then the duty devolves upon you gentlemen of the legislature to enact these promises into a law to be effective at once, as the duty devolves upon me and upon all of the State officers, not only to accept your determination in this matter gracefully, but to assist you in the framing and enactment of such a statute as will put these promises into effect.

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

Since the last election it has been asserted in some quarters, that under this constitutional provision, no other or different salary can be given by the legislature to any of the officers therein named than those prescribed. If this contention be well founded, the constitutional provision is being violated every year by each and every of said officers, for each of them now receives a salary for services upon the different State boards and commissions which in the aggregate exceeds that named in the constitution. Further, in addition to these several salaries, laws have been passed from time to time which prescribe schedules of fees to be charged by some of these officers for the performance of official duties, and these fees added to the salaries provided for services on boards and commissions, give to the officers receiving them compensation entirely disproportionate to the services rendered the State. And therein lies the vice of the system which has been in vogue for many years past. It is difficult now to ascertain, unaided by persons familiar with the laws, the emoluments received by some of the officers named in the constitutional provision quoted, and the time has now arrived when each and all of said officers should be placed upon such fixed annual salaries as shall afford them a compensation commensurate with the duties performed and the responsibilities assumed, and in those cases where fees are charged and collected, such fees should be, from this time on, paid into the

State Treasury. It matters not so much whether these salaries are fixed in a lump sum, or whether they are ascertained by allowing separate salaries for services as members of the different State boards and commissions, but it should be done in express terms and not subject to change during the term for which the officials shall have been elected. Again, it has been urged that the legislature is powerless to change the compensation of an officer during his term. This is not true. In the case of *Territory v. Pyle*, 1 Or., 149, the Supreme Court of this State, speaking through Judge M.P. Deady, held that public officers are created for convenience of the public and not for the officer, and that it is competent for the legislature to increase or decrease the compensation of an officer, and even to abolish the office in the absence of any constitutional inhibition. Substantially the same doctrine has been laid down in the later cases of *State ex rel. vs. Simon*, 20 Or., 365, and *State ex rel. vs. Steele*, 39 Or., 419. the rule is well settled that the constitution, so far as it relates to the legislature, is a limitation and not a grant of power, and the legislature may exercise any of the powers of sovereignty not prohibited. That body is prohibited from giving to the officers named a less salary than the amount prescribed therein; it is prohibited from giving to any of them any fees or perquisites for the performance of official duty, but it does not prohibit the legislature from exercising the discretion of increasing their salaries beyond those named therein.

In *State ex rel. vs. Steele*, 39 Or., 19, Judge Wolverton speaking for the court, said: "Were the constitution a grant of power, it would carry with it such implied powers as are necessary and proper to subserve and carry into effect the purposes of the grant. * * *

"If this be so as respects a grant of powers, with how much stronger reason does it apply to a constitution which is not a grant, but a limitation—where the residue of power is retained by the people, to be exercised through the legislature, except as limited and circumscribed by that instrument. 'The people, in framing the constitution,' says Chief Justice Denio, speaking of a state constitution, 'Committed to the legislature the whole law-making power of the State which they did not expressly or impliedly withhold. Plenary power in the legislature, for all purposes of civil government, is the rule. A prohibition to exercise a particular power the exception.'"

An examination of the Journal of the convention which framed the constitution will show, that it was not the intention of the framers of that instrument to limit the legislature to the salaries therein prescribed. When the provision quoted had been adopted, Mr. Peebles, of Marion County, moved to amend the section as it now stands by adding at the end thereof the following: "Provided, further, that the salaries of the Judges of the Supreme Court shall not be subject to increase, and the salaries of the Governor and Secretary shall never exceed two thousand dollars, nor that of the Treasurer exceed twelve hundred dollars." The vote on this amendment was as follows: Yeas, 15; nay 35, so the amendment was lost. It will thus be seen that the intention to limit legislative action in this behalf was discussed, voted upon and defeated. It was plainly then the intention of the framers of the constitution to fix the salaries of the first officers elected thereunder, leaving the question of increasing these salaries to succeeding legislative bodies. Eminent gentlemen who were members of that convention hold this view, with a full knowledge of the intent of the framers of that instrument. This view has received executive, judicial and legislative sanction. So eminent a jurist and executive as Hon. William P Lord in his message prepared to be delivered to the nineteenth regular session in 1897, but not delivered, (a copy of which I have), and in his message as delivered to the twentieth regular session in 1899, in discussing the subject of the creation of State boards, said: "But, it has been said, the object in creating these boards was to increase the salary of the Governor (and likewise of other State officers), the implication being that to raise it directly and commensurately with the duties and responsibilities of the executive office would be unpopular and unconstitutional. The supposition is absurd. The passing of an act to effect indirectly an increase of the salary of an officer ought to be more unpopular than the passing of an act which directly increases it. If the people will consent or submit that the increase should be effected through the agency of a board, they will not object that it should be accomplished by a direct increase of salary, which only affords him a reasonable compensation for his services. Nor is the objection to an act directly increasing the salary of the Governor of any constitutional weight. It is entirely within the constitutional province of the legislature to raise the salary to such sum as is just and proper in its judgment, and the best lawyers and judges—some of whom served in the convention that framed the constitution—have expressed opinions on this subject with a unanimity that could not exist if there were any doubt of the constitutional power of the legislature to do so. It is not the salaries of officers that embarrass

the operation of government, or burden the people with excessive taxation. It is 'jobs', wasteful practices, lavish and unnecessary public expenditures, pillaging State contracts, useless boards and commissions, freebooting the treasury with fictitious claims and needless appropriations, that put an unjust burden upon the people, and serve to retard the growth, development and prosperity of the State."

If the pledge of your platforms are carried out, and the Governor, Secretary of State, Treasurer and Judges of the Supreme Court placed upon reasonable annual salaries, and all fees earned paid into the treasury, it will result in a saving to the State.

There can be no question but that you, gentlemen, have the power, and it is a moral duty incumbent upon you to enact a law placing each and every of the officers herein named upon salaries commensurate with the services rendered, not to be increased or diminished during their incumbency, and requiring all fees to be paid into the treasury as a part of the general fund, such act to take effect at once.

STATE PRINTER

In further support of the position assumed above as to the proper construction to be placed upon the constitutional provisions there under discussion, the framers of the constitution expressly provided that the rates to be paid to the State printer shall be fixed by law, "and shall neither be increased nor diminished during the term for which he shall have been elected." How easy it would have been, in case of the other State officers, to have adopted the amendment proposed by Mr. Peebles to the section fixing their salaries.

You are prohibited therefore in express terms by Article XII, Section 1, of the constitution, providing for the election of a State printer and fixing his charges, from either increasing or diminishing during his term, the rates to be charged by him. The rates charged are too high, but the abuses in this department are not so much due to the rates, as to the amount of useless work done therein with legislative sanction. At the last session of the legislature there was appropriated for the expenses of this department \$50,000.00, and from the 1st day of January, 1901, to and inclusive of September 30, 1902, there had been expended for State printing the sum of \$37,687.40. This is in excess of what is just and proper, and the only way to stop the leak, which adds greatly to the annual amount of revenue to be raised, is to lop off, not the rate of charges, but the amount of printing done for the ensuing two year, at the same time reducing the rate of fees by an act to take effect at the expiration of the term of the present incumbent.

I recommend for your earnest consideration the propriety of limiting the space to be used in the publication of all biennial reports. Results might be given instead of detail in many of the financial and other reports, and with entire safety and propriety if the suggestion I make hereafter of experting the books of all State officials be acted upon favorably.

EXPERTING BOOKS OF COUNTY OFFICIALS

The Act of 1899, empowering the several District Attorneys of the State to file original information against those charged with crime has resulted in a great saving to the taxpayers. The courts are still invested with a discretion to empanel grand juries if they see fit. But as a rule, there is little for them to do, except to investigate the books of the several county officials, and to visit and inspect the public institutions of the counties, cities and the State. Their work, especially in the matter of examining the books of officials, is necessarily perfunctory. Besides, it not infrequently happens, that no matter how honest they may be in their work, they are men not accustomed to look into long accounts for detection of errors of head or heart, and if ever so competent, the time allotted to them is too short for effective service. In consequence, defalcations of county officials are not discovered by them, and when detected by others the statute of limitations intervenes to bar prosecution or recovery of stolen money.

Leaving the empanelling of grand juries still in the direction of the courts, and without any change or modification of their statutory duties, a law should be enacted requiring each of the County Courts of the several counties to employ a competent expert at least once a year to examine into and report upon the books and official records of the several county officers. This has been done by some of the County Courts in the absence of any statute, and such course has had a salutary effect wherever it has been tried.

EXPERTING BOOKS OF STATE OFFICIALS

In this same connection it may be proper to add, that defalcations of State officials have in times past eluded the inspection of legislative committees and experts employed by them. It is recent history, that a defalcation of a clerk of the State Land Board of more than \$30,000.00, was not discovered by a committee of your body. On the contrary, his books were examined and reported to be correct. Nor was discovered thereof made until prosecution of the defaulter was barred by the statute of limitations, and there is not only now no prospect of prosecution, but very little hope that the State will ever recover the stolen funds. In the rush and confusion incident to a session of forty days, it is impossible for a committee of your body, however ably assisted by the most capable and trustworthy accountants, to examine into, and arrive at, a proper understanding concerning large money transactions running into the millions annually. It is beyond the power of any man or set of men, under the conditions surrounding a legislative session, to do effective and thorough work in the time allotted to them, and no reflection upon the integrity of this or any former legislature is intended in what is here said. It may be objected that the present State officials are honest, and that therefore no necessity exists for examining into their books. To such objection I answer, that it can then do no harm to look into their accounts. Certainly no honest official can or will object to having his work opened to inspection. For his own protection against posthumous misrepresentation, investigation should be courted rather than shunned.

With no suspicion of irregularity in the books and accounts of any State officials, but rather for their protection, and in the interest of the people of the State at large, I earnestly recommend that you empower the executive to employ a competent accountant to examine into and check up the accounts of officers on the payrolls of the State, reports to be made to him from time to time and finally to the legislature, and that provision be made for the payment of the person so to be employed.

TRANSPORTING CONVICTS TO THE PENITENTIARY

Former executives have recommended the advisability of legislative action upon the subject of the conduct of prisoners from the place of trial and conviction to the penitentiary. No action has been taken by any former legislative body on these recommendations, but I earnestly trust that the matter will receive consideration at your hands at this session. This work is now done by the sheriffs of several counties, for which they each receive a per diem for every day actually engaged in conveying prisoners, besides necessary traveling expense for themselves and the convict conveyed, and the necessary expenses incurred in guarding such convict during such conveyance, the money being paid by the State either to the sheriff or to the county where the conviction was had. There was appropriated for this service at the last session of the legislature for the two years ending December 31, 1902, \$12,500.00, and up to September 30, 1902, there had been paid out \$10,241.76. A material saving can be made to the State, if instead of the present method, an act is passed, requiring the performance of this service by the Superintendent of the Penitentiary, or some of his subordinates, who shall only recover from the State the amount of actual expenses incurred, upon claims properly verified, presented to, and audited by the Secretary of State. Such course will, besides, provide a uniform course to be pursued by all of the counties, and the work will be done by men trained in dealing with criminals and the criminal class.

TRANSPORTING INSANE AND IDIOTIC PERSONS TO THE ASYLUM

Section 3558 Hill's Annotated Laws provides in substance, that when a person has been adjudged insane, such person shall be conveyed to the asylum by any proper person or persons selected and designated by the County Judge. The sheriff is usually designated for this service, and the expenses are paid out of the State Treasury, not exceeding \$3.00 per day to the person appointed, and his actual, reasonable and necessary expenses, together with \$2.50 per day for the necessary attendants. For the payment of these expenses there was appropriated at the last session of the legislature for the two years ending December 31, 1902, \$27,500.00, and from January 1st, 1901, to September 30, 1902, there was expended on this account \$23,178.94.

The transportation of the insane and idiotic to the asylum ought to be entrusted to the Superintendent of the Oregon State Insane Asylum and his assistants, not only on the score of economy to the State, but for reasons of humanity as well. That this unfortunate class should be entrusted in all kinds of weather, for long and tedious journeys and under any and all conditions, to persons who, in many instances are not only entire strangers to them, and so careless of their wants, but who have had no experience in the care or treatment

of those so afflicted, is discreditable to the State. Recommendations have been made by former executives for amendment of existing laws touching this subject, the press of the State has expressed itself clearly and unequivocally in advocacy thereof, and these things supplemented by the plainest dictates of every sympathetic heart, suggest immediate action in behalf of a class of unfortunates who, though "they live, and move and have their being," can have no voice in aught that affects their welfare.

YOUTHFUL CRIMINALS

Section 1414 Hill's Annotated Laws of Oregon provides for the suspension of final judgment against minors under sixteen years of age, on any conviction, charge or prosecution for misdemeanor or felony where, in the opinion of the court in which such proceeding is pending, there is a reasonable ground to believe that such minor may be reformed and that a commitment to prison would work a manifest injury.

Provision is made for the disposition of such minors in cases where there has been a suspension of judgment. This statute was passed before the creation and erection of the Reform School, and though it has never been in terms repealed, it has been modified by subsequent legislation for the government of said school by the Acts of 1889, 1981 and 1893. Under the provisions of the latter act, the court has the power to commit juvenile offenders between the ages of ten and sixteen years, charged with the capital cases, to the Reform School instead of to the County Jail or Penitentiary. The jurisdiction of the courts under these statutes, between the age limit named, is ample, but Circuit Courts should be vested with a broader jurisdiction by positive statute. Ample provision is made for the exercise of discretion by courts of superior jurisdiction in many States, and even in the absence of statute, the exercise of a sound discretion with reference to suspension of sentence has been sustained. But the propriety of such course in the absence of statutory authority is questioned, and properly so. Numerous cases have arisen in my own experience as a public prosecutor where young men between the ages of sixteen and twenty-one, and even older, have been inveigled into the commission of crime. In many cases these young men were of excellent antecedents, training and habits. It most frequently happens that in such cases friends or relatives are willing, notwithstanding these departures from the paths of rectitude, to take them, answer for their future conduct and give them employment. And again, positions can often be had for these unfortunate young men on board ships bound upon long voyages, in charge of capable officers, but under the law as it now is, no recourse is left to the courts except to commit them either to the County Jail or to the Penitentiary, or to exercise the questionable power of suspending sentence.

The hope of reformation in the event of confinement in the jail or penitentiary is gone, and the State deprived of the possibility of having a useful citizen added to its population, with every assurance that at the completion of a sentence of imprisonment, another criminal has been turned loose to pursue a life of crime.

I earnestly recommend some legislation looking to the enlargement of the jurisdiction and power of the Circuit Courts with reference to youths between the ages of sixteen and twenty-one. They need not be committed necessarily to the Reform School. Suspension of judgment and a system of parole, in my opinion, would meet the requirement and result in the restoring to citizenship of persons who under the present limited power of the courts are converted into confirmed criminals.

PUBLIC EXECUTIONS

Within the past few years there have been a number of executions for murder in this State. These executions have taken place in the jail yards of the several counties, and of necessity have been more or less public. In two cases in Multnomah County, at least four hundred invitations were issued to officials and others to witness the double execution of two notorious criminals, and applications were made for as many more. The gallows was erected in the jail yard at the intersection of two of the most public streets of the City of Portland, and the morbidly curious were attracted there from the time the workmen commenced to build the scaffold until it was finally torn down. At the moment of execution, although the ground was covered with snow, crowds of men, women and children stood in the adjacent streets to see and hear, if possible, what took place within the enclosure, and boys and men actually climbed telephone poles to look over the same. Such scenes are demoralizing, and ought not to be tolerated in any civilized community. All executions should take place within the walls of the penitentiary, out of hearing and out of sight of all except officials,

and the bodies of those executed ought to be forfeited to the State as well as their lives, buried within the prison precincts and not given to either relatives or friends to be publicly paraded and viewed by persons whose tastes incline to the morbid.

I earnestly recommend such legislation as will carry out these suggestions.

THE SAILOR BOARDING HOUSE NUISANCE

During the past eighteen months, great complaint has been made about abuses which exist at the Ports of Portland and Astoria, occasioned by interference on the part of sailor boarding house keepers, runners or crimps, with seamen of vessels arriving from foreign ports and carrying the flags of foreign powers.

The legislative assembly of this State passed an act at its session in 1880 denouncing penalties against persons enticing seamen to desert, harboring seamen with intent to deprive the owner of their services, demanding or receiving from them any remuneration for providing them with employment on board any sea-going vessel, demanding or receiving from any owner, master or agent of a sea-going vessel any remuneration other than the fee of \$10.00 per man, for supplying any seaman to be entered on board any such sea-going vessel, and for boarding or attempting to board any ship on the Willamette or Columbia River, not engaged in the carrying of passengers, for hire, without the consent of the captain, master, or other officer first obtained. Convictions for violations of the act may be had, either before Justices of the Peace, or in the Circuit Courts, and the penalties in cases of conviction vary from fines of from \$50.00 to \$250.00, or by imprisonment in the County Jail for periods varying from ten days to six months. The right of appeal exists in each instance under the general laws of the State.

These penalties are not severe enough to prevent the abuses complained of, but this is not the most serious difficulty. Where the master of the vessel, assisted by the consular agent of the power whose flag the vessel carries, honestly endeavors to vindicate a violation of the statute, the delays incident to the right of appeal, and the consequent detention of vessels when laden, in the port for the purpose of prosecution, make a successful enforcement of the law a too expensive experiment, with the result that the owner of the vessel prefers to be, and is constantly mulcted by the runner for furnishing a crew to take the place of deserters in excess of the amount provided by law, rather than be detained at a greater expense with a full laden ship to assist in bringing the violators of the law to justice.

Federal statutes exist having in view the accomplishment of the objects sought to be attained by the statutes of this State, but their scope is not broad enough, nor the penalties denounced by them adequate. A general revision of these to meet the evils which exist not only in this, but in other ports, would be the most effective remedy, and I suggest that you memorialize congress to take immediate action in the premises, at the same time appealing to your Senators and Representatives in Congress to give this matter their attention.

I recommend also, that the laws of this State be amended at this session in these particulars: First, create a severe penalty by way of both fine and imprisonment; second, invest the municipalities of Portland and Astoria with the broadest authority to enact ordinances on the subject, operative within their corporate limits, not inconsistent with the general purpose and scope of the laws of the State, cutting off the right of appeal in cases arising under such ordinances, thus avoiding delays of which I have spoken.

The rapid growth of the State in wealth and population, and the possibilities of an increased oriental traffic, demand that all handicaps upon our shipping should be removed as summarily as possible, none of which are more serious than those to which attention is here called.

These suggestions may not be a panacea for all the evils, but if carried out will at least tend to relieve the situation. It is a matter which affects not only the ports mentioned, but the commerce of the whole State, and of all that portion of the Northwest tributary to the Columbia River.

THE COMMON SCHOOLS

Oregon has just cause to be proud of the record she has achieved with reference to her public school system. She stands near the front rank in efficiency and in attendance proportioned to population. No tax is so cheerfully paid by our people as that which goes to support the public schools, for it is in them that the minds and characters of the great majority of our children must of necessity be formed, and it is to them that the State must look mainly for useful and responsibly citizenship. To maintain their efficiency is our solemn duty. The education there attained should be extremely practical, having for its object the preparation of the pupil for the every-day affairs of life. To this end, non-essentials should be eliminated, and essentials installed. It is to be feared, however, that the modern tendency is to reverse this wholesome rule, and reading, writing and arithmetic are giving way to music, drawing and other embellishments. Too many are the books and too many the studies for thoroughness in those things which go to fit our boys and girls for useful men and women, and embellishments are being added to the courses of study each year which had better be left to schools of art and to colleges and universities.

I desire to call your attention to another matter in this connection. In many of the sparsely settled rural districts the people are too poor to maintain more than a three-months' school each year. Some assistance ought to be given them by the State to enable these districts to maintain a longer term. The education of the children is not so much a matter of local concern as it is one affecting the welfare of the whole State, and a greater proportion of the moneys derived from the interest on the irreducible school fund than is now expended therefore might be used in this direction. Again, in nearly, if not all, of these districts, it has been found impossible to maintain graded schools, while in the cities they have reached a high state of perfection. The result has been, that in order to give their children the benefits of a higher education than the rural schools afford, farmers are compelled, either to move into the cities with their families, or send their children away from home influences and friends, to be exposed to the allurements and temptations of city life. Consolidation of rural schools in some of the States, notably Ohio, Indiana, Iowa, Minnesota, Nebraska and Kansas, has been successfully attempted as a solution to the problem. Some provision ought to be made for permitting rural districts to consolidate for the purpose of perfecting a graded school system, so that children on the farms may enjoy near their own homes those advantages which are given to the patrons of the public schools in the cities.

In an article in the Review of Reviews for December, 1902, will be found an elaborate discussion of this subject by the Superintendent of Public Instruction of Kansas. In speaking of the consolidated school at Lorraine in Ellsworth County, Kansas, organized in 1896, he says: "It is composed of the territory of what was formerly four country school districts. They now have a graded and high school employing four teachers. The school started with three teachers, but last year a two-year high school course was added, thus making an additional teacher necessary. As in every other place where the plan has been tried, the enrollment and attendance is much larger than before, being almost one-half greater than under the old plan. This increased attendance in school and greater length of term are of great value to the community and to the pupils attending school. * * * The people of Lorraine are more than satisfied and would not think of going back to the old plan."

This matter is worthy of your very careful consideration as a step in the direction of improving the public school system in districts outside the cities.

STATE NORMAL SCHOOLS

There are now four Normal Schools in the State, for the support of which there was appropriated at the last session of the legislature in all \$116,229.52. The value of these institutions as training schools for those upon whom is to devolve the education of our youth, is fully recognized and appreciated. Their primary object is the professional training of teachers. The conditions of entrance are supposed to be placed high enough to exclude all except those who have completed the common school course of study, but it is generally believed that many of those who are admitted are not well grounded in the rudiments of the common school branches, and had much better be in attendance on the public schools. Nor is this all. The primary object to the Normal School system is often lost sight of, and many pupils are enrolled who have no intention or expectation of adopting school teaching as a profession, while in some instances they are only doing the work that ought properly to be done in the higher grades of the public schools. The result of this

course necessarily lowers the standard of Normal Schoolwork, and at the same times affects injuriously the public schools wherever the Normal School is located.

Even if the propriety of educating and training teachers at the expense of the State be conceded, not more than two Normal Schools ought to be thus maintained, so situated geographically as to best accommodate the entire population of the State. There is no valid reason for taxing the people of the whole State to maintain here and there for a favored few, schools which in all but in name are little more than substitutes for the higher grades in the public school system.

I recommend that the number of Normal Schools, aided by State appropriation, be reduced to two, and that admissions thereto be hedged about by such restrictions as will require them to carry out in good faith the purposes of their creation, so that the people whose money is expended in their support may be compensated in part by a corps of thoroughly equipped teachers in the public schools.

PILOTAGE AT THE MOUTH OF THE COLUMBIA RIVER

Compulsory pilotage on the Columbia River was abolished some years since, and it has resulted beneficially to the shipping interests of the Northwest.

Everything points at this time to a more intimate commercial intercourse between this country and the Orient, and no States are more vitally interested than Oregon and Washington in the removal of everything possible that places a handicap upon shipping.

Some months since the report gained currency that a combination was likely to be formed between the Oregon and Washington bar pilots. Whether such report was true or not, it makes no difference. It is sufficient ground for action by you, if it is possible for such combination to be entered into, and a brief consideration of the statutes of the two States fixing the compensation of bar pilots will show that it is possible. The laws of Washington provide, that "the fee for piloting a ship or vessel from the open sea beyond the bar to Astoria or Knappton shall be \$8 per foot draft for the first twelve feet, and for piloting a ship or vessel from Astoria or Knappton to the open sea beyond the bar, \$8.00 per foot for the first twelve feet, and \$10.00 per foot draft for the excess above twelve feet. If a pilot shall board a ship or vessel bound in, while she is either on or within the bar, and not above Sand Island, he shall be entitled to only half fees from thence to Astoria; and if at the time of boarding she shall be above Sand Island, he shall be entitled to quarter fees only."

The laws of this State provide, that "the compensation allowed for piloting a vessel over the bar pilot grounds shall be as follows: For piloting an inward or outward bound vessel to or from Astoria over the bar, or from within the bar to the open sea, all vessels shall pay \$5.00 per foot draft, and two cents per ton for each and every ton registered measurement from or within the bar." Hill's Annotated Laws, Sec. 3918, as amended in 1893.

It will be seen by a comparison of these statutes, that pilots are permitted to charge a much higher rate in Washington than here, and by collusion between them it is possible to put in force the higher rate, by permitting those of Washington to do the work. When the Washington statute was passed the compensation thereby provided was probably not excessive, because the amount of shipping was limited. But under present conditions, with increased shipping, and the probability of a much more rapid increased therein, the Washington rates are exorbitant and ought not to be tolerated.

The life of the bar pilot is a hazardous one, and he is entitled to be well paid for the labor he performs and the risk he assumes, but beyond that he should not, in justice to our growing commerce, be permitted to go.

Something should be done at this session of the legislature, if possible, to procure a concert of action on this subject between this State and Washington. In no other way can a proper regulation of this important service be brought about.

I submit this matter to you, and suggest that it ought to receive your very serious consideration while the legislature of Washington is in session. A committee should be appointed, to confer with a like committee from Washington, so that uniform rates may be adopted for the pilots of both States.

HEALTH OFFICERS

The law in so far as it provides for a Health Officer at Astoria with a salary of \$1,000.00 per annum, with a boatman at \$500.00 per annum, ought to be repealed. For a number of years past this has been a sinecure. All the duties prescribed for such officer are now covered by the United States Quarantine Officer at that port. He has precedence over any state officer, and has a well equipped quarantine station and boarding steamer. When a vessel arrives with a contagious disease on board it is at once sent over to the United States Quarantine Station near Knappton, Washington, there kept till all danger is passed and then properly disinfected. Even the State Health Officer without a permit from the Federal officer would not be allowed to go near it, its crew or passengers. A Federal quarantine station has been maintained at the port named for about three and a half years, and is in charge of an officer in the Federal service. Such is not the case at either Coos Bay, Gardiner or Yaquina Bay. These officers might still be retained, but the amount of service performed should be inquired into and a salary paid each commensurate therewith. Those now paid are too large for the service rendered the State.

In this connection it might be proper to add, that because of our present intimate and growing trade relations with the Orient, and the danger to be apprehended from the importation of diseases which afflict Oriental races, a general health law should be considered and enacted by you, so that should epidemics of contagious diseases threaten us, some protection may be afforded our people.

LABOR

Troubles between capital and labor have not at any time seriously affected the business interests of the State. A spirit of toleration has existed between employer and employee which is to be commended, and incipient troubles have been easily settled by discussion and mutual concession.

It is greatly to be desired that the friendly relations which have always existed between these great forces in Oregon may continue for all time. We have just witnessed a great strike in the Pennsylvania coal fields, which assumed national proportions and for time threatened serious results. Organized capital on the one side, so stubborn and arrogant that the goodly offices of the Chief Magistrate of the United States himself were met with contumely and insult, denied to labor the right to organize as well for its protection. The action of the President in trying to avert what promised to be a national calamity deserved, as it has received, the commendation of American citizenship, and his treatment at the hands of the coal operators aroused the attention and indignation of the whole people to such an extent that public sentiment drove the operators finally to consent to what the labor organization were at all times ready to accede to—arbitration of differences. It is to be hoped that the cool, determined and manly course of John Mitchell may continue to inspire the host of laboring men under his control, and his fellow citizens, with confidence in the uprightness of his intentions, and finally lead the operators to deal justly by and with the men in their employ.

Labor organization has come to stay, and will stay as long as conditions exist requiring it. In principle it is right. If owners of wealth can combine their interests, formulate trusts for control of production and output of every industry, stifle competition and control the prices of all commodities and the very necessities of life, with labor disorganized, is it unreasonable to believe that the time would soon come when there would be a condition of almost absolute serfdom among the laboring classes of the country. Combinations of capital are recognized as legitimate by the legislatures and the courts of all the States, and slowly but surely both these branches of government are beginning to realize that capital is but the increment of labor, and its rights are at least equal if not paramount to those of the former. A healthy public sentiment is driving the courts from the extreme position once taken by them which scarcely recognized the rights of the working classes. Government by injunction is not so popular now as it was a few years since, and it is safe to predict that in a few years more it will be the exception rather than the rule to control men through appeals to courts of equity, instead of giving to them fair and impartial trials by juries of their peers, a right guaranteed by national and State constitutions.

Taking counsel from passing events, would it not be well here and now, in anticipation of what may yet be veiled in the womb of the future, to enact a law looking to the arbitration of disputes between capital and labor in cases where either agreements cannot be reached, or one or other of the parties to the controversy will not confer. One thing is certain, that where one party to a dispute declines to confer or submit to a fair and impartial tribunal of arbitration, it is taken by the citizen as a confession of weakness, and sentiment is apt to be arrayed on the side of him who proposes arbitration rather than on that of him who declines.

In this connection, while yet Oregon is in its infancy of industrial and commercial development, a law ought to be passed regulating the employment of children and minors in factories and workshops. Such legislation would not be seriously opposed at this time, because as yet, be it said to the credit of the State, child employment is measurably limited. But judging by the experience of other States, as manufacturing establishments increase in numbers and in operatives, and competition becomes active, the employment of children will increase in proportion and become engrafted in our social and industrial system. When that time arrives, curative legislation becomes difficult of accomplishment.

Acting then upon the theory that announce of prevention is worth a pound of cure, some legislation along the lines here suggested ought to be enacted.

Conditions have changed and are changing so rapidly that conservatism ought to be observed in all legislation along the lines suggested. In avoiding Scylla, let us not strike Charybdis. "The individual is no longer the unit of competition," some one has observed, "but an aggregation of individuals, called a corporation. Combination is the watchword, but out of it all let us hope may come true co-operation and a recognition of the solidarity of the race and the brotherhood of man. Our legislation must meet these changed and changing conditions."

As a first step to a thorough understanding of the relative conditions of capital and labor in this State, a bureau of labor ought to be established or a commissioner appointed to inquire into and report to the next session of the legislature. Knowledge upon the subject is the first step in intelligent legislation, and this cannot be attained without a careful investigation by some man or body of men specially appointed for that purpose.

INITIATIVE AND REFERENDUM

The people have seen fit to adopt an amendment to the constitution providing for the Initiative and Referendum. Official extravagance, and a disregard of the best interests of the commonwealth by legislative bodies, originated the demand for this innovation. Legislative contests over the election of United States Senators, and lobbies in the interest of railway and other corporations, have so obstructed legislation in years gone by, that many laws actually demanded have failed of enactment, while other absolutely without merit and vicious in their tendency have found lodgment on the statute books. As a means to check these evils—sins of omission and of commission—the Initiative and Referendum is to be attempted, and there is no question but that the effect will be beneficial. To give an amendment a fair trial some legislation ought to be had at this session to make it effective. It is urged by some gentlemen of eminent legal attainments that the provision is self operative, and that no legislation whatever is necessary, whilst others whose opinions are entitled to equal weight entertain an opposite view. With this latter view I concur. The fact that there is a difference of opinion on the subject suggests the propriety of the enactment of a law at this session that will set the question at rest by making it incumbent upon the proper officials to furnish the people with the necessary information and blanks for direct legislation, as well as for submitting to them under the referendum for their approval or disapproval such acts as the legislature may pass under the provisions of the constitution.

SUPPORT OF INSANE AND INCORRIGIBLE

Some provision ought to be made for compelling the near relatives of insane persons confined in the Asylum to contribute toward their support in cases where they are so situated financially as to be able to do so. And so with incorrigibles sent to the Reform School. Their parents, where able, should be made to assist the State in the support and education of their children. At the time when a patient is committed to the Asylum, or a

boy sentenced to the Reform School, the Court could easily ascertain the financial conditions of the persons whose duty it should be to contribute to the support of these wards of the State, and render judgment accordingly. The enactment of such a law would result in a saving of many thousands of dollars to the State each year.

CONVICT LABOR

The State now has a contract with the Lowenberg & Going Company, executed February 1, 1899, and expiring July 29, 1905, for the labor of one hundred convicts at thirty-five cents per day of ten hours each; and for such additional number as said company may desire at the same price. These prisoners are engaged in the manufacture of stoves which are put upon the market in active competition with those manufactured by private enterprise employing free labor.

Steps should be taken now looking to the employment of convict labor, when this contract expires, so that it will not come in competition with free labor.

LIGHTING PUBLIC BUILDINGS

A report will be submitted to you with reference to the cost of lighting public buildings. I invite your earnest attention to this report, and suggest some legislation upon the subject, to be effective at the expiration of the present contract between the State and a private corporation. The State ought to own and operate its own light plant. This could be located at the Penitentiary and operated in part by convict labor.

OPEN RIVER

The Columbia River and its tributaries ought to be kept open for navigation. The bar at the mouth of the Columbia is in such condition that it threatens injury to the commerce of the whole Northwest, and it is important that the attention of Congress be called to our present needs.

Eastern Oregon is an empire in itself. It is being developed by the enterprise of its citizens with startling rapidity. Its resources are unlimited and it is destined soon to be the greatest cereal producing section in the world. The time is no far distant when lines of railroad will penetrate into every part of it, and the natural direction for the shipment of all the products of the country is toward the Columbia River basin, and thence to the Pacific.

In order to cheapen transportation, and enhance the value of every commodity to the producer, all obstructions in the Columbia above the Cascade Locks should be removed. Where that is not possible, locks or portage roads should be constructed around them by the Federal Government, and that failing, the State itself should take some action in the premises. This was done at the Cascades, and there is no question but that the course of the State hastened Federal action, with the result that the locks there have been completed.

The money expended by the State in the portage road at the latter place was well spent, and has been returned a thousand fold to the producers of Eastern Oregon in the way of reduction of freights and consequent enhancement of prices.

The locks at the Falls of the Willamette ought to be owned and controlled by the national government, and if they cannot be purchased at private bargain, provision should be made by law for their condemnation and purchase for public use.

I suggest that the attention of our Senators and Representatives in Congress be called to these matters, and their active aid and cooperation asked to bring about a speedy opening up of these highways of commerce.

BOYS' & GIRLS' AID SOCIETY

I mean no invidious comparison with other charitable institutions when I commend to your consideration the Boys' and Girls' Aid Society. I have come in close official contact with the institution and its able management during the past two and one-half years. It has been instrumental in saving hundreds of innocent young boys and girls from lives of crime and shame. It is deserving of your confidence and hearty support.

ARID LANDS

The development of irrigation projects by private companies under the Cary Act, and by the United States under the Maxwell Act of 1902, makes essential some legislation governing water and riparian rights. The Act of 1901 of this State, accepting the provisions of the Carey Act, is crude. There should be further legislation along the same lines. But nothing should be done without the greatest deliberation and caution, for hasty action would undoubtedly involve one of the State's greatest and most promising interests in interminable litigation and final disaster.

PUBLIC LANDS

There is now in the State Treasury \$729,435.42 of the Irreducible School Fund unloaned, and consequently bringing no revenue to the Public Schools. Under these circumstances, there is no reason for continuing the sale of the public lands of the State at minimum prices. It might be the part of wisdom to withdraw them from the market entirely for two years at least, but if the present policy of selling them is to be continued, the State Land Board ought to be invested with a broader discretion than they now possess, and permitted to refuse application to purchase, or to sell, either for their actual value after proper ascertainment thereof, or at public auction to the highest bidder, with power to reject any and all bids that might be offered.

Some provision ought to be made to enable the Board to ascertain and obtain the actual value of lands sought to be purchased. When application is made, the lands embraced therein should be appraised by the State Land Agent in connection with the local agent of the Board, or some disinterested persons, to be selected for that purpose at the expense of the applicant. There should be no further sacrifice of the remaining portion of the magnificent grants made by the general government to the State, for educational purposes. There have been at all times more or less abuses in connection with the sale of the public lands, and consequently much scandal has attached to various officials and private individuals because thereof. Duties which the law has intended should be performed by the clerk of the land board and other officials have not in times past been performed by them, and contemplated purchasers have been compelled to pay private individuals exorbitant prices for information which ought to be furnished by the records of the land department.

In his report to the Governor of Oregon, made in 1896, Hon. T.W. Davenport, State Land Agent, said: "It is not his" (the clerk's) "duty now," (to furnish information) "any more than it was the duty of his predecessors, ever since the office of clerk was organized in 1878; and there are no legal fees for the performance of his duties other than the official salary of \$1500.00 a year. He cannot charge for information concerning state land matters, or for letters pertaining to them. It is almost needless to assert the self-evident proposition that he cannot abnegate any of his duties in favor of an outsider, and thereby get rid of them for any purpose, and especially to charge persons doing business within the office illegal fees, or to speculate in State lands. All such things go without saying, and yet there is sufficient evidence to establish a moral conviction, all over the State, that the clerks of the State Board have been doing just those forbidden things from 1887 to 1895. It is a fact that during the last mentioned period, purchasers of lieu land paid more than the legal rate, \$1.25 per acre. In some instances as high as \$4.00 per acre were paid; \$1.25 went to the State and the remainder to those in the deal." What was then said by the State Land Agent might, with equal propriety, be said today. There is something wrong somewhere, and there is no use trying to disguise it. The responsibility ought to be fixed, and a summary remedy applied. As one step in this direction, the records and maps in the offices of the State Land Board and State Land Agent ought to be brought down to date and reconciled immediately. They should show what school sections have been lost to the State, whether because of settlement, mineral character or forest reserve, and this information should be accessible to the public, without money and without price. No citizen should be compelled to pay any private individual for information which the public records, maps and plats, if properly kept, would disclose. As a second step toward the correction of existing abuses, base hunting of all kinds by private enterprise should be discontinued, discouraged and abolished. If base hunting can be done at a profit by the individual, it can be done at a profit by the State, and it is a well known fact that the person who furnishes base for lieu land selection makes more out of it than the State gets for the lands sold. The State owns the base upon which all these selections are made, and it cannot be deprived thereof without its voluntary act. It should not be permitted through any of its agents to part with this base, or to allow any private persons to select lands in

lieu thereof. All selections made on account of losses to the State from any cause whatsoever should be made for the State, by itself, and these selections when made and finally approved, but not before, should be sold at their actual value.

Notwithstanding the fact that Mr. Davenport, in his report to the Governor in 1899, expressed the opinion that the sales of land as respects the States "are well-nigh closed," they have continued without interruption since, and many of the mistakes to which he so pertinently called attention are being constantly repeated, to the detriment of the State's good name and credit. Base hunting, upon a large scale, by private enterprise, has been and is being carried on with great profit to all concerned, except the State. The State, though nominally a party to proceedings to have school sections adjudicated as mineral, and so available as base for indemnity selections, has been taking no part in these transactions further than to allow its name to be used by private individuals for their own gain. Many thousands of acres of lieu lands have been sold by the State since Mr. Davenport's last report, upon base which is now being held up in the Land Department of Washington. The greater part of this will, in all probability, be disapproved, and when this has been done, where does the purchaser stand? He has paid the base hunter his price, ranging from \$1.00 per acre up, for the so-called base, has paid the State its price in part or in full for his lieu selection, has obtained a certificate or deed evidencing his purchase, and when the base is disapproved, his title fails. Provision is made by law to refund to him the amount paid to the State, with interest, but he loses the amount paid for base. In such event he feels, and even when a party to questionable practices pretends to feel, that he should be indemnified by the State for all his losses, because he holds the State's certificate or deed for his purchase. These cancelled lands are subject to entry under the federal laws, and it not infrequently happens that a bona fide purchaser from the State has made improvements upon the same, or has sold them by warranty deed to other persons who have relied upon the State's certificate or deed. Governor Lord permitted such persons to use about 38,000 acres of base out of the Cascade Reserve to perfect the title to their selections, at a loss to the State of over \$47,000.00. Under the circumstances as they then existed, there was possibly some justification for permitting this to be done, to protect the credit of the State, but now that the attention of everyone has been called to the risk incurred in making purchases on base, which may not be approved, I, for one, propose to hold purchasers to the strict doctrine of caveat emptor, and if for any reason there is a failure of title because the base upon which the purchase from the State has been disapproved, appeals must be made to the Legislature rather than to the Executive, who, in the absence of legislative authority, does not propose to be generous at the expense of the taxpayers of the State.

It may be that land sales, so far as respects the State, are now "well-nigh closed," still there remain some unsurveyed school sections within the forest reserves, and the State will in all probability lose other lands in reserves yet to be created, which, if properly handled, ought to realize a handsome sum for the Irreducible School Fund.

All selections should be made for these losses in the name of the State, and it would be well if they could be selected in a compact body. I suggest that you memorialize Congress, through your Senators and Representatives, that the State be permitted to make its selections in lieu of these losses on unsurveyed lands, if no others are available, in as compact a body as possible, either within or without the reserves. I have no doubt but that this can be accomplished, and it will result in vesting in the State a large body of valuable land, which can be sold at prices commensurate with its value. Such course, if it can be adopted, will have the effect, too, of cutting off the present system of speculation, which is indulged in at the expense, and to the discredit of the State.

In this connection, it might be proper to add that I am advised that deeds executed to individuals conveying many thousand acres of valuable land, are withheld by the grantees from record, and hence such lands entirely escape taxation. I suggest the enactment of a law requiring that these deeds be recorded within thirty days after delivery, and that upon failure so to do, a severe penalty be visited on the delinquents. These lands have been sold at low prices, and ought to contribute their just proportion to the burdens of the government.

GOOD ROADS

The question, "How shall we utilize the activities of our convicts?" should receive your unremitting and most careful study. Its ideal solution would be one which should not only elevate the moral and physical condition of the prisoner, but at the same time employ his energies in such a way as to directly and positively benefit the public, and thus in a measure atone for the wrongs which his confinement is intended to expiate. Any plan which makes him a direct competitor of free labor is essentially erroneous. If he manufactures articles to be sold in open market, the element of cost which his enforced labor represents will inevitably lower the selling price and diminish the wage for similar goods not prison-made. This means fewer free artisans, a lower standard of living for those who do produce in the fact of such competition, less to buy with, and correspondingly less for those with whom they trade. The harm and loss reach to every part of our complex industrial and social fabric.

For a number of years certain of the States have employed a part of their convict labor in various processes of highway improvement. The advantages have been so gratifying that the practice is extending and other States are preparing to adopt this policy.

It furnishes healthful occupation for the minds and bodies of the prisoners, while its benefits to communities could hardly be overestimated. It generally leads to improvements which otherwise would not be made, with their concomitants of increased values, new population and more money for development in many ways.

I would suggest that at the present session the necessary steps be taken to secure comprehensive data on this subject, which shall be embodied in a report to the next Legislature as a basis for enactment which shall be adapted to the conditions and needs of our State.

LEWIS AND CLARK EXPOSITION

The people of Portland have capitalized a company for \$500,000.00 for the purpose of holding an international exposition in 1905 in honor of the 100th anniversary of the arrival of the Lewis and Clark expedition in Oregon. The intrepid explorers who were sent by President Jefferson through a trackless wilderness to the mouth of the Columbia River gave the United States one of its principal claims to the sovereignty of the Oregon Country, and established it firmly upon the shores of the Pacific.

The exposition which will be held in commemoration of their courage, patriotism and achievements presents to the States comprising the old Oregon Country their first great opportunity to make known to the world the unparalleled advantages they offer to homebuilding and industrial enterprise. The State of Oregon should participate in the centennial.

I recommend that a liberal appropriation be made in behalf of the State, this fund to be carefully safeguarded and expended under the direction of a State Commission which shall be appointed by the Governor.

It is further recommended that so much thereof as said Commission may deem proper shall be expended under its direction for an exhibit of the resources of the State of Oregon at the Louisiana Purchase Exposition to be held at St. Louis, Missouri, next year.

OREGON HISTORICAL SOCIETY

The efforts which have been, and are now being made by the Oregon Historical Society to gather the material necessary to perpetuate the history of the acquisition and early settlement of Oregon, and the achievements of her heroic pioneer men and women, are most praiseworthy, and ought not only to be encouraged, but aided by the State. The names of those who took part in the stirring events which resulted in adding this vast territory to the National domain will soon be but a passing memory unless something is done now to obtain reliable, available information from the survivors. Much valuable historical data has already been obtained through the instrumentality of this Society, from old pioneers who have passed to the Great Beyond since its organization, and much more can be obtained from those who are yet spared to us.

A great part of what has been accomplished has been due to private enterprise, inspired by the patriotic pride of many of the early settlers and their descendants, aided by others, who, though they played no part in the early history of the State, have learned to appreciate the importance of present effort, where truth rather than tradition is desired. Jefferson once wrote, that "History may distort truth, and will distort it for a time, by the superior efforts at justification of those who are conscious of needing it most. The opening scenes of our present government will not be seen in their true aspect until letters of the day, now held in private hoards, shall be broken up and laid open to public view." And so it might be said that the truth concerning the early history of Oregon will surely be distorted by the would-be historian of the future, unless the records and letters now held in the private hoards of those who laid the foundations of our present State government are now obtained and laid open to public view. This cannot well be done without money, and it can never be done at as small an expense as now. I earnestly urge that an appropriation be made to assist the Oregon Historical Society in the laudable work in which it is now engaged.

REAPPORTIONMENT OF THE STATE

A glance at the act of 1899 redistricting the State into senatorial and representative districts is sufficient to condemn it as a measure of the grossest partisanship, entirely without merit, and wholly unjust to many of the border counties of the State. Taxation without representation is un-American, and yet as the several senatorial and representative districts are constituted, under the act referred to, some of the counties, if not entirely unrepresented, are practically so. Take for instance the ninth senatorial district, extending from the Columbia River on the north to the California line on the south, with one joint senator for the counties of Wasco, Crook, Lake and Klamath.

Other districts might be mentioned where the apportionment is equally as unjust, but I merely cite this as an example of many others. If more than one county is to be included in a senatorial district, the territory embraced therein ought to be compact, as well as contiguous, so that when a senator is elected he will be in close touch with his constituents, and familiar with their wants.

What is said in reference to senatorial districts is equally applicable to the representative districts. The innate sense of justice of every member of the legislature ought to suggest the propriety of redistricting the State, upon a basis of justice to the people, rather than upon one that has for its object the furthering of the interests of any political party or faction of a party. The great wonder is that the voters of the several gerrymandered districts have not risen in political rebellion at the injustice which has been perpetrated against them. That they have not done so is no sign that they will not, in the near future, and to avoid the possibility thereof, something ought to be done at this session to remedy what every impartial observer must concede to be a rank injustice to many sections of the State.

CONCLUSION

In conclusion, gentlemen, I promise you my undivided support in whatever is for the best interest of the State. Providence has blessed us with a most delightful climate and a soil so fertile that "it needs to be tickled to smile forth an abundant harvest." Our mountains are covered with magnificent forests, and bear within their bosoms untold millions of mineral wealth.

These things all combined are inviting to our confines their homebuilder from the great sisterhood of States, and capital for investment from all the world, and Oregon is on the even of an unprecedented industrial and commercial development. But the tide of immigration can be checked, the march of improvement stayed, and the hopes of an era of commercial and industrial prosperity blighted by unwise laws and the imposition of burdensome, unnecessary and unjust taxes upon the people. That this may not be, I sincerely trust that your deliberations may be harmonious and characterized by the supremest wisdom and the loftiest and purest patriotism.

GEO. E. CHAMBERLAIN

Governor's Special Session Message, 1903

Source: Oregon Messages and Documents, 1905, Governor's Special Session Message, Salem, Oregon, J.R. Whitney, State Printer, 1903.

Gentlemen of the Senate and House of Representatives:

The Constitution of this State provides that the Governor may on extraordinary occasions convene the legislative assembly by proclamation, and that instrument makes it his duty to state to both houses when assembled the purpose for which they shall have been convened.

An act was passed at the last session of the legislature entitled "An Act to provide a more efficient method for the assessment and collection of taxes, and to amend sections 3057, 3060, 3082, 3084, 3085, 3090, 3098, 3106, 3107, 3112, 3116, and 3120 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon." (See Acts 1903, page 295.)

In order to test the validity of this law, and to ascertain the effect of certain changes made thereby in existing laws, a suit was instituted in the circuit court of Multnomah County a few months since to enjoin the officers of said county from proceeding to levy a tax on the assessment roll of 1903.

By express provision, the law referred to was to go into effect and be in force from and after the first day of January, 1904. The purpose thereof was to change the dates upon which the several official acts required to be performed by the assessors, by the county courts, and by the Governor, Secretary of State, and State Treasurer were to be performed by them.

A decree was rendered by the circuit court enjoining the levying of a tax by the county court of Multnomah County on the roll of 1903, and on appeal to the Supreme Court the judgment of the lower court was affirmed.

In discussing the questions involved in the suit the Supreme Court in the case referred to say: "All the dates in the process are completed shifted. That is to say, instead of beginning the assessment on the first Monday in March, and making it as of that date, returning the roll on or before the first Monday in September, giving notice of the meeting of the Board of Equalization on the last Monday in August to examine and correct the roll, making the estimate and levying the tax at the January term of the county court, and apportioning the revenues by the said board to the several counties in January, the amendments contemplate that the assessment shall begin on the first Monday in January and be made as of that date; that the return shall be made on or before the first Monday in July, and notice given of the meeting of the Board of Equalization to be held on that day; that the estimate be made and tax levied at the September term of the county court, and that the apportionment of revenues to the several counties shall be made in July, and instead of the taxes becoming payable on the first Monday in April and October, and requiring the sheriff to proceed to collect after the first Monday in May, to extend the delinquent list on the roll after the first Monday in October, and give notice of the sale of real property for delinquent taxes, to be made not later than March 1st, the amendments contemplate that the tax shall become payable on or before December 31st and the first Monday in April following; that the sheriff shall proceed with collections after the first Monday in February, extend the delinquent list after the first Monday in April and give notice for the delinquent sale to be held not later than October 1st. The true situation is perfectly manifest. The old statute relative to the matters alluded to is to be replaced by the amendments, thus abrogating completely the law as it now stands. It is not the case of a repeal, either directly or by implication, except as the amendments supersede and displace the old statute. The new is substituted for the old, leaving no vestige of the old for operation. * *

* The logical consequence is that the county court or the board of county commissioners will be left without power or authority to estimate the amount of money to be raised for county purposes, or to apportion the same with the State and school taxes according to the valuation of the taxable property in the county, or to levy a tax thereon for the purpose of raising revenue at its January term. So with the Governor, Secretary of State, and State Treasurer. They can not act in apportioning the revenue for the State among the counties until July. Whatever act shall be or shall have been regularly done under the old law up to the time of taking effect of the amendatory act, must stand as perfectly valid and effectual; but no act can be performed thereafter under the sections of the old law falling within the purview of the amendments, simply because it will not then exist or be at all operative, having been wholly obliterated and displaced by such amendments. Such is the necessary and inevitable effect of the legislation, adopted no doubt in its present form through

casual oversight, and, although it may operate unfortunately in leaving the State and its subordinate political subdivisions without adequate revenues for the current year, the courts are powerless to remedy the evil. They can not legislate, but must construe the law and determine its effect as they find it, and beyond that they can not assume to act.”

Flanders v Multnomah County et al., decided October 31, 1903

The result of the decision of the court is, that whilst there may be a valid assessment of property for the year 1903, made prior to the taking effect of the amendments, no levy was made or could be made under the old law, and there will exist no power or authority under the new law or elsewhere to make any levy prior to the next September term of the county courts or boards of county commissioners, nor will any tax become due or payable until on or before December 31st and the first Monday in April following, and no remedy will remain or exist to be applied for its collection until after that date.

Under this decision, the work done by the assessors of the several counties in making the assessment rolls for 1903 is work thrown away unless some immediate legislation is had empowering the county authorities to levy a tax thereon, and the Governor, Secretary of State, and State Treasurer to make an apportionment of the revenues to be raised for the State among the several counties thereof. Consequently no revenues could be raised on the assessment rolls of 1903 for State, county, school district, or city purposes without new and express legislative authority. As a result of this, there would be insufficient moneys in the State, county, school districts, and city treasuries to meet current expenses, and warrants drawn would of necessity be endorsed. “Not paid for want of funds,” and would each and all bear interest until provision could be made by subsequent appropriate legislation to raise money sufficient to meet the deficiency. It is impossible to determine at this time how great the deficiency would be and how large an interest payment would be required to be made later on by all of these municipalities. Chaos in fiscal affairs of the State would be the result, and to avoid this condition I have felt it incumbent upon me, after personal investigation and after correspondence with members of the legislature and numerous representative bodies and citizens of the State, to convene the legislature in extraordinary session, to the end that the act referred to may be amended so as to give it force and immediate vitality, or repealed and the law reinstated as it existed prior to the attempted amendment.

That the tax laws of the State need revision there can be no question. Repeated amendments from time to time have but made confusion worse confounded, and it was for this reason that in my last message to your body I earnestly recommended the creation of a Tax Commission with ample powers to prepare and report to a subsequent session of the legislature a law which would reduce the crazy-quilt legislation now on the statute books to a harmonious whole, and give it the order and method of a code.

Take as one instance of inconsistency in the tax legislation passed at the last session of the legislature: Section 3098 of Bellinger and Cotton’s Code provides that “It shall be the duty of each school district and of each incorporated town and city to notify in writing the clerk of the county court in the county within which the school district, town or city is respectively situate, of the rate per cent of the tax levy made by it on or before the first day in February in each year, which notice shall be kept on file by the several clerks and remain a part of the records of the office.” On page 23, Act 1903, this section was amended so as to require the clerk of the county court to be notified on or before the first day of January in each year. On Page 205, Acts 1903, this same section of the statute is attempted to be amended so as to require the clerk of the county court to be notified on or before the first day of September in each year. This is one of many instances of similar inconsistent acts and amendments.

The fiscal year of nearly every city in the State end December 31st, and a full knowledge of the requirements of the cities and the necessary revenue to be derived from taxation for an ensuing year can not be obtained until after an accurate statement of the finances of each city is made at the close of a current year, and therefore a levy of taxes made prior to January 1st would not be based upon any official accuracy. Moreover, nearly all of the city charters have been drawn with the purpose of making a levy after January 1st. Consequently, the amendment to section 3098 of Bellinger and Cotton’s Code as found in the Acts of 1903 at page 22 ought to be repealed.

In my opinion sections 3057, 3060, 3082, 3084, 3085, 3090, 3098, 3106, 3107, 3112, 3116, and 3120 of Bellinger and Cotton's Annotated Codes should be reinstated by appropriate legislation after the repeal of the act found on page 295 of the Acts of 1903, and after the repeal of that other act purporting to amend section 3098 of Bellinger and Cotton's Codes found at page 23 of the Acts of 1903, and I recommend this legislation for your consideration.

GEO. E. CHAMBERLAIN

Governor's Message, 1905

Source: Oregon Messages and Documents, 1905, Governor's Regular Session Message, Salem, Oregon, J.R. Whitney, State Printer, 1905.

Message Of George E Chamberlain Governor of Oregon, To the Twenty-third Legislative Assembly 1905

Gentlemen of the Senate and House of Representatives:

In compliance with Section 2 of the Article V of the Constitution of Oregon, which provides 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 judge to be expedient," it becomes my duty to address you in relation to the several institutions of the State, and to suggest such legislation for your consideration as my experiences as Executive leads me to believe will be conducive to the best interests of the State.

STATE FINANCES

The report of the Treasurer shows an excellent condition of the public funds. It should be particularly gratifying to you to note that while on October 1, 1902, there was in the hands of the Treasurer of the Irreducible School Fund unloaned \$729,435.42, there was only \$200,361.24 at the close of the last fiscal year. This has been reduced materially since that time. The amount of interest distributed to the several counties at the last apportionment was \$239,439.20, the largest of any in the history of the State. The principal of the fund is \$4,604,261.27, and its proper investment in interest-bearing securities requires and receives the earnest attention of the State Land Board.

The principal of the Agricultural College Fund amounts to \$193,778.51, and that of the University to \$103,415.36. only \$15,382.45 of the former and \$15,975.28 of the latter is on hand and unloaned. On the 3rd day of May, 1904, Mrs. A.R. Burbank, executrix of the last will and testament of her late husband, Hon. A.R. Burbank, forwarded to the Governor, Secretary of State, and State Treasurer the sum of \$2,190.37 and a deed to certain lands in Yamhill, Lincoln and Multnomah Counties, estimated to be worth about \$10,030.00. This generous legacy was directed to be invested in interest-bearing securities, the revenue derived therefrom to be used for the Orphans' Home at Salem and Portland. It would be a gracious act upon the part of your body to recognize by concurrent resolution your appreciation, as representatives of the people, of this splendid legacy to the unfortunate orphans of the State, thanking Mrs. Burbank for the fidelity shown by her in carrying out the wishes of her late husband.

The Treasurer's report is complete in all its details, and shows with great particularity the financial condition and standing of the State.

INDEBTEDNESS OF THE STATE

Swamp Land Warrants Outstanding.

On September 30, 1902, interest-bearing warrants were outstanding, which had been issued in repayment for swamp lands theretofore sold by the State and to which the State could not convey title, amounting to \$38,940.08 of principal, on which the interest accumulated and unpaid to April 1, 1903, amounted approximately to \$19,018.42. Of the principal \$30,925.38 bear interest at the rate of eight per cent per annum, and \$8,014.70 at six per cent per annum. Since that time payments have been made on that portion of these warrants which bears the larger rate of interest, out of moneys realized from the sale of swamp

lands, whilst the principal of the indebtedness, which bear six per cent per annum, has been increased because of repayments for other swamp lands, to which no title could be conveyed. Reference to the report of the Treasurer discloses that at the end of the last fiscal year there were outstanding warrants on account of swamp lands amounting to \$44,203.89 of principal and \$15,957.10 of interest. Of the principal \$14,925.38 bears interest at eight per cent per annum of \$29,278.51 at six per cent per annum. There is no fund out of which these warrants can be paid except as moneys are realized from the sale of swamp lands, and so little of this remains to the State that the interest on the indebtedness is barely kept down by the sales thereof.

An appropriation should be made for the payment of these warrants and your earnest attention is called to the matter, for as a business proposition the State ought no longer to be compelled to pay this enormous interest charge.

Scalp Bounty Indebtedness.

In addition to this, at the last session of the Legislature, claims for repayment of two-thirds of the bounty paid by the several counties of the State under the scalp bounty law of 1901, had been presented and remained unpaid, amounting to \$34,298.66. An appropriation was then made to meet this indebtedness, but it was included in a bill which appropriated large sums for other and distinct purposes. This bill was vetoed because violative of Section 29, Article IV of the Constitution and not because of any objection to the particular item now under discussion.

This indebtedness has been increased by the presentation of other claims for repayment and now amounts to \$35,881.31, and provision should be made by appropriate legislation for its payment.

TAXATION

The experience of the last Legislature should be warning to this not to attempt too much in the way of amending statutes on the subject of taxation. A general amendatory statute hastily passed then, necessitated the convening of the Legislature in special session to cure defects that invalidated the same.

That the laws of the State bearing upon this subject are badly out of joint and sadly in need of revision goes without saying. There is general lack of system in them taken as a whole, but it is questionable if harmony could be restored if the whole time of this session were devoted to an attempt to bring order out of chaos.

It is possible that if a tax commission were appointed to gather data, and frame a law to be reported two years hence, beneficial results might be attained. This course has been pursued in other states with partial success, and it might be well to give it a trial here. Much property escapes its just proportion of taxation, and this is particularly true in the case of personal property and money, and improvements on real property. This is susceptible of demonstration beyond any doubt. The summaries of the assessment rolls of the various counties for 1903 as filed in the office of the Secretary of State, show that the value of improvements on deeded and undeeded lands was \$9,405,462.00 and on town and city lots was \$31,192,221.00, or a total assessed valuation of all improvements \$40,597,683.00. The risks written by fire insurance companies on property situated within the State for the year ending December, 1903, amounted to \$95,531,484.84. It is safe to say that more than 80 per cent of this insurance is upon improvements upon real property. When it is remembered that a very large part of these improvements carry no insurance, and that property is usually insured for only about half its value, it will be seen at a glance what an enormous valuation on this class of property alone escapes taxation. The assessed value of money for the same year was \$1,375,970.00. If any one is interested enough in the subject to give it passing consideration, he will ascertain from an examination of the last reports to the Comptroller of the Currency made by the National banks of the State, that there are many single banking institutions that have on deposit amounts largely in excess of the total assessment on money. Again, a reference to the abstract of the assessment rolls from 1893 to 1903 discloses that money was assessed in 1893 at \$3,136,987.00, and in 1903 at \$1,375,970.00, a decrease of \$1,761,017, while the total assessed valuation of all property for 1893 was \$168,088,905.00, and in 1903 only \$173,559,888.00, an increase in ten years of only \$5,470,983.00. Every one knows that this is not a faithful index of the growth in wealth in our State in ten years. What is the result of this failure upon the part

of county officials to assess the property of the State and to properly equalize the assessments when made? The State has rapidly grown in wealth and population since 1893, and in the next few years will grow with greater rapidity. With an increase of population, the number of inmates in the eleemosynary and penal institutions of the State increases in the same or a greater proportion, while the expense of maintaining them constantly increases in volume. The assessment of the State remaining substantially the same, as has been the case during the last ten years, the rate to be levied for State purposes continues to increase, and the burden on those classes of property which are visible and continue to be assessed from year to year becomes heavier and harder to bear.

It is the condition here outlined which makes levy for State purposes appear larger than it ought to be, and the attention of the Legislature is respectfully called to it in the hope that some plan may be devised now that in the next two years may result in a measure of general relief from conditions which are inequitable, oppressive and unjust.

TAXATION OF LANDS WHICH HAVE ESCAPED TAXATION

There are many thousands of acres of land in the State which have never been placed upon the assessment rolls, and which have in consequence escaped taxation. This may have happened through many causes, but mainly for two reasons: First, because grantees from the Government, Federal and State, have purposely withheld their deeds from record; second, because assessors, through lack of present ownership books, fail to find all the property in their respective counties. It is questionable if under our laws, an assessor or sheriff can assess and collect taxes on property for several years antedating their terms of office. Laws conferring this power upon assessors have been sustained by the courts of other States, and I recommend the matter to your earnest attention, and predict that with a law in force authorizing the assessment of property that has escaped taxation for any number of years back, the revenues of the State will be very materially increased.

TAXATION OF PUBLIC SERVICE CORPORATION

Taxation of State purposes ought to be divorced as far as possible from that for county and municipal purposes. To that end, in many States, methods have been successfully resorted to for relieving real as well as personal property from taxation to meet the expenses of the administration of the affairs of the State. At the last regular session of the Legislature, progress was made in the right direction by the passage of the Inheritance Tax Law and the Corporation License Law. There may be inequalities in these that will need adjustment, but the general purposes of both are most excellent. During the sixteen months the Inheritance Tax Law has been in force, \$6,626.93 has been paid into State Treasury thereunder, while under the latter law \$191,615.87 has been collected. These amounts are likely to increase each year as the State grows in population. In addition to the amounts thus realized, insurance companies during the year 1903 paid \$7,363.21 license fees and \$38,036.19 taxes on net premiums collected, and for 1904 \$7,310.51 license fees. The tax for the latter year will not be due until March 1st next. Of the license fees collected forty per cent is paid to the Secretary of State as fees under Section 3724 Bellinger and Cotton's Code, while only sixty per cent thereof is paid into the treasury.

The taxes realized from these three sources show what is possible to be done for purposes of State other than by levying a tax upon the assessed valuation of the property of the State. But a step further should be taken to reach a class of property that practically escapes taxation. I refer to the taxation of the franchises of express, telephone, telegraph, Pullman Car, and other similar public services companies. Different methods of taxation for these corporations have been resorted to in the several States, but from an examination of the number of statutes, it is impossible to deduce any general principle for adoption. The Secretary of State, who has given the subject much thought, suggests in his biennial report that a tax upon the gross earnings of these corporations might be the simplest form of taxation. I heartily join with him in the recommendation that an act be passed at this session to compel these companies, owning valuable privileges and operating at a large profit, to pay a fair proportion of the expenses of government. A tax upon the gross earnings, as the case of insurance companies, would, as suggested by the Secretary of State, in all probability be the simplest and best method of taxation.

PUBLIC SCHOOLS

The public schools are in most excellent condition, and their standard should be maintained at all hazards. To them the great majority of our people must look for the education of their children, and statistics show that far the largest number of the school population of the State attend these schools. Taxes for their support are ungrudgingly paid by our citizens of all classes and creeds, and every effort should be made to maintain them throughout the whole school year. In many of the rural districts, especially in those which are thinly settled, schools cannot be maintained for more than three months in the year, and greater efforts should be made to lengthen these terms.

A heavy tax is imposed on the patrons of the school by the large number of books used, and some of those ought to be eliminated. It were better that a few books on a less number of subjects be mastered by the pupils, than that they have confused ideas upon a variety of subjects from a great variety of books. I think it safe to say that those who graduate from the highest grades of the public schools at this time are not as thorough in first principles as were those who graduated from these same schools when there were fewer and a more thorough training in those books which were used. An ex-member of the New York Board of Education recently in discussing the question of the course of study in that city, said:

“A reader of our present course of study would be led to think that pupils of today, in order to be able to do all that is there laid down are far in advance of those of a decade or two ago, and that public school graduates of former days could bear no comparison with those of the present time.

“But what are the real facts of the case? Business men who employ our graduates tell us that they are sadly lacking in the simplest and most commonplace things, that their knowledge is superficial and inaccurate, that they lack the perseverance and application which habits of thoroughness and concentration would foster. Why is this?

“Our system, aiming to do too many things, must necessarily fail in their accomplishment. None but the most capable pupils can do all the work laid down. The large majority, thus accustomed to falling far short of the standard, become indifferent or discouraged. For, instead of repeating a term’s work and doing it well, they are promoted to make room for others. In time all attempts to do the required work properly become utterly hopeless—yet the child must go on.

“Trying to do many things, attempting the impossible, so that nothing can be really thoroughly or well done, will be sure to have ill effects in a moral sense, too. In many cases the wrong thus done to individuals can never be repaid. Are we not creating a race of mental dyspeptics, superficial in character? Why are children not permitted to remain at the elementary work until they have thoroughly mastered it before being advanced to higher grades? Let us have more elementary classes, if need be.

“The most sanguine, the most enthusiastic advocates of the radical changes made in the curriculum within recent years admit that the present course of study is too crowded. Why not cut out the non-essentials and give the child an opportunity to acquire a more thorough knowledge of the essentials? A step is being taken in this direction, but nothing short of a complete change will remedy the evil.

“Education should give pupils the working tools, the ability for future self help. If our schools do not give this they fail in their purpose. If the child finds himself advanced to the upper grades without being able even to add, subtract, multiply and divide with rapidity and accuracy, and to read fluently and comprehensively, when and where will he make up the deficiency? But this is quite a common occurrence. Students of high grades blunder in the simplest figuring, spell poorly and fail to take in the meaning of what they read, so that they are as a rule unable to obtain information from the printed page by their own efforts.”

There is great force in what is here said, and steps should be taken now looking to such a reduction in the number of text books in the public schools that when a pupil finishes the highest established grades it can be safely assumed he has thoroughly mastered every subject taught therein.

THE STATE UNIVERSITY AND THE AGRICULTURAL COLLEGE

The reports of these two institutions of learning are before you, and I invite your careful attention to them and the recommendations therein made. Both are doing most excellent work, and I think it safe to say that while other States are much more liberal in making appropriations in the cause of higher education, these two institutions keep pace with all others. The graduates from them, wherever they go and in whatever they engage, make excellent records and reflect credit upon their instructors as well as upon the State.

The State can well afford to be generous in all that makes for better citizenship, but that liberality should not be so lavish as to encourage habits of official extravagance.

I suggest a careful examination of the demands of these institutions for the ensuing two years, and an appropriation sufficient to make their work most effective.

NORMAL SCHOOLS

In my first message to the Legislature I recommended the abolishment of at least two of the Normal Schools of the State. Instead of heeding this recommendation a bill was passed but vetoed by me creating an additional one. If those already established are to remain as fixed and permanent institutions, it is the duty of the State to improve the service which these schools now render to the people by confining appropriations for their support to their legitimate work of training teachers. There is increasing demand for thoroughly trained teachers. The work of Normal Schools could be made far more effective for this purpose by eliminating all preparatory work, and concentrating the labors of their faculties upon a purely professional course of study. There is no economy in taking the time of a State Normal School faculty for teaching pupils in grades that already provided for in the common schools.

An important education reform could be accomplished by the adoption of a uniform course of study for all the Normal Schools of the State, so that persons fitting themselves for teaching could receive the same credit and recognition for work done in any one of them and have better standing at home or abroad. By placing all the Normal Schools under a single board of regents with a uniform course of study for all, and basing appropriations upon the number of qualified students satisfactorily completing a full year's work in the prescribed and inequalities in the present system.

OREGON SOLDIERS' HOME

The affairs of the Home were never in better condition than at present. Too much credit cannot be given to the Commandant and his excellent corps of assistants for the excellence of their work, and the old soldiers and sailors are themselves to be congratulated upon the fact that, though many of them are sufferers from the infirmities of old age, wounds and disease, all show a disposition to cheerfully abide by the rules and regulations adopted for the preservation of discipline and the conduct of the Home.

Since my incumbency the barracks building which was commenced under the preceding administration had been completed and equipped, and a new and sufficient water supply has been installed. The last appropriation made for the maintenance of the Home was based upon an average of from eighty to ninety inmates. The completion of the new barracks opened the way to admit all whose applications were on file and who had not been able to gain admission because of lack of room. Although it was feared that a deficit would be created in the maintenance fund by taking in all those whose applications were on file, I instructed the Commandant to admit them in any event. This was done, and the membership at the close of the fiscal year was one hundred and thirty-two, yet so carefully have the funds been handled that there is no deficit in this fund.

Some of the old soldiers at the Home have wives living, yet because of infirmities occasioned by exposure and wounds received in defense of their country they are compelled to seek an asylum at the Home and separate themselves from the companion of their younger and better days. Some provision ought to be made for the construction of small but comfortable cottages on the grounds of the Home have wives living, yet because of infirmities occasioned by exposure and wounds received in defense of their country they are compelled to seek an asylum at the Home and separate themselves from the companions of their younger and better days. Some provision ought to be made for the construction of small but comfortable cottages on

the grounds of the Home so that these old veterans may have the companionship of their wives in their declining years. This would not cost the State a very large sum, and surely the services which have been rendered by those who would be blessed and benefited thereby merit the expenditure which is here suggested.

I call your attention to the report of the Commandant for information in detail as to the conduct of the Home.

GAME AND FORESTRY WARDEN

With the small appropriation allowed him for game protection, the present Warden has done most excellent work. If he has failed to patrol the entire State it is because of the inadequacy of the fund at his disposal for the employment of deputies, but an examination of his report will show a greater number of prosecutions and convictions than were ever had in the same length of time.

In order to fully protect the game, more money must be provided, and the Warden suggests a means of raising a revenue without exacting it from the taxpayers. The recommendations embodied in his report are worthy of your very careful consideration.

STATE BOARD OF HEALTH, DAIRY AND FOOD COMMISSIONER, AND STATE VETERINARIAN

This Board has done excellent work since its creation for the protection of the public health. What was to have been expected has happened wherever it has called attention to unsanitary conditions are usually met by protests, but these demands invariably result in good.

The offices of Dairy and Food Commissioner and State Veterinarian ought to be placed directly under the control of the State Board of Health. In no other way can these departments, which ought to act in entire harmony, be brought together. As it is, I fear there is a disposition on the part of each to act independently of the others.

I call your attention to the reports of these departments for a detailed account of the work done by each.

STATE BOARD OF AGRICULTURE

Probably no factor has been more potent than the annual fairs conducted under the auspices of the State Board of Agriculture for improving the product of field and farm and the herds of flocks of the State. Not only the products of the soil, but the livestock as well from Oregon entered into successful competition with all comers at the recent Exposition in St. Louis. This was a source of great gratification to our people, in view of the fact that this State was barely known to many of the exhibitors there. Keen competition at the Oregon State Fair the past few years has been largely instrumental in bringing about these results, and the Legislature cannot do too much in the way of giving encouragement to this important institution. Appeal will be made to you to relieve the State Board of the difficulties which beset it. The President has addressed a communication to each of you, calling attention to the needs of the Board of the difficulties which beset it. The President has addressed a communication to each of you, calling attention to the needs of the Board, and I call your special attention to his address, as well as to the report of the Board. It must be remembered that the indebtedness now existing against the Board is one due the Irreducible School Fund, and really amounts to a transfer from one department of government to another. There should be no hesitation about making the appropriation to meet this and such other demands as are absolutely necessary to place the Board in a position to successfully carry out the purposes of its creation.

CHILD LABOR

A law was passed at the last session of the Legislature regulating the employment of children and appointing a board of inspectors of child labor to carry out the provisions of the act, to serve without compensation. There was not even an appropriation made to defray the actual expense incurred in the work necessarily devolving upon them. Notwithstanding this fact, they have been most diligent in the performance of their duties, and are entitled to the hearty commendation of their fellow citizens for their zeal in this most important branch of the public service.

There can be no rugged, robust citizenship unless the health and morals of the youth are carefully safeguarded. Experience teaches us all that the necessities of the poor employee as well as the greed of the rich employer in various industrial enterprises, are merciless in their demands, and without restrictive legislation rigidly enforced, boys and girls barely in their teens are kept at work day and night in defiance of the laws of health and of humanity. I call particular attention to that report of the inspectors, and earnestly recommend that the amendments to the law as proposed by them be adopted at this session. The amendments are simple, but if adopted will give the inspectors greater power and broader discretion than they now have, and will materially aid them in carrying out the purpose of the law.

A small appropriation ought to be made to defray the expenses of the Board.

A FISHING INDUSTRY

The report of the Master Fish Warden shows in detail the transactions of the Department of Fisheries for the past two years, and shows the condition of the industry at the present time. The recommendations made by him should receive your very careful consideration.

There is such a diversity of opinion among those engaged in fishing, packing and canning as to what legislation, if any, is most needed for the promotion and protection of the industry in this State, that it is impossible for one not thoroughly acquainted with the subject in all its details to make any specific recommendations. The conflict between the upper and lower river fishermen and packers seems irrepressible and irreconcilable, and besides there is a lack of uniformity between the laws of Washington and Oregon, and these conditions add to the difficulty of arriving at a proper conclusion as to what is best to be done in relation to a most important industry.

Under these circumstances, I suggest the appointment of a commission composed of men in no way connected with the business of fishing to take evidence, collect data, examine our own laws and those of Washington with instructions to prepare a law and the result of their investigations, all to be presented for the consideration of the next legislature. It is my candid opinion that unless this is done, nothing will ever be accomplished in the way of salmon propagation and protection.

LABOR COMMISSIONER

Demand has been made in certain quarters for a repeal of the act creating the Bureau of Labor Statistics and Inspector of Factories and Workshops. The demand should be ignored. Already thirty-two states have enacted laws providing for the collection of statistics of labor by means of original investigation, and in addition to these, the Federal Bureau of the Census, the Department of Commerce and that of the Agricultural Department are engaged in the collection and publication of labor statistics. These bureaus have been largely responsible for much legislation having for its purpose the protection of the health of the laboring classes generally and of the lives and limbs of those engaged in hazardous occupations.

The first report of the present Commissioner of Labor is replete with useful information. It points out many instances where his timely intercession has resulted in the adoption of safeguards against injury to employees, and contains many suggestions for the betterment of the condition of those who earn their bread by the sweat of their brows. It also contains valuable statistics covering every class of employment. I call particular attention to his report, and suggest that you give it your careful attention.

PENITENTIARY

Many changes have been made in the penitentiary since the last session of the Legislature, all of which have been conducive to bettering the condition of the inmates, without any relaxation in the discipline. Prior to the completion of a common dining hall, the prisoners were fed in their cells, and those who could afford it were permitted to have coal oil stoves and to cook whatsoever they could afford to buy in addition to the prison regimen. With the installation of a new superintendent this system has been entirely abolished, and all prisoners eat in a large dining room, partake of the same prison fare and receive the same treatment. The result has been that the cells are cleaner, and the general health and discipline better than ever before.

Flogging has been entirely abolished, and other punishments less brutal installed without in the least disturbing, but on the contrary strengthening, the respect of the prisoners for those in charge. The prison itself has been much improved from a sanitary standpoint, and the quarters of the officers and guards as well as the cells and corridors have been placed in better condition than ever before. There still remains some work necessary to be done for the prevention of filth diseases, and this is in course at this time. The plumbing is old and decayed, and this is particularly true as regards the south wing of the prison. Escaping sewer gas constantly threatens the health of the institution and to guard against it modern plumbing and ventilation of the cells and corridors must soon be installed.

The appropriation made for the payment of the guards and employees at the last session of the Legislature was on the basis of a small increase in pay per month for the wall guards, and this was rendered absolutely necessary by the higher cost of living and the small pay received by them. Notwithstanding this and a large increase in the number of prisoners over former years, a reference to the report of the superintendent, which gives a detailed statement of the expenditures for the past two years, will show that the cost of maintenance per capita of prison population does not exceed that of former years. The recommendation made by me in my last message that a law be passed requiring the execution within the prison walls of prisoners condemned to death was adopted, and already there has been one execution there and others are soon to follow. This law will, I am sure, be most beneficial in its results.

PRESENT EMPLOYMENT OF CONCERN

On the 1st day of February, 1899, the then Executive executed a contract with Lowenberg & Going Company, a corporation, pursuant to "An Act providing for the employment of the convicts in the State Penitentiary," approved February 23, 1895, whereby he leased to said corporation the labor of 100 convicts from January 1, 1899, to July 29, 1905, for the sum of thirty-five cents per day for each convict, and such further number at the same price per man as said corporation might require, for the manufacture within the prison walls "of stoves, castings and such other commodities of like nature as it may deem expedient."

The corporation pays \$2,000.00 per annum as rental for the foundry plant, and this lease expires at the same time as the contract for the labor of the prisoners.

The report of the Superintendent shows in detail the earnings of the convicts under the contract with said corporation, and I respectfully refer the Legislature to that report for fuller information. It will be noted that both the contract for the labor of the prisoners and the lease of the foundry plant expire July 29, 1905, and some action should be taken by you in reference to the matter. The State owns the plant, with the possible exception of some of the patterns, about which there may be a question, and at one time unsuccessfully attempted to operate the foundry. If you should determine that these contracts should not be renewed at their expiration, some provision should be made by law for disposing of the entire outfit used in the manufacture of stoves.

I suggest that appointment of a committee to inquire and report as to the propriety of renewing the present contract, and if renewal is deemed advisable, what changes if any, should be made in the terms thereof. The price paid for the labor of the convicts seems small, but it is frequently overlooked that the great majority of them are at all times wholly unskilled in the work, and by the time their services begin to be of some value, their terms expire and new men take their places. My investigations into the subject lead me to believe that our convict labor comes less in competition with free labor, in Oregon, at least, under the present system, than in any other form of employment.

Work of some kind must be provided for the prisoners. This is demanded from the standpoint of humanity, as well as necessity. To permit them to remain idle in the prison enclosure, and to congregate and converse with each other, would mean constant plotting for escape, and would endanger the lives of the guards and the property of the State. To keep them confined in their cells would soon necessitate the transfer of many of them to the Asylum and others to the hospital. I trust, therefore, that the consideration of this important question will be taken up by you early in the session, to the end that a proper solution may be arrived at.

ROAD BUILDING WITH CONVICT LABOR

At the last session of the Legislature \$2,500, in addition to \$749.83 unexpended under a prior law, was appropriated for the improvement of certain roads leading from the penitentiary to the several State institution. After consultation with the Superintendent it was decided to improve and rebuild the road leading to the Reform School, a distance of four or five miles. The work was done principally by convicts, though a few teams were hired from farmers in the neighborhood of the road. The amount appropriated was insufficient to finish this piece of road by top-dressing with crushed rock and rolling the same in order to make it first-class in every particular. But it is conceded to be one of the cheapest and best constructed pieces of road in the State, and the attention of the Legislature is particularly called to it. It is to be hoped that as many of the members of the Legislature as can possibly do so will ride out and inspect this work.

EMPLOYMENT OF CONVICTS ON ROADS

What to do with the convicts of the State has been a serious question not only here but elsewhere, and it is one which is easier for the theorist to solve than for the practical man of affairs who comes in actual contact with existing condition. Various expedients have been resorted to in the hope that the product of their labor may compete as little as possible with that of free men. Before becoming intimately acquainted with the kind and character of men confined in the penitentiary in this State I inclined to the opinion that all or nearly all of the convicts might be utilized upon the public highways, and under certain condition, limitations and restriction this might be feasible. In some of the States it has been tried, particularly in the South, but only with partial success. There, those serving sentences for crime are of an entirely different type of criminal from those incarcerated in the Western prisons. They are not of the desperate or dangerous class, but in many instances men who fare as well if not better within the prison walls than they do on the outside, and are not anxious to leave even when their terms have expired. The consequence is that even with a small number of guards and insecure places to house the prisoners at night at long distances from the prisons, there are few attempts at escape. With us, it is safe to say, that a small percentage of those confined in the penitentiary could be entrusted outside the walls without a strong force of well-armed guards and steel portable cells in which to confine them when not at work. A much larger percentage of them are sullen, desperate and dangerous men, who would not hesitate to take life, if the chances were anywhere even for successfully eluding the guards.

I suggested to the last session of the Legislature that the proper steps be taken for securing comprehensive data on this subject as a basis for the enactment of a law adapted to the conditions in this State, but no action was taken in the premises. The subject is one fraught with many difficulties and dangers, and radical legislation should never be ventured upon without thorough investigation and consideration. I have thought it would be wise to appropriate a sum of money as was done two years ago for the improvement of some of the roads in the neighborhood of the State Capitol, utilizing as far as possible convict labor in conjunction with such facilities as the county authorities would furnish. In this way an object lesson can be supplied for future guidance. In addition to this, a law might be passed providing for utilizing some of the convicts upon the public roads on the requisition of any county desiring them, the cost of maintenance to be paid by such county. The cost would not be great, and the results would fully compensate for the outlay. To send a large number of convicts far from the penitentiary would necessitate the construction of portable steel cells where they could be safely confined when not at work, and an appropriation would have to be made for that purpose. To minimize the danger of escape, double time might be given to each prisoner for faithful service while so engaged.

A measure framed along these lines when given a fair trial would test the availability of prison labor on the public highways, and if found feasible and profitable it could be extended to meet conditions as occasion may require.

CRIMINAL INSANE

There are confined in the insane asylum about fifteen insane convicts, who have been transferred from the penitentiary from time to time within the past thirty years. Two at least of these were serving life sentences for murder in the second degree, whilst nearly all of them are hardened criminals. There are serious objections from a sentimental as well as from a practical standpoint to removing the criminal insane to an

institution designed for the civil insane, unless some arrangement can be made for their entire isolation from the latter and at the same time so safeguard them as to prevent escape. Humanity dictates that they receive at the hands of the authorities such treatment as is most likely to restore mental equilibrium, and it is impossible to accord this within the walls of the prison without employing physicians and attendants skilled in mental disorders. The small number of convicts thus afflicted will not justify this additional burden upon the taxpayers. The time may come as the population of the State increases when a convict asylum within the prison enclosure may become a necessity, but for the present sufficient money should be appropriated to fit up, with regulation cells to guard against escape and to secure isolation, a portion of one of the wings and enclosures of the asylum.

The suggestion is concerned in by the superintendent of the asylum and penitentiary.

YOUTHFUL CRIMINALS

One of the saddest things to reflect upon in connection with prison life is the large number of youths ranging in years from 16 to 25. As will be seen by reference to the report of the Superintendent, 106 out of 332 prisoners, or about 32 per cent are under 25 years of age, and about 12 per cent are under 20 years of age. It is safe to say that in most of these cases the prisoners are serving first terms. About ten per cent of all the inmates are wholly illiterate, whilst a much larger percentage can do little more than read and write, and this percentage will hold good for the youthful as well as the older convicts. I realize that the first purpose of punishment for crime is the protection of society, but there is no reason why strenuous effort should not be made to reclaim at least the younger criminal classes and if possible restore them to useful citizenship. There are two factors which can be made most potent to this end, and these are mental and moral training. The chaplain of the prison ought to be paid a salary commensurate with the service rendered by him, required to devote all his time to the welfare of the prisoners and to maintain a school in the prison chapel or some convenient room within the walls for the benefit of the youths and the illiterate class at such hours as these prisoners can be spared to him without impairment of the discipline of the institution.

The policy has been to permit ministers of the different denominations to hold services in the prison chapel, and nothing should be done to interfere with this plan. If, therefore, a prison chaplain is employed, he should be under the direct supervision of the Superintendent and subject to the same control as other officers and employees of the prison.

If the suggestions here made are favorably acted upon much good will, I am sure, be observable in the disappearance of second-term men among the younger criminals.

OTHER STATE INSTITUTIONS

The reports of the Superintendents of the Asylum, Reform School, and the Schools for the Blind and Deaf Mutes, are complete in detail and faithfully account for the moneys appropriated for their maintenance, and truly point out the needs of these several institutions.

In company with the other members of the several boards of trustees I have frequently visited them all, and take pleasure in saying to you that they are all under excellent management. Each member of your body should take occasion to visit them during the session and be prepared to pass upon the recommendations of the Superintendents from a personal inspection.

OREGON NATIONAL GUARD

The National Guard of this State has reached the highest State of proficiency. The act of Congress approved January 21, 1903, for promoting the efficiency of the militia has done much to bring about this result, but the high character and standing of the officers and men composing the Guard have played the most important part therein. Representing as they do every trade and calling of our commercial and industrial life, they may safely be relied upon to perform any duty assigned to them by State or Nation. A well disciplined militia in the reserve force for National defense, and under the present system of holding annual encampments in conjunction with regular troops and under command of well drilled army officers, there is no reason why the Guard of the several states should not equal if they do not excel the regulars in the art of

war. The Oregon troops gave most excellent accounts of themselves in the Spanish-American War, and the record which they made is and should be a source of pride to our people.

The Adjutant General, who takes great pride in and devotes his whole time to the interests of the Guard, has submitted his report showing in detail the receipts and expenditures of this branch of the public service, and I call your particular attention thereto as well as to the recommendations which he makes for its improvement.

INDIAN WAR VETERANS

The appropriation made at the last session of the Legislature for the payment of the amounts due the volunteers who served in the Indian Wars of 1855-1856 was insufficient for that purpose. Claims were paid as they were presented until the appropriation was exhausted. Many have been presented since, and to pay them all will require an additional appropriation of about \$40,000.00.

These brave old pioneers have waited long to have justice done them by the State for faithful and efficient service rendered in "times that tried men's souls." They are rapidly passing away, and if anything is to be done for them it ought to be done now, else it will be too late. Their claims ought to be paid, and the amount appropriated for this purpose should be certified to our Senators and Representatives with the request that they urge Congress to reimburse the State therefore.

STATE PRINTING

At the last session of the Legislature \$50,000.00 was appropriated for public printing, paper and binding. This has been exhausted. At the close of the fiscal year there was a deficit of \$7,060.72, and this will be increased to about \$16,000.00 before the end of the biennial term, and covers paper and binding as well as printing. There are two ways by which this enormous expense may be reduced. First: A lower table of fees should be fixed by law now, to take effect at the termination of the present incumbent's term. This will, of course, not afford present, but future relief. Second: Much of the printing now required to be done could be lopped off without in any way impairing the public service. This latter course will afford immediate as well as future relief against this exorbitant charge.

It must not be forgotten that the schedule of fees charged by the State Printer was fixed more than twenty years ago, and it is a well known fact that since that time, though there has been no reduction in the wages paid to printers, there has been a decline in the cost of work necessary to be done because of improved machinery and changed conditions.

I earnestly call your attention to this matter, and suggest that some legislation be had at this session to reduce the expense of this department of State.

HEALTH OFFICES

Health officers are maintained at Astoria, Gardiner, Marshfield, and Yaquina Bay at an annual expenses of \$2,700. This might with propriety be save to the State by doing away with these stations. The United States maintains a quarantine station of Astoria in charge of a capable physician, and I have assurances that if the stations at the other points named are abolished they will likewise be placed under Federal control. I renew my recommendation of two years ago for the abolishment of the State Quarantine Service at the points named, because I feel that their establishment and maintenance along the coast comes more properly within the jurisdiction and control of the Federal authorities.

PUBLIC LANDS

Upon assuming the duties of the Executive office I at once turned my attention to a rectification, so far as possible, of the abuses which have grown out of the methods in vogue for disposing of the public lands, and I feel safe in saying that my efforts in this direction have been measurably successful.

The offices of State Land Agent and Clerk of the State Land Board have been practically consolidated within the last two years, and the State Land Agent has done nothing during this administration that is not to be

found of record in the office of the Clerk of the State Land Board. Arrangements are now in progress to have the former move into the office of the latter and rearrange the remnants of records that were found there two years ago so that it will be possible from an inspection of the records to ascertain at a glance the present status of every acre of public land in the State.

The State Land Agent and Clerk of the State Land Board have devoted much of their time to straightening out the tangle into which the records of both offices had become involved because of the lack of unity of action between the two. This task was carefully begun under the administration of Mr. J. W. Morrow, and has been scrupulously and persistently followed up by his successor, Mr. Oswald West, to whom, as well as to Mr. Geo. G. Brown, Clerk of the State Land Board, much credit is due for bringing order out of what first seemed hopeless chaos.

The lands granted to the State upon its admission to the Union for educational and other purposes have been practically all disposed of, and those that remain are of little value as compared with those that have been sold. It might be interesting to review the legislation of the State as affecting those lands which have been sold and to point out how profitable such legislation has been to speculators and how costly to the Irreducible School Fund, but such a review can at this late date do no good, and I content myself with dealing with conditions as I found them and as they are at present.

The grant to the State of the sixteenth and thirty-sixth sections in every township for school purposes did not carry with it the title to those sections which were known to be more valuable for mineral than for other purposes at the date of the survey, and for mineral than for other purposes at the date of the survey, and for every mineral section lost to the State it had the right to select indemnity lands in lieu thereof. Here was a rich field for exploitation by the speculator in mineral base, and it seems to have been farmed out to private enterprise. During the four years prior to 1903, application was made by the Executive to the several local land offices for adjudication of about 90,000 acres of so-called mineral base, about 12,000 acres of which had been sold in place by the State Land Board prior to this attempted adjudication, and title had passed from the State either by deed or certificates of sale. All of these lands were returned as mineral and without waiting for a final determination by the General Land Department at Washington about 70,000 acres so adjudged as mineral by the local land officers were used as bases for indemnity selections and the selections sold by the State at the uniform price of \$2.50 per acre. While these adjudications were progressing, and afterwards, about 35,000 acres were sold in place by the State, so that approximately 50,000 acres of the land which was adjudicated as mineral by the local land offices, were sold in place by the State.

Here was the condition of things on the 1st day of January, 1903: About 50,000 acres of land had been sold in place by the State, while the same lands had been adjudicated as mineral by the local land offices, and the Executive of the State, through his State Land Agent, had selected indemnity lands in lieu thereof, and these indemnity lands had been likewise sold, so that the State had practically sold the same land twice. In addition to this, many of the alleged mineral lands had been used twice as bases for indemnity selections, so that in such cases the State had practically sold the same lands as often as three times to as many different individuals. Of the 70,000 acres, therefore, adjudicated as mineral and used as bases for indemnity selection, only about 20,000 acres are in such condition that the State can fairly and in good faith attempt to have the selections made in lieu thereof patented to the State. This condition of affairs was brought about largely because of the fact that when the Executive instituted proceedings for the adjudication of the alleged mineral lands he failed to notify the Clerk of the State Land Board of the fact so that said lands could be withdrawn from sale, and so noted on the plats of the office. It resulted from this neglect that the records of the Clerk's office would frequently show a section of land as open to sale, when as a matter of fact the same had already been used as a basis for indemnity selections. The Commissioner of the General Land Office, not being satisfied with the rulings of the several local land offices in adjudging the lands above mentioned as mineral, for several reasons, amongst others: (1) Insufficiency of proof as to the mineral character; (2) prior sales of the same land in place; (3) prior use of the same land as a base for indemnity selection; (4) insufficiency of description of the alleged base land, held the indemnity selections to nearly all of this land for cancellation. General W.H. Odell, who occupied desk room in the office of the State Land Agent, conducted the proceedings in adjudicating the 90,000 acres referred to as mineral before the local

land offices, and was appointed by the then Executive as agent and attorney for the State to undertake to sustain the indemnity selections in the General Land Department by furnishing the proof required as to the mineral character of the lands in question, and upon my assuming the duties of the Executive office I continued him in the same position for the following reasons: First, He was willing to furnish his services gratuitously and pay all the expenses incurred. Second, Having adjudicated these lands in the local land offices it was presumed he was familiar with all the facts. Third, Having furnished the alleged base to purchasers of indemnity lands for a consideration of from seventy-five cents to \$1.50 per acre, no man in the State was more deeply interested than he in establishing said base as mineral. Fourth: To have removed him during the pendency of proceedings in the General Land Department would have furnished ground for the charge in case of decision adverse to the indemnity purchasers that but for Executive interference the decision might have been favorable because of Odell's familiarity with the facts. The Attorney-General was requested by me to render what assistance he could to General Odell in the trial of the cases before the General Land Office on appeal.

The Honorable Secretary of the Interior has practically held for cancellation every selection made on base furnished and sold by General Odell. As these selections have been held for cancellation, the State Land Agent has notified all the purchasers from the State of the condition of their titles, and of their right under the law to recover back the amounts paid by them to the State as the purchase price of the lands. It will appear from the report of the Clerk of the State Land Board that up to the end of the fiscal year 216 claims have been presented to the State for repayment on 46,868.66 acres of indemnity school lands selected prior to January 1, 1903, amounting to \$77,419.70 of principal and interest, while 17 claims for repayment on 3,777.15 acres of school lands have been presented and paid amounting to \$5,385.55. The end is arduous employment. A general statute should be passed at this session applicable to all such employments. The laborer in the logging camp and the sawmill, the mine and the smelter has no voice in the selection of those with whom he is compelled to work to earn his daily bread. The careful and competent laborer in all of these and other similar employments assumes the risks incident to the business in which he engages, and one these in the liability of injury to himself through the carelessness of a fellow servant. If he had a voice in the selection of his co-servants, or could without jeopardizing his position, protest against the employment of or retention in service of the careless or incompetent, there might be less reason for suggesting legislation in his behalf. We know from experience that the man who is compelled to seek employment can impose no conditions even for his own protection. If he undertook to do so he would soon be given to understand that he could work or let it alone, and the trend of modern legislation is towards statutory protection. The moral effect of the law modifying the fellow-servant doctrine as applied by the courts is most excellent, for it not only compels the employment of competent men and exacts a penalty in case of failure so to do, but inevitably leads to the adoption of improved machinery for safeguarding the lives and limbs of all employees.

I urge upon your consideration a general law upon this subject, which is all the more needed at this time because our State promises a more rapid development in the near future in all lines of manufacturing enterprise than it has ever experienced before.

EMPLOYERS' LIABILITY INSURANCE

The varied conditions of modern life, the rapid growth of corporations and associations of men employing vast numbers of laborers, have very recently resulted in the extension of the insurance principle so as to cover and protect against the legal liability which is ordinarily assumed in becoming employers of others. The employer under the law is liable to his servant for injuries incurred by the latter in the course of service and as a result of the employer's want of proper care, subject to the qualification however that the servant assumes the hazards which are incidental to his employment, among which are the servant's contributory negligence and the negligence of fellow servants. It was to lessen this legal responsibility of the employer which give birth to employers' liability insurance. Contracts of insurance of this class have been assailed from time to time as against public policy in that they virtually lessen the penalties which follow negligence on the part of the insured toward those to whom he owes a legal duty, but unfortunately, it seems to me, this view has not received the sanction of the courts. These contracts of insurance have therefore become a part of our industrial life, and their status for good or evil is being gradually fixed by the courts of last resort. For

a consideration paid by the employer (and sometimes it is charged, out of money deducted from the wages of the employee in the shape of his monthly hospital fee) to the insurance company, the latter contracts to discharge the liability of the former for damages sustained by the employee in the discharge of his duties. What is the result in actual practice? The employer is in fact relieved from one of the penalties of his own carelessness, and knowing this, in many instances at least, becomes careless in the conduct of his business, uses antiquated machinery and in many respects fails even in the most hazardous business to afford his employees that measure of protection which in the absence of such insurance common prudence and self-preservation would dictate. Nor is that altogether the worst feature of this new contract of insurance common prudence and self-preservation would dictate. Nor is that altogether the worst feature of this new contract of insurance. When an employee happens to be injured or killed, because of negligence upon the part of the employer, occasioned by the knowledge that in case of being compelled to pay the penalty therefore his contract of insurance protects him, the employer at the instance of the insurance company, refuses to pay the most meritorious claim for damages and resists payment to the last ditch. The employer is the nominal defendant in such actions, the insurance company the real defendant. The attorneys for the employer, the nominal attorneys, those of the insurance company paid by the year the real attorneys. It is the policy of the insurer to keep from the knowledge of the jury the fact that it and not the defendant is the real party in interest, and so strict are the courts in empanelling juries that cases may and sometimes do arise where a stockholder, officer or agent of the insurer itself sits to determine the rights of the injured employee. To meet these new conditions, new legislation is demanded for the protection of those who are engaged in the development of our industries. If the employee is injured because the employer, secure in the knowledge that his policy protects him, is careless in failing to furnish a reasonably safe place to work, and reasonably safe material to work upon, he should be permitted to sue either the careless employer or the insurance company that offers a reward for carelessness, or both as he may elect. Without some statutory provision upon the subject this cannot be done, and I earnestly recommend the passage of an act that will confer this right. But it is said such legislation will drive liability insurance companies out of the State. To this I answer that without such right, it were better for the State that they leave than that the life and limb of the citizen be dependent upon the mercy of such institutions.

EMPLOYMENT AGENCIES

Stringent laws should be enacted for protecting those seeking employment against dishonest and irresponsible employment agencies. There are many such agencies in the State, and numerous instances have been brought to my attention where they have not only received money for alleged services, but have sent men out, at great expense, to railroad, mining and other camps, which had no existence in fact, leaving them to get back to the point of departure as best they could. Other States have excellent laws on this subject, and a substantial copy of the California law will be found in the report of the Labor Commissioner, at page 40. The enactment of such a law will afford protection to the many strangers coming to the State in quest of remunerative employment.

SALARIES FOR STATE OFFICERS

The platforms of all parties at the last State election declared in favor of placing all State officers on fixed salaries, and the payment of fees, if any, earned by them into the State treasury. In my last message to the Legislature, I urged as strongly as I knew how the faithful performance of these pledges voluntarily made by party conventions, and impliedly if not expressly assented to by every candidate of every party elected at that election. Several acts were introduced at the last session looking to the fulfillment of these platform utterances, but nothing resulted therefrom, and these pledges remain unperformed. The argument that a law placing the several State officers on salaries is unconstitutional is without merit in view of the fact that the power of the Legislature so to do has received heretofore judicial, executive and legislative sanction. If it be insisted that such legislation is unconstitutional, what is to be said of those statutes which authorize the collection and appropriation of fees by officers who are in express terms inhibited from so doing by Section 1 of Article XII of the Constitution? Truly those who oppose a salary law on constitutional grounds, while they enter no protest to the present system of collecting fees, "strain at the gnat while they swallow a camel." Any statute which enables a public officers to compensate himself for his services by the collection of fees is liable to abuse, and so well recognized has this fact become that salary laws are rapidly taking the place of those providing for fees in the case of all the county officers. In his message to the present Congress

President Roosevelt recognizing the abuses which have grown out of a statute authorizing the Commissioners of Alaska to collect fees for official services, recommends "that a fixed salary be provided for them to take the place of the discredited 'fee system' which should be abolished in all offices." I do not deem it necessary to enter into a discussion of the reasons for the faith that is in me when I express the opinion that there is no question as to the power of the Legislature to place all the State officers, with the exception of the State Printer, on salaries, but content myself with a reference to my message of two years ago, where the subject is fully considered from a legal standpoint. Such a law ought to have been passed then to take effect at once. It ought to be passed now, for it is better late to redeem a promise solemnly made to the people than not to do it at all. Those who persist in the violation of party and platform pledges can rest assured that soon or later will come a day of reckoning at the bar of public opinion.

JUVENILE COURTS

At least thirteen States laws have been enacted having for their object the care, control and protection of dependent, neglected and delinquent children. This class of legislation was for a time only made applicable to the larger cities and towns, but it is now being made general in its application. It usually provides for detaining children awaiting examination apart from criminals, for the establishment of separate courts specially provided and known as juvenile courts, and for a system of parole on probation under the supervision of discreet and duly accredited persons. In some cases, parents or guardians are held responsible for acts contributory to the delinquency of the child. After all efforts have failed, the incorrigible are committed to reformatories and given instruction in manual and industrial training instead of being sent to jails and penitentiaries. Colorado has gone farther than any other State in carrying out the principle of the probation system, and a general law covering the subject was enacted at the last session of the Legislature of that State. I suggest it as a model from which to frame a law suitable to conditions that exist here.

Investigations by those who have made a study of criminology have led them to the conclusion that as far as practicable a delinquent child should be treated, not as a criminal, but as misdirected and misguided, and as needing aid, encouragement, help and assistance, rather than punishment by imprisonment with hardened criminals.

INDETERMINATE SENTENCE

There are in every prison many convicts suffering long sentences for first offenses who are not criminals at heart, and who, if an opportunity were given them, would endeavor to restore themselves to useful citizenship. It has been proven time and again that these men deeply appreciate any kindnesses shown them by those in authority, and cannot be induced to violate a trust reposed in them. Realizing this, the Legislatures of many States have passed laws providing for indeterminate sentences and for paroling prisoners under certain limitations and restrictions. The Governor should be permitted, on the recommendation of the Superintendent and Warden of the prison, to parole a prisoner for good conduct, and where in their opinion reformation appears to be complete. In addition to this, every sentence of a person to the penitentiary, except of one sentenced to life, should be indeterminate. The term of imprisonment should not exceed the maximum term provided by law for the crime nor be less than the minimum. In cases where the Court has discretion to sentence for life or any number of years, the Court should fix the maximum sentence, and the minimum should not be less than six months. But a prisoner convicted more than one of a felony should be ineligible for either an indeterminate sentence or a parole.

With a law in force embodying substantially these suggestions, there would be some incentive to prisoners to lead better lives in prison, as well as to strive to become useful citizens upon their discharge.

AN EMERGENCY FUND

Since the last session of the Legislature, range difficulties in Lake and Crook counties have reached an acute stage, resulting in the willful killing of many hundred sheep, and it is charged, in the loss of one human life in the former county. Appeals have from time to time come to me for Executive interference and protection, but under the Constitution and law I am practically powerless to render assistance. The only arm of the public service subject to my command is the National Guard, and that can be utilized only in emergencies which do not and have not existed in these difficulties. Even if the services of the National Guard were called into requisition, they could not be made effective where all the violations of law occur at points remote from

the center of population. I fully appreciate the difficulties of the local authorities in attempting to suppress the prevailing acts of lawlessness. A few men bent upon the ruthless destruction of personal property might travel by night a distance of sixty miles from one county into another, apply the torch, perform their nefarious mission of slaughter and return to the point of departure before the setting of another sun. Under such circumstances it is exceedingly difficult to procure evidence sufficient to convict. But even if the local authorities showed a disposition to neglect their duty, the Executive has no authority to do more than appeal to them. The power of removal from office, a most potent one in such cases, is not conferred upon him in this, as in some other States. If vested with this power, those officials who from selfish, political, or other reasons refuse to do their duty could be replaced by others who would not be deterred therefrom by any considerations.

Rewards were offered by me, subject to legislative approval, for the arrest and conviction of those guilty of destruction of property Lake County, and it probably acted as a deterrent. But these crimes will not cease until skilled and fearless secret service men are sent to ferret out the guilty, collect the evidence and bring them to swift and certain justice. This cannot be done without money, nor can the appointment or names of such men be published for reasons too obvious to mention. If the Legislature will appropriate a sufficient sum of money to be used by me in emergencies like this, I have no fears but that the guilty can be apprehended and punished. I earnestly request that this be done, for it is probably there will be a repetition of these crimes which have brought so much discredit to our State, and which have in some instances in a very few minutes resulted in destroying the earnings of a life-time.

ELECTION EXPENSES

Laws have been passed in many States limiting the amount of money allowed to be spent in elections by candidates and party organizations, and requiring itemized statements containing the names of contributors, amounts contributed by each, amounts expended and to whom paid, to be filed as public records in the offices where the certificates of nomination of the candidates are required to be filed.

Such laws are most salutary in their effect and tend to prevent the debauching of the electoral franchise. I suggest the passage of such a law at this session.

DESERTION OF FAMILY AND WIFE-BEATING

Desertion of wife and family should be made a crime for which the deserted may be extradited from the State in which he seeks an asylum. Investigation will show that of all the families under the care of private charitable associations no less than one in ten owe their destitution to this cause. The laws for the punishment of this grievous crime are inadequate, and deserters know that they have only to step over the State line to secure immunity. These desertions are, in many instances, for the deliberate purpose of evading the support of wife and children, and the burden of their support is thus shifted from the shoulders of a heartless husband and father to the public. A stringent criminal statute will have a wholesome effect upon these deserters and I recommend the passage of law that will bring them back to the State, if not to discharge their duty, then to be supported by the State within the walls of a prison.

But criminal statutes will not reach the brute who strikes and beats a defenseless woman, the mother of his children. Imprisonment may be a slight punishment for him, but it is a severe one for the helpless wife and children who are dependent upon him for their daily bread. For such inhuman creatures the public whipping-post has been proven to be the most effective punishment, and I recommend such a law for your consideration.

VETO POWER AND IRREGULAR APPROPRIATIONS

A constitutional amendment should be submitted to the people for adoption which will authorize the Executive to veto any single item in an appropriation bill which meets his disapproval. It sometimes happens that it becomes necessary to veto an appropriation bill because it contains some items that should not under any consideration be inserted therein. It may not of place to suggest to you now that I will it my duty to veto any, even the most important, measure appropriating public money if riders are superimposed thereon in

violation of constitutional provisions. If such measures are passed over my veto, the responsibility must rest with the Legislature and not with the Executive.

MODIFICATIONS OF JURY TRIAL

A Constitution of the State and of the United States guarantees to the accused in all criminal prosecutions and to litigants by a law which requires that all the jurors shall agree upon a verdict. I am a firm believer in the jury system, and hold it to be the strongest safeguard of the rights and liberties of the people, but there is neither reason nor justice in permitting a minority, or even one of twelve jurors, to prevent a verdict either in a criminal or civil case. Under our form of government a majority rules in all other cases, and the same doctrine should prevail in the trial of causes, to the end that there shall be a speedy end the litigation.

It is questionable if the Legislature has power to enact a law embodying this proposed reform in our jury system without amending the Constitution. This has been done in some of the States, and I suggest the submission to the people of a proposed amendment to the Constitution which will authorize the modification of the law regulating trials by jury in both civil and criminal cases.

DESERTIONS FROM THE ARMY

In his annual report to the Secretary of War, Lieutenant General Adna R Chaffee, Chief of Staff, states that the number of desertions from the army for this year was 5,873. After diligent inquiry he has failed to discover any cause for these desertions not inherent in the men themselves. Trial, conviction, dishonorable discharge and confinement for one or more years of the few deserters who are apprehended or surrender themselves, seem to have but slight influence as a restraining force on the service generally, and the Chief of Staff is of the opinion that public censure, disapproval and means of correction may best be afford by civil laws. He calls attention to the fact that deserters return to civil life, and there seek employment and the exercise of civil rights and functions accorded to others. "If," says the report, "all the States and Territories should by law withhold from deserters exercise of the right to vote at National, State and municipal elections, unless the act of deserted be atoned for by lawful discharge subsequently earned by service, it seems probably that the most healthful remedy practicable would be applied to the evil, and that the result would be surprisingly great. The majority of deserters would return to the colors at their own expense and serve out their unexpired enlistment contracts in order to receive a lawful discharge which would reestablish their civil status."

I heartily concur in the opinion that the proposed remedy would have a most beneficial result, and I recommend the enactment of a law that will deprive deserters of the inestimable privilege of participating in all elections, National, State and Municipal.

FOREST FIRES AND FOREST PROTECTION

A bill will doubtless be offered at this session having for its purpose the protection of forests. The Bureau of Forestry has been cooperating for the past two years, I am advised, with the State of California in order to determine on a sound State forest policy. The result is a comprehensive forest bill which will be considered by the California Legislature at its present session. A copy of this proposed law may be found in the November number of a magazine entitled Forestry and Irrigation, published monthly in Washington, D.C., under the auspices of the American Forestry Association. I have examined its provisions carefully, and it is subject to the same objections urged by me against the measures passed by the Legislature of this State at its last session, and that is the question of expense to the State for the protection of private interests. As a matter of fact, the State itself owns very little if any timbered lands. What has not, in the past few years, been included in forest reserves, is in the hands of private individuals and corporations, and if these lands are to be protected it ought to be done at the expense of the Federal authorities and the private owners. Agitation upon this subject in Oregon at least is of recent origin and dates from about the time when the State had been practically divested of title to all of its forest lands that were of any value. Practically one-fifth of the area of the State is within forest reservations, and there is no question but that many hundreds of thousands of acres are included therein that ought to be released either for settlement and cultivation or for grazing purposes. This very naturally results in retarding the growth and development of the resources of the State. The basis of the claim for the establishment of these immense reservation is that it is for the

conservation of the water supply, but there are those who have lived in the West since its earliest settlement and whose opinions, because of their intimate knowledge of existing conditions are entitled to great weight, who assert that the water supply is not conserved by the creation of reserves. Hon. John Minto, one of the earliest settlers in Oregon, and a man who has been a close observer of conditions and events in the State in his report as Secretary of the Oregon State Board of Horticulture on "Forestry and Arid Land Interests," 1898, in speaking of these reserves and the policy which has led to their creation says: "The major reasons for its [the executive committee of the American Forestry Association] recommendations are that forests protect the sources of streams in mountain and highland districts, by preserving the snow from melting and impeding the percolation of melted snow or rain from reaching the valleys below. My observation teaches me that mountains and highlands are the attracting causes of precipitation, and trees and brushwood are effects of this precipitation; that all other things being equal, snow melts first in belts of timber or when falling and partly because of the influence of color on solar rays, dark objects absorbing, white reflecting heat. The bulletin (No. 38) of the experiment station of the University of Missouri is now sending out the result of color on peach trees, showing that the simple act of whitewashing this sensitive tree delayed the swelling of the buds twenty-two days later than the unwhitened. This accords with my observations on the Cascade Range, where it is rare to find a patch of snow within the timber after the middle of July, and not then near the trees or brush. Later than that snow is on open ground, generally where it has been laid by drifting. These snow banks on open land, and the water from springs in the valleys below are the sources of rivers after the middle of July."

This opinion of Mr. Minto is shared by many observant and intelligent pioneers of this Western country where immense reservations have been declared in recent years. In this opinion I fully concur, and if the alleged conservation of the water supply was the only reason for the creation of reserves I would most heartily join in the protest against them. There is one and only one justification for holding of immense bodies of land in reserves, whether temporary or permanent, and that is to protect these magnificent timber belts from being seized by scrip holders and landgrabbers from all over the country, whose purpose is to hold them for speculative purposes only, without any idea of using them for developing the wealth of the State. Congressional action should be taken at once to prevent this, for with Congress rests the sole power of granting immediate relief by amending the lieu land laws. But a still better course for our representatives in Congress to pursue would be to endeavor to secure the passage of a law granting all of these lands to the State for school purposes. If this last alternative could adopted, then it should be the policy of the State to make ample appropriation and pass stringent laws for the protection of forests against fires. So long, however, as all our timbered lands are either within reserves or in private ownership, I can see no good reason why the people of the State should be heavily taxed to protect them. There is no objection to the creation of a commission and the appointment of wardens and rangers with ample power to protect the forests of the State if the corporations and individuals who own them will pay the expenses.

PORTAGE RAILWAY AND CANAL RIGHT OF WAY ON COLUMBIA

An act was passed at the last session appointing a Board of Portage Commissioners, consisting of the Governor, Secretary of State and State Treasurer, and appropriating \$165,000, or so much thereof as might be necessary for acquiring the rights of way, building and equipping a portage railway between the highest and lowest point of the navigable waters of the Columbia River between The Dalles and Ceilio in Oregon. The act in question expressly provided that "no expenditure should be incurred thereunder in excess of the sum appropriated."

Immediately upon the taking effect of the act, the Board employed Mr. A.E. Hammond as its engineer, with instructions to survey a route for a portage road between the points named, prepare plans, maps and specifications, and as expeditiously as possible to report to the Board, with estimates as to cost of construction, keeping in view the above limitation as to expense to be incurred. Maps of definite location were presented by the engineer September 23, 1903. In the meantime the Board, in conjunction with the Attorney-General, kept up its negotiations for rights of way, and practically arranged terms with all the owners except I.H. Taffe and the O.R. & N. Co. Between these and the Board no agreement seemed possible along the line mapped out by the engineer. The matter of procuring these rights of way was finally placed in

the hands of the Attorney-General, and actions to condemn commended by him against both the O.R. & N. Co. and Taffe.

Estimates of cost of construction, exclusive of cost of rights of way, were filed by the engineer November 5, 1903, showing conclusively that a large expense in excess of the appropriation would have to be incurred in order to carry out the terms of the act. When matters had progressed thus far, and while proceedings were still pending to condemn and acquire said rights of way, the Legislature convened in special session December 21, 1903, at which time an act was passed creating a Board of Commissioners of Canals and Locks, with authority to procure rights of way for improving the Columbia River between the foot of The Dalles Rapids and the head of Celilo Falls for the United States, and appropriating \$100,000 therefore. This act interposed a temporary delay in the portage construction. In the location of the canal right of way the Board had no voice; that was a matter completely within the jurisdiction of the government engineers, and when the Board was furnished with the descriptions of the rights of way necessary to be acquired for canal purposes, it was ascertained that for a great part of the distance, including that to acquire which condemnation proceedings had already been begun, it overlapped the right of way mapped out for the portage, and as the United States required a grant from the State of a right of way for canal purposes unencumbered in any way, a new survey for the portage became an absolute necessity. This was not immediately attempted because of the fact that the State's engineer had already reported to the Board that the line which he had located was the cheapest and practically the only one that could be laid out without the expenditure of a sum in excess of the appropriation, though the Board intended to cause a new survey to be made immediately after the canal rights of way had been fully determined upon, procuring plans, specifications and estimates, so as to be able to submit the same to your body for further action. To this end Mr. A.J. McMillan was employed as engineer for the State. These unexpected delays, the probability that as matters then stood work on the portage could not be commenced without an increased appropriation, and the necessity for the regulation of freight charges pending the time which must necessarily elapse before the government could possibly complete the canal, aroused the producers of the Inland Empire, as well as the shippers and commercial bodies of Portland, to the organization of the Open River Association, having for its object the raising of a fund which added to the amount of the appropriation would be sufficient to proceed with the work of portage construction, and to render the State Board its moral as well as its active support in this great public work. Conferences were frequently had between the Board and the executive committee of the Open River Association, which finally and on September 8, 1904, resulted in a contract between said committee and the Board, by the terms of which the Board agreed with the committee that whenever within the period of thirty days from the execution of the contract the latter should designate a responsible construction company satisfactory to the former, it would enter into a contract with such company to acquire rights of way, build, construct and equip a portage railway between the points mentioned in the act, under the supervision of the State's engineer, and turn the same over to the Board ready for operation for the amount of the State's appropriation unexpended. This contract was extended from time to time at the request of the committee. On the 3rd day of December, 1904, the committee designated the McCabe Construction Company to the Board, and after agreeing upon the terms of the contract and the cost of the road to the State, the required bond and contract were not executed within the time required, and immediately new bids were advertised for by the Open River Association. These were opened on December 24, 1904, and Nelson & White being the lowest bidders were awarded the contract to build the road for approximately \$115,523.16. The State is to furnish the rails and fastenings, and W.J. Mariner, Henry Hahn, and J.A. Smith, of the Open River Association, have contracted to furnish the necessary equipment in accordance with the plans and specifications in consideration of \$1 and such additional sum of money as may remain of the appropriation after the payment to Nelson & White, and after the payment for rails and fastenings, rights of way, engineering, and all other expenses incurred by the Board of Portage Commissioners in constructing the road. Nelson & White have executed a bond in the sum of \$50,000, and Mariner, Smith, and Hahn a bond in the sum of \$20,000, for the faithful performance of their several contracts. I refer you to the contracts and bonds on file with the Clerk of the Board for minute details as to the work to be done by the contracting parties.

All sums in excess of appropriation of \$165,000.00 have been or are to be raised by the Open River Association by voluntary subscription of citizens of Oregon, Washington and Idaho.

Too much praise cannot be given the members of the Open River Association, and particularly W.J. Mariner, J.T. Peters, J.A. Smith, Henry Hahn, Allen Lewis, N.G. Blalock, and A.H. Devers, for their efforts in this project, as well as to their attorney, Mr. J.N. Teal, whose attention to the matter has been unremitting and whose services both to his clients and the Board have been invaluable and have made the consummation of this work possible. It is seldom, indeed, that men can be found, who like those named above are willing to sacrifice business interests, time and money for the public welfare.

No one not an active participant can appreciate the difficulties that have beset the Board and the Open River Association in attempting to harmonize the conflicting interests of private owners who possessed valuable fishing interests, the O.R. & N. Co., with its right of way, spurs and switches, and the authorities of the United States in their efforts to have provided a sufficient right of way for a canal, over a distance of about eight or nine miles along a narrow strip of land bounded on the one side by the Columbia River and on the other by precipitous cliffs. All have made concessions and some sacrifices, but the work when completed will amply repay for all these. It must not be overlooked that when the Portage Railroad is completed, the appropriation will be exhausted, and for a time at least, it cannot be expected to be self-sustaining. I therefore suggest that at least \$10,000 per annum be appropriated or so much thereof as may be necessary to meet all emergencies and to put the road in full operation as soon as it is turned over to the State.

The right of way for the canal has all been obtained except about three-quarters of an acre owned by I.H. Taffe for which he insists upon being paid more than the Board thinks is reasonable, and for this condemnation proceedings will have to be instituted. Abstracts of title have been furnished the authorities of the United States, and upon advice of the Attorney-General payments are being made to the owners. The cost of the rights of way including all expenses amount so far to the sum of \$70,349.75, and there remains to be paid whatever is awarded to I.H. Taffe for the right of way yet to be secured from him.

Major W.C. Langfitt and Captain A. Fries of the United States engineers have done all in their power to assist the Board of Portage Commissioners as well as the Board of Canal Commissioners, and I take this occasion to publicly thank them on behalf of both Boards for courtesies shown, and to express the belief that the canal will soon be an accomplished fact if Congress will give proper heed to their recommendations and requests.

CANAL AND LOCKS AT WILLAMETTE FALLS

The act of 1870 appropriating money for the construction of the canal and locks at Oregon City, provides that the issuance and payment of the bonds thereby authorized to be issued are upon the express condition that the Willamette Falls Canal and Locks Company shall pay for the benefit of the Common School Fund ten per cent of the net profits arising from tolls collected for passing freights and passengers through said canal and locks. In the subsequent compilations of the code this statute seems to have been omitted. No attempt, so far as I have been able to ascertain, has ever been made to collect anything from this company or its successors in interest, and the only payment ever made to the State was \$435 paid in 1873. recently my attention has been called to the matter, and the Attorney-General is diligently at work at this writing endeavoring to ascertain the rights of the State in the premises, and will in due course institute proceedings to test the question as to the liability of the present owners of the canal and locks, and its predecessors in interest, and to ascertain what, if anything, is due the State. A joint committee of the Senate and House was appointed in 1893 to consider a plan for the acquisition by the State of the canal and locks, as well as to consider the use then being made and proposed to be made of the water of the river at the falls for industrial purposes. This committee prepared quite an extensive report with a bill for the condemnation of the property for the use of the State, but nothing came of the report. The right was reserved to the State in the act of 1870, at the expiration of twenty years from the completion of the canal and locks to appropriate the property to its use upon payment of the value thereof. This public highway ought to be owned by the State or the General Government, and the river opened to free navigation.

I suggest that an appeal be made by you, through our Senators and Representatives in Congress, for Congressional action which will place the ownership of this canal and locks in this United States. If the

owner and the representatives of the Government cannot agree upon a price to be paid, condemnation proceedings should be authorized or a new canal and locks built on the opposite side of the river. The opening up of the Willamette River is a matter of the greatest importance to the people of Oregon, and the producers and shippers ought to have the benefits that would accrue to them from a reduction in freight charges that would surely follow Government ownership and control.

SWAMP LANDS IN KLAMATH COUNTY

In this connection I call particular attention to that part of the report of the State Land Board having reference to the loss to the State Land Board having reference to the loss to the State of a large body of swamp lands in Klamath County by reason of a recent decision of the Honorable Secretary of the Interior, and the action of the Board in employing Hon. William B. Matthews, of Washington, D.C., to assist the Attorney General in the contest over these lands in the General Land Department. He rendered faithful service in his service in his efforts to secure a decision favorable to the State, and I hope an appropriate will be made to pay him in accordance with the recommendation of the Board.

If it is possible to present a case to the courts for a determination of the legal questions involved in this contest, the Board intends to make the attempt, and to that end has referred the matter to the Attorney-General.

RECLAMATION OF ARID LANDS

The report of the State Land Board gives a detailed account of the reclamation projects now under way in the State, the number of acres involved and the progress that is being made. Your careful attention is invited to this report. Many thousand acres of heretofore worthless land are being reclaimed, and it is safe to predict that in a very few years all of it will be occupied by actual settlers and under cultivation.

It is to be hoped that the committee appointed in pursuance of a resolution adopted at the last session will present to you a report of their work, with a bill for the regulation of riparian and water rights. The adoption of a carefully digested measure will do much for the future welfare of the whole State, but more particularly those parts which have been reclaimed and where in the absence of a wholesome statute upon the subject there is constant danger of litigation and strife.

SAILOR BOARDING HOUSES

In my message to the last Legislature I called attention to the abuses which existed at the ports of Portland and Astoria, occasioned by interference on the part of sailor boarding house keepers, running and crimps, with seamen on vessels arriving from foreign ports and carrying the flags of foreign powers. As a corrective measure to these abuses, the act was passed creating a Board of Commissioners for licensing and regulating sailors boarding-houses. The act named the Board of Commissioners. This act is the first step in the direction of relieving the ports from abuses which have been in existence for many years, and I have no doubt but that if properly enforced by a fearless commission, it will entirely eradicate the evils which have given said ports an unsavory reputation among ship-owners everywhere. No law of this State has been so thoroughly misunderstood or persistently misrepresented as has the act in question. Its purposes are most excellent; its results, if properly enforced, would be most beneficial, but soon after the act went into effect and the Board of Commissioners had qualified, they undertook to fix an arbitrary rule for the licensing of sailor boarding-houses, without regard to the question as to whether or not the applicants possessed the qualifications prescribed by the act. Whenever an applicant under the statute presents the proof required therein as to his respectability, competency and suitability of his accommodations, it is the duty of the Board to pass upon these questions of fact, and from their decision in the premises there is no appeal unless they exercise their discretion arbitrarily and in contravention of the terms of the statute. Upon the Board devolves the duty of determining these questions. They can be compelled by mandamus to act, but their discretion cannot be controlled, so that when an applicant presents himself for a license the power of determination rests with the Board, and if he presents the quantum of proof necessary, they shall issue to him a license, but if in their judgment the proof is insufficient, they can withhold it.

The Supreme Court of this State, in the case of *White vs. Mears et al.* (44 Ore. 215), upheld in its entirety the act in question, and certain it is in the light of the decision referred to, the Board have ample power to regulate and control the conduct of the sailor boardinghouse business in the ports named in the act. Those who are engaged in this unsavory business have but to know that the Board appointed will fearlessly carry out the provisions of the act, and they will obey it. These has been less interference with sailors since the passage of the act than there has ever been in the recent history of the State, and I have no doubt but that its enforcement will be most salutary to the shipping interests.

There are but two amendments that I would suggest. First, that the power of appointment of the Commission should be vested in the Executive of the State, where it is lodged by the Constitution, and, second there should be exempted from the payment of licenses the Seaman's Institute, or any organization which undertakes, from motives of philanthropy and charity, to find positions for sailors desiring them. The question as to the bona fides of such charitable institutions could be left entirely to the Board, with power to give them a permit to act without the payment of any license, or withhold it, as to them might seem best.

CENSUS IN 1905

The Secretary of State in his report calls attention to Chapter VIII, Title XXX, Bellinger and Cotton's Annotated Codes and Statutes of Oregon, relative to the enumeration of the inhabitants and industrial products of the State once in ten years. This enumeration must be made this year under the statute referred to. The law governing the subject was passed in 1864, and as stated by the Secretary, it is entirely out of date and an enumeration under it would be of little if any value.

I therefore heartily approve of his suggestion for an amendment of this law and concur with him the recommendation he makes. I feel it incumbent on me, however, to call attention to a matter in this connection which he does not mention in his report. Pursuant to the provisions of an act of Congress, a census of manufactures will be taken this year under the supervision of the Bureau of Census. (See Report of the Director of Census, October 15, 1904.) A later act was passed by Congress and approved March 1, 1904, authorizing the Director of the Census to cooperate with the Secretary of State of the State of Michigan in taking the census of manufactures and to share the expense thereof, the results of which are to be accepted by the United States as its census of manufactures for that State for 1905. The act further provides that "the Director of the Census may in his discretion cooperate with the officials of other States which take a like census in so far as it may aid in the collection of statistics of manufactures required by existing laws." Under this law, an agreement was made with the Secretary of State of the State of Michigan whereby the manufacturing schedule of the Census Bureau was accepted for the Michigan census and the correction and compilation of the returns were undertaken by that Bureau. In consideration of the control over the form and character of the returns accorded the Census Bureau, the latter undertook to defray two-thirds of the expense of the field work, the State of Michigan on the other hand affording the Bureau free use of its office facilities and clerical force at the State Capitol. In this way the cost of the census was equitably shared, and a considerable sum saved both the Federal and State Governments. Under this arrangement the field work of Michigan was completed in a little over two months. Massachusetts has entered into substantially the same arrangement with the Census Bureau.

I urge therefore that our Midway Census Law be amended and modernized, and that either the Secretary of State or the Commissioner of Labor be authorized to cooperate with the Federal authorities under the act of Congress referred to, to the end that the census of the State, when taken, may be of some value from a statistical standpoint, and time and money saved in the preparation thereof.

GOOD ROADS

Some method should be adopted for improving the country roads. Much interest has been attracted to this subject in the past two years through the efforts of the State Good Roads Association, and it may be that some measure will be presented by this Association for your consideration. If so, I invite your serious attention thereto. There is no question but that through the methods which have been in vogue in this State, results have not been satisfactory, and our roads are in little if any better condition than they were twenty

years ago. The value of every acre of farm land would be enhanced by a system of roads which could be traveled the entire year, while the business of the tradesman would correspondingly increase.

OREGON HISTORICAL SOCIETY

This society is doing a grand work for the State in collecting data from which the future historian must write a truthful history of the State from its earliest discovery and settlement. With little other aid than voluntary contributions, this society has gathered from old pioneers and their descendants most valuable data and many historical records, which, with the lapse of a few more years, no amount of money could obtain. Many States contribute most liberally to these historical societies, and I submit that you should be liberal in appropriation a sufficient sum to enable the Oregon Historical Society to carry on its work.

JAMESTOWN TEN-CENTENNIAL EXPOSITION

The people of Virginia propose to hold in the year 1907, on the borders of Hampton Roads, a great naval, marine, and industrial exposition, in commemoration of the three hundredth anniversary of the first permanent settlement of English speaking people on American soil at Jamestown.

Each State has been or will be invited to participate in this exposition, and I have already received requests that Oregon make an exhibit there of its resources.

I submit the matter to you, and ask you to consider whether or not an appropriation should be made for that purposes.

SHORT SESSION

I trust that you will not consider it out of place for me to suggest a short session of the Legislature and the early adjournment. There is nothing you could do which would so strongly commend you to your constituents. In order to do this it is necessary to begin your labors speedily and consume as many hours as possible of each working day. Above all things, do not put off until the last days of the session the consideration of important legislation, but take it up and dispose of it deliberately and in order. Measures are frequently passed in the last days of each session that should not find lodgment in the statute books, nor would they if they could be discussed and digested in the opening days. Besides, when innumerable bills are passed at the end of the term, they come into the hands of the Executive with the constitutional mandate that these measures become laws within five days next after adjournment unless he shall within the time interpose his veto thereto. It is impossible within the time thus limited to give any number of laws a very careful consideration, with the result that there is much confusion in existing laws.

CONCLUSION

Permit me to assure you, gentlemen, of my earnest desire to render you any assistance in all legislation having for its object the relief of our people from oppressive taxation and the betterment of their social and industrial condition. Nor can I close this message to you without taking advantage of the occasion to express my thanks to the Secretary of State, State Treasurer, Superintendent of Public Instruction and other State officials and employees with whom my duties have brought me into daily and intimate contact, for the uniform courtesy and kindness I have at all times received at their hands.

GEO. E. CHAMBERLAIN

Governor's Message, 1907

Source: Oregon Messages and Documents, 1907, Governor's Regular Session Message, Salem, Oregon, J.R. Whitney, State Printer, 1906.

[Editor's note: Budget table not included]

Message Of George E Chamberlain Governor of Oregon, To the Twenty-Fourth Legislative Assembly 1907

Gentlemen of the Senate and House of Representatives:

My fellow citizens of this great and growing commonwealth at the last general election honored my far beyond my deserts by electing me for a second time their Chief Executive. I can not express in words my high appreciation of this great honor, but I can and do promise then through you, their chosen representatives, that with the help of Almighty God, who controls the destinies of all the nations of earth, I will in the future as in the past remain faithful to every trust confided to my care and keeping. I crave, as I believe I shall receive, at your hands, that courteous consideration which has at all times been accorded to me by this distinguished body, and in return I give you the assurance of the best efforts of my life to assist you in making the work of this session an epoch-making period in the history of our State.

Under the provisions of the Constitution, it becomes my duty to inform you with reference to the finances and affairs of the State, to advise you as to the conditions of the several departments and institutions thereof, and to recommend for your consideration such measures as shall seem most conducive to its welfare and development.

ELECTION OF A SENATOR

The provisions of the direct primary nominating law, with respect to the election of a United States senator should be carried out in letter and in spirit. At the last primary election Mr. Frederick W. Mulkey received the nomination of the Republican party for Senator for the short term, and Mr. Jonathan Bourne for the long term, while Mr. John M Gearin received the nomination of the Democratic party. At the election held late, Mr. Mulkey received the highest number of the votes cast for the short term and Mr. Bourne for the long term, whilst a majority of the members elect (Democratic and Republican) of the Legislature pledged themselves to vote for the choice of the people for Senator. But whether they did or not, the people have expressed their choice for the important office, and their wishes should be respected and obeyed, and the gentlemen who have been nominated by the people ought to be elected unanimously, for the short and the long term respectively. I suggest that this be done as soon as the legislature is organized, so that the work of the session may proceed, and the time which has heretofore been devoted to this purpose may be given to legislation vitally affecting the welfare of the State.

REPORTS OF STATE OFFICERS, BOARDS, AND COMMISSIONS

Reports have been made by all state officers, boards and commissions. These are printed and will be placed before you. I have examined them all, and they are replete with statistical and other information of value. They contain recommendations as to the needs of the several departments over which they preside, and most of them ask for appropriations for the ensuing two years.

I respectfully ask for them all your courteous and careful consideration.

STATE INSTITUTIONS

The several State institutions are in excellent condition and it is hoped that every member of the legislature will visit them all. The superintendents of the Asylum, Penitentiary, Reform School, Blind School, and Deaf Mute School have prepared reports showing in detail the population, condition and cost of each institution. These reports are printed, and to each is appended a report of the trustees, and your attention is particularly called to them and to the recommendations made therein. I deem it unnecessary to do more than call attention to these reports, and to say that each of these institutions is splendidly officered by capable and conscientious public servants, and to them as well as to a faithful and efficient corps of subordinate employees the State is indebted for an economical and intelligent administration of its affairs.

FINANCES

The financial condition of the State was never better in its history than now, there being no indebtedness of any kind outstanding against it. I respectfully refer you to the reports of the Secretary of State and State Treasurer, both of which are full, and contain information in detail as to all the financial transactions of the state for the two fiscal years just ended.

TAXATION

As rapidly as conditions will admit, there ought to be a complete divorcement between the system of taxation for State and that for county and municipal purposes. This policy is being adopted in other states, and will doubtless be adopted here as the State advances in population and wealth.

As showing the trend of Oregon legislation to accomplish the results herein suggested, permit me to call your attention to the following comparative statement of revenue and receipts applicable to the payment of the ordinary expenses of the state government from 1899 to 1906, both inclusive:

Revenues and receipts applicable to the payment of the ordinary expenses of the State government.

[Editor's note: see table at bottom of page]

An examination of this statement shows that in 1899 all of the money for defraying the expenses of State government was collected from the various counties on apportionment of taxes, except \$15,828.93 derived from other sources than direct tax, whilst in 1906 the amount received from indirect sources had increased \$267,847.96, the largest item of this increase being from corporations, fees and licenses. This amount will probably be still further increased by the laws adopted at the last election providing for a license upon the gross earnings of sleeping car, express, telegraph and other companies, and if the suggestion which is made elsewhere in this message is adopted with reference to an amendment of the inheritance tax law, taxes derived from this source would be very largely increased.

The burden of taxation has in the past fallen in the main upon real property, whilst personal property of every kind, public service and other corporations have not contributed their just proportion to the burdens of government, and laws ought to be enacted that will reach all of this class of property which now practically escapes taxation.

INHERITANCE TAX

The inheritance tax law was passed in 1903, and since that time up to and including the 30th day of September, 1906, there has been paid into the State treasury from this source \$45,108.54. The law should be amended so as to increase the revenue derived therefrom. The tax should be graduated and increased as the inheritance increases, applying the same rule to lineal as to collateral kindred. Under the present statute where the inheritance passes to the father, mother, husband, wife, child, brother, sister, wife of a son, or the husband of a daughter, or any child or children adopted in conformity with law, or to any person to whom the decedent for not less than ten years prior to death stood in the acknowledge relation of a parent, or to any lineal descendant born in lawful wedlock, in every such case the tax is computed at the rate of one per centum upon the appraised value thereof received by each person, provided that any estate which may be valued at a less sum than \$10,000 shall not be subject to any tax, and the tax is to be levied in the above cases only upon the excess of \$5,000 received by each person. When the inheritance passes to any uncle, aunt, niece, nephew, or any lineal descendant of the same, then the tax shall be at the rate of two per centum upon amounts in excess of \$2,000. In all other cases (and such are rare) there is a graduated tax of three per centum on amounts over \$500 and not exceeding \$10,000; four per centum on all amounts over \$10,000 and not exceeding \$20,000; five per centum on all amounts over \$20,000 and not exceeding \$50,000; six per centum on all amounts exceeding \$50,000. It will thus be seen that in the first class, and that covers most of the cases of inheritance, an estate of the same size would only pay two per centum; whilst in the third class, which is even more rare, the tax is graduated and increases as the inheritance increases. The system of taxing inheritances which I propose is constitutional, and is certainly most just, and a proper adjustment of it in this and in other States must be the solution of the gradual absorption of the wealth of the country in the hands of a few. It restores to the whole people through taxation for governmental support, money which in many cases at least has been (to put it mildly) harshly obtained from them, and the heir who has not contributed to its accumulation either by the expenditure of brain or brawn, ought not to complain at being put measurably on a level with his fellows. There is no reason why the graduated system should not apply alike to each of the three classes mentioned, increasing the rate as the inheritance increases, and I recommend that the law be amended so as to accomplish this result.

In this connection your attention is called to the fact that through the incorporation of large estates, and the distribution of the stock prior to the death of the ancestor, the inheritance tax law even as it stands is likely to be avoided, and provision should be made to prevent this evasion. Experience has shown that in some cases large estates have practically escaped taxation until death, and the probate courts then disclose vast holdings in the inventories of the estates of decedents.

INCOME TAX

Another mode of taxation which should be resorted to is that of a graduated income tax. There could be constitutional objection to it, nor could there be any injustice in levying a reasonable rate upon all incomes, ranging from say \$3,000.00 upwards, increasing the rate as the income increases.

The argument that a tax upon incomes is a tax upon thrift and enterprise is entirely without merit. The same argument might apply to the taxation upon the improvements and the household goods of the man or the woman who buys and builds a small home and accumulates therein the things that make for comfort and happiness, and in fact to any other system of taxation. Yet this tax is imposed and is sustained. Certainly the man who has a good income can not object to contributing his fair share of the burdens of government, and as that income increases he ought to contribute in proportion to the increase.

I recommend, therefore, the enactment of such a law.

NOTARIES PUBLIC

Under the present system, too many notaries public are appointed. The propriety of limiting the number is questionable, but if a liberal fee were authorized to be charged by the Secretary of State for issuing a commission, to be turned in to the general fund, it would operate to limit the number of applications and at the same time result in raising a considerable revenue for the state.

FOREST RESERVE RECEIPTS

The agricultural appropriation act of 1907, passed by Congress and approved June 30, 1906, contains the following provision:

“ That ten per centum of all money received from each forest reserve during any fiscal year, including the year ending June 30, 1906, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated; provided, that when any forest reserve is in more than one State or Territory or county, the distributive share to each from the proceeds of said reserve shall be proportional to its area therein; and provided further, that there shall not be paid to any State or Territory for any county an amount equal to more than forty per centum of the total income of such county from all other sources.”

The receipts from the forest reserves in Oregon to June 30, 1906, as disclosed by the records of the Forest Service, are as follows:

Cascade (N)	\$7,344.43
Cascade (S)	\$6,476.39
Ashland	\$91.13
Wallowa	\$17,492.56
Wenaha	\$7,257.26
Chesnimnus	\$4,885.48
Maury Mtns (E)	\$372.25
Blue Mtns (E)	\$17,115.85
Blue Mtns (W)	\$14,838.30
-----	\$75,873.65

Ten per cent of this amount, or \$7,587.36, is the approximate amount to be paid to Oregon from this source. It will devolve upon the Legislature to provide for the method of expending this sum for the benefit of the public schools and public roads of the counties in which the forest reserves are situated. In this connection

permit me to call your attention to the fact that more than one fifth of the area of the State, or 11,569,848 acres, is included within these federal reserves, and therefore practically withdrawn from settlement or sale. The moneys derived from this immense body of land ought all to be paid to the State to be added to the irreducible school fund, deducting first the cost of collecting the same. I suggest that a resolution be passed calling upon our representative in Congress to use their influence to have a law passed that will bring about this result.

EDUCATIONAL FUNDS OF THE STATE

Irreducible School Fund

But for the policies which have been adopted by the Legislature from time to time with respect to its school lands, the irreducible school fund might have been five or six times as large as it is at present. Lands have been fixed at prices too low under the pretext that these lands would be sold in limited quantities to actual settlers, thus compensating by the establishment of homes and families, and the subjecting of acquired titles to assessment and taxation, for the loss that was being incurred by the school fund in minimum prices. In theory this seemed not unreasonable. In practice, large bodies of these lands have been acquired by speculators who hold them now, and a magnificent domain intended for the education of the children of the State has been measurably frittered away. Notwithstanding this, the irreducible school fund in the Treasury Department is in better condition today than it ever was before, as will be seen by the following comparison:

Mortgage loan notes December 31, 1899	\$1,981,069.76
Cash in treasury unloaned December 31, 1899	\$444,698.17
Mortgage loan notes September 30, 1902	\$2,423,014.17
Cash in treasury unloaned September 30, 1902	\$729,435.42
Mortgage loan notes September 30, 1904	\$3,234,229.90
School District Bonds September 30, 1904	\$266,950.00
Cash in treasury unloaned September 30, 1904	\$200,361.24
Mortgage loan notes September 30, 1906	\$3,723,539.64
School District Bonds September 30, 1906	\$325,325.00
Cash in treasury unloaned September 30, 1906	\$71,883.05

From this it will be seen that this fund in the Treasury Department has increased since the close of the fiscal year 1899, \$1,694,979.76, and that while at the close of the fiscal year 1902 there was \$729,435.42 in the treasury unloaned, and at the close of 1904 \$200,361.24 unloaned, there was at the close of 1906 only \$71,883.05 unloaned and in the treasury. In respect to this latter sum it may be said that applications are on file for loans at this writing sufficient to consume it all.

In addition to \$4,120,747.69 in securities and money belonging to the school fund, there is \$478,712.70 in certificates of sale of school lands, certificates of sale of lands acquired by foreclosure, and unsold farms acquired by foreclosure and since undisposed of, making the fund amount in all to the sum of \$4,599,460.39 on September 30, 1906.

The amount of interest apportioned to the several counties of the state from the irreducible school fund in 1879 was \$36,137.12, and this has steadily increased each year until in 1906 it amounted to \$265,992.20, the largest apportionment in the history of the State. This gratifying increase, notwithstanding the rate of interest has been reduced from eight to six per cent.

For a detailed statement of the securities in this fund and its condition, I respectfully call your attention to the Treasurer's report.

AGRICULTURAL COLLEGE FUND

In this fund there is \$195,615.41 of principal in notes and land certificates and including \$8,872.18 in cash unloaned, an increase of \$1,836.90 since the close of the fiscal year September 30, 1904. The net income

from this fund has been paid from time to time to the Treasurer of the Board of Regents on warrants drawn by the Secretary of State.

STATE UNIVERSITY FUND

In this fund there is \$104,205.36 of principal in notes and land certificates, and including \$3,148.61 in cash unloaned, an increase of \$790,00 since the close of the fiscal year September 30, 1904. The net income has been paid from time to time to aid in the support of the University.

A.R. BURBANK TRUST FUND

In January, 1906, Mrs. Mary E Burbank, widow of the late A.R. Burbank, deceased, died leaving all her estate after the payment of her debts and liabilities and certain specific bequests, to the State in trust for the orphans' homes at Salem and Portland, Oregon. The estate was finally settled since the end of this last fiscal year, and from it the State has received lands and other property of the value of about \$10,000. This will be converted into money as soon as possible, and kept loaned on mortgage security. Under the directions of her will, the estate is to be added to that of her husband, which now amounts to \$14,296.22, and will become a part of and be treated in the same manner.

SOLDIERS' HOME

An examination of the report of the Commandant of the home for old soldiers discloses that because of increased accommodations it contains a larger number of inmates than ever before in its history. The erection of cottages for old soldiers and their wives since the last session of the Legislature has proven a great boon to the few who occupy them. The Grand Army of the Republic and the Woman's Relief Corps have contributed money to assist in making these cottages comfortable, and I take pleasure in reporting to you that these patriotic bodies have at all times cheerfully advised with me and with the officers of the home in relation to matters tending to the betterment of the condition of these old defenders of the flag. The commandant, the adjutant, and the matrons of the Home and Hospital, have endeared themselves to the old soldiers themselves have endeavored in every way possible to make life pleasant and agreeable. I sincerely trust the recommendations of the Commandant will receive your favorably consideration, and all be done that is possible to make the declining years of these old soldiers comfortable.

STATE LAND AGENT

The report of the State Land Agent, Mr. Oswald West, shows in detail what has been accomplished in his department during the two years ending September 30, 1906. It is entitled to your very careful consideration as showing the efforts he has made and the results which have been accomplished in the way of placing his department on a businesslike basis and bringing it in close touch with the office of the State Land Board. I take occasion to commend him for faithful and efficient service, for it has been largely through his personal effort and attention to duty that the fraudulent speculations in the public lands of the State have been brought to an end, and some of the criminals prosecuted and convicted.

There has been no operations in selecting indemnity lands on alleged mineral base during the past four years. Within the past two the creation of the Wallowa, Wenaha and Chenimnus Forest Reserves have made available 47,000 acres of new base for indemnity selection. Instead of selling this base for the minimum price of \$2.50 per acre it was determined in the spring of 1905 to offer a limited amount thereof to the highest bidders in order to ascertain something as to its market value. Bids were received therefore and offers ranged from five to six dollars per acre, while seven and eight dollars were offered for a few small tracts. All of these offers were accepted, and the Board decided to fix the price at \$6.00 per acre until further notice. The demand was active for this base, and on the 24th of April, 1906, the price was raised to \$7.50 per acre, which has been maintained since, and the probability is that this amount can always be obtained for this base to be used for indemnity selection.

In addition to the reserves mentioned, the creation of the Blue Mountain, Maury, Heppner, Siskiyou, Goose Lake and Freemont Reserves will give the State about 55,000 acres more of base, all of which is available for indemnity selection. For the proper handling of this, the State Land Agent should be furnished with an office assistant, and I recommend that his request in this behalf be granted.

Numerous parties had purchased lands in several of the above named reserves prior to their creation as such, and now hold either certificates of sale upon which a portion of the price is still unpaid, or having paid in full hold deeds therefore. The Board ought to be authorized by the Legislature to cancel the certificates of those willing to surrender them and to refund to the purchasers thereof the amount paid by them thereon. These lands were purchased generally at \$1.25 per acre, and since the repeal of the indemnity selection law by Congress they are of little value to the present holders of the certificates, whilst if the certificates were cancelled the State could use them for base which at present prices is worth \$7.50 per acre.

There were withdrawn from sale by an act of the Legislature of 1899, 10,000 acres of indemnity lands which had been selected under the act of 1895. I suggest that this act of withdrawal be repealed, and that the lands so selected be put upon the market and sold to the highest bidders.

With respect to tide lands, I recommend that they be withdrawn from sale for ten years. It seems to me that the policy of selling these tide lands has been a mistaken one. If they had been withdrawn from sale years ago and simply leased, the State would have realized more from them and might have continued to own valuable rights and privileges which under the policy which has been followed have been sold for a mere song.

DESERT LAND ACT

The State Land Board files a separate report relating to desert lands, and your particular attention is called to it, and especially to the recommendations made by the Board.

The reclamation of these lands under the Carey Act and the acceptance of said act by the Legislature of this State has been a source of great anxiety to the Board, because of the imperfections in both the federal and the State law. These troubles, which have seemed great to the Board during the past four years, will grow greater with the coming years unless the law is made more definite in its terms along the line of the recommendations made by the Board in its report.

Another serious trouble will be encountered in the near future because of the want of a code of laws defining water rights and water titles and preventing the monopolization of the waters powers of the State by private interests. As the State grows and develops, her water powers will become one of the most important resources of the State, and acts looking to their conservation should not be longer delayed. The title to water rights should be just as certain and definite as is the title to land. Realizing the importance of this subject, the Portland Board of Trade some time since put on foot a movement which resulted in the framing of a bill by a capable committee covering this whole subject, and whilst I have not read its provisions carefully, my acquaintance with those who participated in framing the act leads me to say to you that the bill ought to receive your very careful consideration. It may be objectionable in some particulars, but in the main it will result beneficially to the State in future, and any defects can be cured by subsequent legislation.

It has been said by persons in a position to know, that one concern practically controls the water power of California, and those who have given the subject any consideration at all know that steps are being taken in Oregon by private interests to acquire the water powers of this State, and action ought to be taken at once looking to the prevention of such a lamentable condition of affairs.

I earnestly call your attention to the code framed by the committee mentioned, and beg you to be extremely cautious about making any changes in a proposed measure which has been framed after weeks of deliberation and consultation by a committee having the best interests of the whole State at heart.

STATE LAND BOARD

I call attention to the report of the State Land Board as showing the operations of the Land Department for the past two years.

I think it safe to say that this department is in better condition now than it has been at any time in the history of the State. The Clerk and his office force have been painstaking, honest and efficient, and I deem it my duty in calling attention to this report to express to you my appreciation of the efforts they have made to assist

the Board in straightening up the tangle into which the public lands of the State had been permitted to get through lax, and some times through questionable, methods.

RAILROAD COMMISSION

It is axiomatic that a railroad company is a quasi public corporation and the public has an interest in its proper operation and in the regulation and control of its rates and fares, as well as in the proper rendition of the services required to be performed by it. In those States where this right has not been asserted the railroad company and the public stand measurably in the relation of members of a great partnership, with the managers of the company dictating its policies and establishing its rates, not only without consulting the public but frequently in such a way as to injuriously affect their most vital interests. Not otherwise and in no other business does such an anomalous situation exist. The State has a primary interest in the establishment not only of a uniformity of rates by railways, but in seeing to it that the rates charged are just and reasonable throughout its boundaries, and it is no argument against this right that the State has been slow to assert it. No State has been so liberal as Oregon in its policy with respect to corporations generally and railroad companies in particular. If sections of the State rich in lumber, in mineral, in agriculture, and in everything that tends to industrial and commercial development, have been neglected by the one great railway system which practically controls its whole traffic, it certainly can not be justly claimed that the neglect is invited or induced by the illiberal policy of our law makers. Through the generous policy of the federal government lands sufficient in amount and value have been granted in aid of railways within the jurisdiction of the State to build not only the lines now in operation, but to extend them across and through the central, eastern and southeastern portions of this magnificent commonwealth. Not only that. Vast forest reserves have been created along the Cascade Mountains in this State, and in other States, in which have been included worthless lava beds and deforested lands of railway companies now operating here, and in exchange for these worthless lands these companies have been permitted to select hundreds of thousands of the most valuable timber lands in the State under Congressional legislation, thus increasing by millions the value of their original grants, and these lands are withheld from sale and settlement, greatly hindering the development of the State.

The demands of the people for railway extension have been unheeded by the powers that be, and they have been publicly informed that when any particular section of the State has been developed sufficiently to make a railway a profitable investment, their demands would be investigated and considered, thus reversing the usual policy of extending lines into rich sections to aid and assist in general development. The result has been that with all its possibilities for commercial and industrial growth, Oregon is far behind all the other States in obtaining what it needs and what it is of right entitled to have in the way of better facilities for transportation and travel. Nor does the evil stop here. There is a lack of uniformity in rates where roads have already been built. Many rates are grievously unjust and unreasonable, retarding the development of the State. Persons and places are discriminated against, a woeful lack of proper equipment to handle freight and even passengers, exists everywhere, depot accommodations, switching and other facilities are inadequate, and no effort seems to be making to rectify these crying evils anywhere. For the rectification of these conditions the shipper is without remedy. The cost and expense to an individual would be too great to warrant him in undertaking through any court their correction, nor could he with safety incur the ill will of the railway company which has been derelict in its duty to him and to the public. Neither the farmer nor the producer can get his product to the market, nor can the merchant supply the consumer with his wares. The result has been and will be still disastrous to the State, and the time has come when the other members of the great partnership in railway operation, the public, should assert itself in the correction of existing evils. With interstate traffic the State has nothing to do, but with intrastate, or that which is purely local, the evils which are acknowledged to exist can be greatly relieved in short order, and eventually corrected by a railway commission, vested with ample powers and composed of men who have been taught to believe that a public office is a public trust and that the people have rights which great transportation companies are bound to respect. The courts of this State, of other States, and of the United States have sustained the action of commissioners in their attempts to correct the evils which now exist in Oregon, and the question of power is no longer in the experimental stage. Where a commission exists and conditions have not been bettered, the fault lies either with the statute under which it acts, or in the personally of the commission; and the evils complained of in this State can be largely corrected by a railway commission acting under

authority of an ample statute and appointed by the Governor with power of removal. In the proper enforcement of such a law the responsibility is fixed and certain, and it has been the experience of other States that in no other way can relief be assured. The control of railways and the regulation of rates has become a burning question in this country, and a large share of the time of the first session of the present Congress was devoted to the subject of interstate railway regulation and control. Every reason and argument which was urged in support of interstate regulation and control, applies with equal force to regulation and control of traffic which is intrastate and local, and subject to the jurisdiction of the State authorities. Recent and continuous discussion of the subject renders it unnecessary for me to dwell at length upon conditions in Oregon, which suggest prompt action at your hands to relieve a situation both unprecedented and unjustifiable.

I earnestly recommend, therefore, the passage of a law creating a railroad commission, to be appointed by the executive and subject to removal by him for failure to properly discharge its duties, with ample powers to carry out the purpose of its creation. In this connection I commend to your consideration a bill prepared by the transportation committee of the Chamber of Commerce of Portland. It shows careful preparation, and contains provisions which have been tested in other States and which in many instances have received the approval of courts of last resort.

OPEN RIVER

Closely allied to the railroad question is that of opening and improving the waterways of the State. These are the instrumentalities which Providence has placed at our doors for natural regulation of the rate question. Statutes unquestionably assist in protecting the public from exorbitant transportation charges, when there are no competing waterways. But neither statute nor other compulsory method is ever necessary as a factor for bringing about just and reasonable charges when there exists a navigable waterway. For this reason, short-sighted indeed is he who does not see and realize the importance to the State of keeping the Columbia, the Willamette and other navigable streams of the State open for navigation. Appropriations made by the general government have been inadequate to meet the growing demands in all the States. Not only have they been inadequate but they have been too infrequent to complete important projects already under way or to protect them from almost total destruction by the elements in exposed places after appropriations are exhausted. The movement now being fostered and furthered by the National Rivers and Harbors Congress will do much to educate the people to the importance of river and harbor improvement, and it is confidently hoped that in future Congress will come to look upon the subject of larger and more frequent appropriations with greater favor, and place the subject alongside of appropriations for defraying the expenses of government, instead of relegating it to a place of minor importance as has been done in the past.

In the meantime and until the needs of the State are properly recognize, Oregon should follow the lead of other progressive States, and meet the demands of her rapid commercial and industrial development. The locks at the Falls of the Willamette, now in private ownership, should be purchased by the general government, and maintained without cost to the shippers of the great country tributary to the Willamette River. Every ton of freight which passes through them pays a heavy toll, and if this could be cut off, a like reduction would be made on the charges now made by the railroad company paralleling the river. The saving thus accomplished would in a year or two more than pay the reasonable cost of condemnation and ownership of these locks. Our representatives have apparently not been able to impress upon Congress the importance of opening this magnificent highway to free navigation, and it seems to me that the time has arrived when the Legislature should take steps looking to this end. An act should be passed creating a commission with ample power to negotiate the purchase of these locks, if Congress will not do so, by agreement or condemnation, and a sufficient appropriation made therefore, and to maintain them when acquired free to the producers of the State. The wisdom of such legislation in the past has been amply vindicated. The construction of the portage railway by the State at Cascade Locks a few years ago resulted in the prompt completion by the government of the canal at the place, and the subject abandonment of the portage. The saving to the people in reduced freight rates by the opening of the river to The Dalles since the completion of the Cascade Locks, has made estimated by competent authorities at \$7,000,000, making the money appropriated by the State a mere bagatelle in comparison with the benefits attained.

Realizing what had been accomplished by this public work, the Legislature in 1903 and again in 1905 made liberal appropriations for the acquirement of a right of way for a portage railway from Big Eddy to Celilo, above the Dalles, for its construction and maintenance, and for securing a right of way for the canal in course of construction by the Government. For a detailed report as to the expenditures in this behalf, reference is made to the report of the Board of Canal Commissioners, and to that of the Board of Portage Railway Commissioners. From the latter report it will be seen that the road has been operated at a loss to the State. But while this is true, it has accomplished its purpose in this: first, the canal around the rapids is in course of construction, and it will eventually be completed at a cost to the Government of probably \$5,000,000. Second, the rates by water on freight in both directions in the territory tributary to the Columbia and Snake rivers as far up as boats can reach are materially less than by rail. But what is of more importance, at competitive points the service of the railroads had been improved, and in a number of cases material reduction made by it, and there can be no question but that eventually, above Celilo as below, the cost of the water haul will largely determine the rail rate.

The work of construction of the canal is not only difficult and expensive, but in the nature of things it will be slow. In the meantime the portage railway should be maintained. The question as to whether or not it can be maintained at a profit, or made self-sustaining is immaterial. To undertake to accomplish this might defeat the very purpose it was intended to subserve. The locks built by the government are maintained and operated without cost to the shipper, and the same is true of most government works. The thing to be kept in mind is, the reduction of rates, increased facilities, and the development of other lines of transportation, and if this is attained, the amount of business done or the moneys earned, is not a basis for the estimation of the benefits secured. The maintenance of the portage, more particularly if it can be made free, will result in the development of the State by encouraging the building of electric and other lines of railway from the interior to the river, from whence freight can be carried to its destination by water.

Under the present law the Governor, Secretary of State and State Treasurer compose the Board of Portage Commissioners. These officers should be relieved of this duty for two reasons: first, and important, the Commission should be nearer the work, and in closer touch with it than it is possible for the officers named to be; and second, the duties of these officers have been constantly increased from year to year and they have found it almost impracticable to visit the portage as often and remain there as long each time as the importance of the work demands.

With this change in the present law, I recommend an appropriation sufficient to maintain and operate the portage railway until the next session of the Legislature.

EXPERTING THE BOOKS OF STATE OFFICERS

It has been the custom of the Legislature from time immemorial to appoint a committee to examine and report upon the books of the several state officers. The committee so appointed selects a clerical force without much regard to fitness to do this work, with the result that where there are irregularities they are seldom if ever discovered. The time allotted is in the nature of things very short, and if it is possible to make a proper examination within that time it goes without saying it must be done by a competent accountant with a force selected by himself. I suggest that on the first day of the session, you appoint an expert accountant who shall be empowered to select his own assistants, to expert the books of all state officers, with instruction to report to the Legislature prior to adjournment, if possible, and if the work is not then completed, the continue until it is fully done, and to report to the executive in detail, so that if any irregularities exist the proper steps may be taken to adjust and correct them.

EXPERT ACCOUNTANT

In this connection I desire to call the attention of the Legislature to the necessity of creating the office of expert accountant, making it the duty of the appointee to adopt a uniform system of bookkeeping for use by State and county officers, and public boards handling public funds, and to examine and report upon the condition of the accounts of these officers and boards. I recommended to the last Legislature the creation of such an office, and I renew that recommendation now. The business of the State is growing rapidly, more

money is being collected and disbursed each year, and the opportunities for extravagance and misappropriation of public funds correspondingly greater. Many of the counties of the state have found it to their interest to employ experts the past two years, and the result has been most beneficial to the taxpayer.

FREE PASSES

At the last election a law was proposed by initiative to abolish free passes. The author of the law omitted to preface it with an enacting clause. It was, therefore, inoperative under the constitution. Notwithstanding this fact, a majority of the people expressed themselves in favor of such a law, and I recommend its enactment by the Legislature, and an appropriation sufficient to pay the actual expenses of public officers while traveling on public business.

RECIPROCAL DEMURRAGE

Railroad companies charge shippers a certain sum denominated demurrage, for each day's failure to load cars promptly. This is not an unreasonable charge to make as it hastens the shipper and relieves a congested traffic situation. On the other hand, this right should be made reciprocal, and when a company fails beyond a reasonable time to furnish cars to a shipper it should be compelled to pay him a sum equal to that which the shipper would have to pay for failure to unload. The rights and duties should be made reciprocal by law.

LIBRARY COMMISSION

The report of the Secretary shows the work which has been accomplished by the Library Commission during the past two years. This Commission has been a factor for great good, and has done and is doing a work entitling its report and recommendations to your serious consideration. Not only has the money appropriated for its use at the last session of the legislature been economically expended but it has been instrumental in saving large sums to the libraries of the several school districts of the State in the purchase of books, besides assisting in the selection of works which are standard in their character. The statement of what the Commission has accomplished in the past year ought to be a guaranty of its usefulness as an educational force in the State in the future, and warrant the Legislature in complying with its request for additional appropriation for the ensuing two years.

OREGON NATIONAL GUARD

The Oregon National Guard is in a splendid condition of efficiency, and there has not been a time within the last two years when a call to arms by the President of the United States could not have been answered on a few hours' notice by the National Guard of this State. Not only is it well officered, but its ranks are composed of the best and most enterprising young men of the State. The hope of the early founders of the Republic that the safety of our institutions lay in a well trained militia will eventually find fruition in the maintenance of splendid Guards in every State in the Union, aided as they are at present by Congressional appropriation of money and equipment, as well as by the several States.

I commend the report of the Adjutant General to you, and bespeak for its recommendations your very careful consideration.

STATE UNIVERSITY AND AGRICULTURAL COLLEGE

The reports of these educational institutions show a constantly increasing attendance. The needs of both institutions for the ensuing two years are set out at length, and I trust the reports and recommendations therein contained will receive your earnest consideration. This state has cause to be proud of both of these institutions of learning, and their reasonable requests ought to be complied with. Not only has the number of students increased each year but the standard of studies has been gradually advanced to conform to older established institutions of the same class and character, and it is not claiming too much to say for them both that they stand as the equals of institutions much older and better equipped because of the greater liberality of the States in which they are situated.

PRIVATE INSANE ASYLUMS

Within the past few years a number of private asylums or hospitals for the care of the insane have sprung into existence, and many patients are being treated in them. Without intending any reflection upon the

present management of any one of them but rather to guard against abuses that may arise in the conduct of such institutions in the hands of irresponsible or cruel persons, a law should be passed placing all such institutions under the compulsory visitatorial power of some State authority. Such a course will tend to prevent cruel practices against those who are insane in fact, and remove the temptation afforded mercenary or otherwise interested persons to keep troublesome relatives shut in from the world. Private insane asylums are no more tolerable than private penitentiaries would be, and if the State is nevertheless willing to permit them to exist, it should at least assume the responsibility of visitation for the protection of the citizens.

EXAMINATION OF BANKS

A law should be passed at this session of the Legislature providing for the supervision, examination and regular reports of the condition of private banks, trust companies and saving banks, whether owned and controlled by private persons, firms or corporations. Oregon is growing rapidly in wealth and population. New banks are being inaugurated in nearly every town and city in the State, and even assuming that all bankers now doing business are honest, yet the depositors are entitled to the fullest knowledge of the resources of the banks they are doing business with, and the greatest possible protection against both dishonestly and incompetency of management. Three-fourths of the States now have laws governing the subject, and whilst they do not prevent occasional failures any more than do the federal laws prevent the failure of National banks, yet the tendency is toward better and more conservative methods. The honest banker does not fear or object to publicity and supervision, but courts it, and surely the dishonest one ought not to be consulted.

LOBBYING

Bills will be proposed at the present session of vital interest to the public. Whether they have for their object the correction of abuses which already exist, or are intended to stay the hand of the predatory franchise-grabbing corporations or individual, the lobby will be on hand in full force to interfere with or to stay corrective as well as preventive legislation. Recent disclosures, in New York and other States in connection with the insurance and other corporations, show conclusively that it is the practice and policy of great corporations to maintain and expend a defense fund for the purpose of influencing legislation. Bribers can only exist when men can be found to accept bribes, and stringent laws should be passed to drive the bribe give as well as the bribe taker into political and social exiles. The most dangerous men around the legislative body are the professional lobbyists, and their existence there ought to be made impossible. They should be driven out of the legislative halls as were the money changers from the temple; and the first step in this direction is the enactment of a statute making it a felony to appear here for any purpose connected with pending legislation, unless that purpose is disclosed to the executive or to the legislature in open session, and the time for making such disclosure should be limited to one day between arrival and departure. Section 1894 of Bellinger and Cotton's Code is intended to prevent the nefarious work of the lobbyist, but it is a delusion and a snare. I earnestly recommend its repeal and the enactment of a statute which will forever put an end to a disgraceful business, which in times past has been a stench in the nostrils of all decent men.

INTEREST ON PUBLIC FUNDS

There are times in each year when large sums of money are in the custody of the State Treasurer, for which there is no immediate use. Provision should be made requiring a deposit of these funds in safe and solvent banks offering the highest rates of interest. This is done in many States and in the larger cities and a large revenue is derived therefrom. These deposits can be safeguarded by requiring proper bonds or other collateral as security for repayment, as is done where such course is pursued. The interest thus collected would far more than pay the whole expense of the Treasurer's office, and to that extent lessen the amount to be raised by general taxation.

I earnestly recommend the passage of such a law.

ESCHEATING MONEY IN BANKS

One of the disputable presumptions under our statute is, that a person not heard from in seven years is dead. Most of the banks in this state have been doing business for a much longer period than seven years,

and it is safe to say that there are many thousands of dollars held on deposit in open accounts or on certificates of deposit against which no checks have been drawn, or where the certificate holder has not been heard from for periods far in excess of seven years. Moneys so situated should be escheated to the State but the difficulties in procuring the information necessary to institute proceedings for this purpose. To overcome this difficulty the statute hereinafter referred to should be amended so as to compel all banking institutions to furnish to the executive or to the State Treasurer, annually, reports under oath showing all accounts which have been dormant for a period of seven years or more. Moneys so held could with safety be escheated to the State, and in case the owner ever appears a way is pointed out by which he can recover from the State the moneys belonging to him. Section 5622 of Bellinger and Cotton's Code contemplates such a proceeding as is here indicated, but in construing it the Supreme Court held in *State v. Security Savings Co.*, 28 Or. 418, that in order to maintain a proceeding alleged to be in the custody of the bank. This allegation can not be made unless the information upon which to ground it is first given by the banks in reports to the Governor, or to the State Treasurer, or to some other designated authority.

FEEBLE-MINDED

The Legislature at its last session passed an act to authorize the State Board of Building Commissioners to ascertain the cost and to purchase and pay for the necessary grounds and to take the initiatory steps toward the establishment of an institute for feeble-minded and epileptic children. The Board, acting under the authority of this statute, appointed Mr. Geo. W. Jones, Superintendent of the Oregon Institute for the Blind, to visit institutions of other States, with the view of ascertaining conditions in order that we might proceed intelligently here along the lines which are being followed elsewhere. Upon his return he made a written report to the Board, entering into detail as to the requirements to be observed in selecting a site and in erecting buildings for such an institution as is needed in Oregon at this time and in the years to come. Upon receipt of this report, the Board advertised for bids for lands in the vicinity of the Capitol, and thereafter visited those offered, taking an option upon two tracts which are submitted for your consideration. Reference is had to the report of the Board's agent, and to the report of the Board, both of which are printed for your convenience and perusal.

The time has arrived when Oregon should do something for the care of this unfortunate class. Some are confined in the Asylum, a few in other State institutions, many are scattered over the State, dependent upon charity, and no provision is made anywhere for their proper education and care. Strong reasons, based upon the experience of other communities are given in the reports referred to for action upon the part of the Legislature looking to the establishment, care and confinement of feeble-minded and epileptic children, and I earnestly recommend that prompt action be taken along the lines pointed out by the Board in their report.

PUBLICITY OF ELECTION EXPENDITURES

Fifteen States have adopted laws compelling candidates to publish under oath the names of contributors to campaign expenses, and the manner in which these contributions are expended. A bill was introduced at the first session of the present Congress having the same object in view with respect to federal elections, but it failed of enactment. There is no greater menace to our institutions than the corrupt use of money in elections, national state and local, and Oregon ought to follow in the wake of those States which have sought to abolish the evil. Committees, candidates and agents should be compelled to publish under oath itemized statements of receipts and disbursements in all political campaigns. Corporations should be forbidden to contribute at all, expenditures should be limited, and sever penalties denounced against all persons violating the law. Such a statute is particularly appropriate in this State under the direct primary nominating system, and ought to be made to apply both to primary and general elections. It would not only have the effect of purifying elections, but would place all candidates, rich and poor alike, on the same footing, both in seeking nominations and in the elections after nominations have been made.

TAX COMMISSION

I call your attention to the report of the Board of Commissioners appointed under the provisions of Chapter 90 of the Laws of 1905 for the purpose of examining and reporting on the matters of assessments and taxation. The report is replete with information, statistical and other, and contains copies of laws suggested

to correct defects in our present statute. I call your particular attention to this report in connection with any legislation on the subject of taxation.

TUBERCULOSIS

Tuberculosis has come to be recognized as a communicable disease, but aside from giving it this recognition little if anything is done to stay its progress. In a few of the States and in some of the cities laws and ordinances have been enacted for the purpose of staying the ravages of this dread disease, but nothing has been done in proportion to its importance to our civilization. Our people are not prepared for radical legislation on this subject, but I suggest the passage of a law which will require the teachers in the public schools of the State to deliver lectures at stated period upon the subject of this disease, its cause, its communicability, the methods of treatment and the subject of the prevention of its spread. There is woeful ignorance upon the subject, and to educate the children of the public schools is to educate the home, and the adoption of some simple method like this will carry instruction into thousands of homes that fail to realize its importance to the human race.

QUARANTINE LAWS

I am advised that because of the present condition of our laws with respect to the shipment of sheep, an expense of fifty cents per head is entailed on all sheep shipped from the State, except those that are shipped for immediate slaughter, and in addition to this the cost of dipping and the shrinkage occasioned thereby.

Last year there were shipped from the State about 400,000 head, and it can be seen at a glance how expensive this is to the sheepmen and woolgrowers of the State.

Steps should be taken at once to eradicate scabies so as to remove this handicap against our citizens. In this connection I call attention to the fact that the quarantine has been removed against Wyoming, and possibly against some of the other Western States, because of the adoption of laws having for their purpose the eradication of this disease which requires the enforcement of the quarantine referred to.

FAKE MINING

Mining is one of the most promising industries in the state, and those engaged in the legitimate work thereof ought to be protected against imposition and impostors.

The American Mining Congress appointed a committee of distinguished gentlemen to prepare a bill for the punishment of mining fakers and promoters of illegitimate mining enterprises, and I presume it will be submitted to you. A law has recently been passed by the California Legislature along these lines, and reports are that it has worked an almost complete riddance from that State of spurious mining stock and that lecherous parasite on the mining industry—the fake promoter. The State has been seriously injured by the sale of spurious mining stock throughout the East, and this is done under glaring headlines of pamphlets published here and elsewhere. Any person who undertakes to sell or assent to the publication, privately or publicly, of a fraudulent or exaggerated report tending to give any person or the public the idea of a greater value than such stock really possesses, with intent to defraud, ought to be deemed guilty of a felony and punished accordingly.

STATE PRINTER

Section 1 of Article XII of the Constitution, providing for the election and compensation of the State Printer, was so amended at the last general election that the Legislature may now place that officer upon a salary. I earnestly recommend that this be done in the interest of economy. This office is one of the most expensive in the State, and there no longer exists any reason why the State Printer should not be placed upon a salary commensurate with his services. In this connection I deem it proper to suggest that the State printing office should be removed from the Capitol building. Not only does the constant jar of the presses impair the strength of the building, but the oil and combustible material around the office is a constant source of danger. All of the archives of the State are deposited here, and valuable as they are, they should not be longer exposed to the risk of a general conflagration. In addition to this, office room is much needed, and the portion of the building occupied as a printing establishment should be converted into much needed offices.

This matter should receive the immediate attention of the Legislature, for it would be better to provide for the purchase of ground and the erection of a building especially adapted for a printing office, than to incur the constant and imminent risk of a fire which might totally destroy the Capitol building and its contents, a loss which in the very nature of things would be irreparable.

NORMAL SCHOOLS

There are too many normal schools in the State supported by money exacted from the taxpayers. One in Eastern and one in Western Oregon might with propriety be maintained, affording every facility to those desiring to fit themselves for teachers. But whether the four normals be retained or not, I repeat the recommendations made to the last Legislature that all be placed under one Board of Control. The advantages to accrue from the adoption of such a course are threefold: first, it places the one board in touch with all of the institutions, giving them an insight into the conduct and enabling them to establish the same course of studies and classes for all, so that students might leave a class in one and enter in the same class in another if desired; second, it would do away with an army of regents who naturally become partisans of a particular school, and are insistent at each session of the Legislature for increased appropriations for maintenance, construction of new buildings, and for other purposes; and, third, it would tend to elevate the normal schools to the purposes of their creation, namely, the training of teachers for the public schools, and eventually eliminate preparatory and other work which is with more propriety done in the public schools. Whatever appropriation is made for the support of the normal schools ought to be in one sum for all, to be distributed by the one Board of Control in proportion to the actual normal school work done by each recipient.

It should be provided that no regent or other officer of these or any of the schools shall be permitted to sell to them any supplies of any kind.

APPORTIONMENT OF SENATORS AND REPRESENTATIVES

Section 6 of Article IV of the Constitution of Oregon provides that "the number of Senators and Representatives shall at the session next following an enumeration of the inhabitants of the United States or this State, be fixed by law, and apportioned among the several counties according to the number of (white) population in each. And the ratio of Senators and Representatives shall be determined by dividing the whole number of (white) population of such county or district by such respective ratios; and when a fraction shall result from such division, which shall exceed one half of such ration, such county or district shall be entitled to a member for such fraction. And in case any county shall not have the requisite population to entitle such county to a member, then such county shall be attached to some adjoining county for Senatorial or Representative purposes." The present apportionment was made in 1903, but the ratio on which it was based was established in 1899 on an estimated population in the State of 263,490. The State has grown rapidly since then, and it goes without saying that a new ration should be established on the basis of the State census of 1905, and a new Senatorial and Representative apportionment made at this session. I call your attention particularly to this matter, because it practically stands confessed that the present apportionment was a shameless gerrymander of the State for partisan or factional advantage. Some of the counties can scarcely be said to have representation. To prove this assertion attention need only be called to the counties of Wasco, Crook, Klamath and Lawk, constituting the Twenty-first Representative district, extending from the Columbia River to the California line, almost an empire in themselves, possessing every variety of soil, resource and climate, and with a population of 27,607, with only one Representative and one joint Senator. In order to measurably conceal the crime perpetrated against the people of these rich counties, Wasco and Grant are attached to Sherman and Gilliam counties and given a joint Senator and a joint Representative, and Wasco and Sherman given a joint Senator. Other instances of gross injustice might be cited in the present apportionment, but this suffices to show that something should be done at this session to give each section of the State a fair and just representation in the Legislature.

TRANSPORTING CONVICTS TO THE PENITENTIARY

An act was passed at the last session of the Legislature providing for the transportation of insane persons from the several county seats to the asylum by trained assistants of the latter institution instead of by county officers. Aside from the advantages accruing from this law from a humanitarian standpoint, it has

resulted in a great saving to the State. The law with regard to the transportation of convicts to the penitentiary should be amended so as to require convicts to be conveyed to prison by officers of the penitentiary. The cost for this service to the State under the present system for the two years ending September 30, 1906, was \$13,573.45 covering the transportation of 378 prisoners, an average cost of \$35.91 per capita, whilst the cost of conveying 314 insane patients from July 1, 1905, to July 1, 1906, was \$5,668.52, an average cost of \$18.05 per capita. If the same law is made to apply to the penitentiary, a saving of at least fifty per centum of the present cost can be saved to the State, and the prisoners handled by men trained in prison work.

EMPLOYMENT OF CONVICTS

There has been much agitation upon the subject of the employment of convicts in such a way as not to compete with free labor. At the last session of the Legislature, Senate Concurrent Resolution Number 31 provided for the appointment of a State Road Commission by me, consisting of five members, whose duty it should be to investigate the feasibility of the construction of a macadamized road from Portland south to the California line with convict labor. The Commission is to prepare a bill upon this subject if they find the building of a road as indicated is feasible.

Since the last session, agitation has been commenced in other quarters of the State for installing a just mill within the walls of a penitentiary.

Insistence upon doing away with the present system of employment of convicts and advocacy of their employment upon public highways grows out of the claim that the manufacture of stoves not only competes with free labor but prevents the establishment of independent industries of other stove plants within the State, whilst the advocacy of the establishment of a jute mill grows largely out of the high price required to be paid for jute bags last year and the inadequacy then of the supply to meet actual demands.

It must not be assumed that there is no objection to the employment of convicts in bag-making, or that there is no objection to their employment in road building. There are already in the State four establishments manufacturing bags, employing an average of 128 persons, paying an annual wage of \$55,275.00; a miscellaneous expense account of \$24,000.00; a clerical hire of fourteen persons at a total salary of \$18,000.00, with an annual product of \$503,000. Those engaged in this industry object to the installation of a jute mill and bag factory at the prison. On the other hand, there are four stove manufacturing plants in the State, one of these being operated by convicts in the penitentiary. These employ twenty-five workmen, fourteen salaried persons, and 150 convicts. Workmen receive from \$3.50 to \$3.75 per day, nine hours. The product of the last year, a part of which was shipped out of the State, had a total value of \$143,990.00, while there was imported from the outside during this time stove manufacture product to the value of \$592,790.00.

These figures are obtained from the report of O.P. Hoff, Labor Commissioner. From these figures it will be seen that there are more people engaged in the State in the manufacture of bags than in the manufactures of stoves, and there will be as strong objections urged to the employment of convicts in this industry as in the manufacture of stoves. To install a jute plant would necessitate an appropriation of at least \$250,000.00. \$125,000.00 for a plant, \$100,000.00 for the purchase of jute and \$25,000.00 for operation until the jute shall be sold, and it is probably true that these estimates are low. The present force of convicts would be entirely insufficient to manufacture bags to meet the demands of the state or to regulate prices, for with a much larger force in the Walla Walla penitentiary and in San Quentin they have been unable to do either. I visited Walla Walla with members of this body a few months since, and I am free to confess that I was not favorably impressed with the operation of a jute mill in the Washington penitentiary, either from an economic standpoint or from the standpoint of healthy labor for those in prison. Two years ago I visited San Quentin with the Superintendent of the penitentiary to investigate the manufacture of grain bags by convict labor, and I did not receive a favorable impression from an inspection of the plant.

I feel sure from the investigations which I have made that the penitentiary can never be made self-sustaining by the installation of a jute mill, and it is questionable in my mind if the industry operated by convicts would make enough money to pay the actual cost of its operation and maintenance.

I am heartily in accord with those who would remove the convict as a competitor of free labor, but I believe that in doing this some regard must be paid to the taxpayers of the State and the proper care, discipline and control of the penitentiary.

Stoves are manufactured in but two penitentiaries in the United States, one at Nashville, Tennessee, and the other here. In the 20th annual report of the Commissioner of Labor of the United States for 1905 on Convict Labor (page 137) in discussing this question it is said: "Unlike stove hollow-ware, stoves do not prove a success as a prison industry. It may be said that any article which a single convict can make and complete will prove more profitable than articles made in parts by a number of convicts. When these parts are assembled they do not fit so closely nor as well as when made by outside labor. The skill required to mold and cast to a nicety the various parts of a cook stove or a heater is rarely acquired by a convict in prison. This is also true of the wagon industry in prisons, so that it is safe to say that any article that must be made in parts by different men, these parts when assembled being required to fit together closely and smoothly, will not prove a successful prison industry for a long series of years."

The Commissioner concludes that prison stove contracts end disastrously through inability to market the product, partly because of Union boycotts, partly because of a general feeling in all classes of society against convict-made goods, but principally because a really good stove that will sell on its merits rather than by virtue of its cheapness has not as yet been produced in prison.

On the other hand, the report referred to shows that many other commodities are successfully manufactured by convicts in penitentiaries of other States which practically put the manufacturers of those commodities out of business. Stove hollow ware, saddle trees, whips and whip lashes, boots and shoes, furniture, shirts, pants, overalls, brushes and brooms are manufactured in many of the prisons of the country.

It would seem, therefore, that the manufacture of stoves is the least dangerous to the manufacturer and to free labor.

My experience with prison management convinces me that in order to afford health and discipline, convicts must be steadily employed, and it is largely for this reason that they are engaged in other States in labor which competes with free labor. In order to accomplish this with a reasonable expense to the State, this employment must be within the prison walls. During my incumbency I have during the summer months and whenever the weather would permit, kept from fifty to seventy-five prisoners at work on the county roads. Still, it is found inadvisable to so employ them during any of the winter season and besides there are many prisoners who could not be safely entrusted outside of the prison walls. The present employment of convicts is healthful, the plant is installed and belongs to the State; it is the least dangerous to free labor of any of the prison employments where the manufacture of any commodity is engaged in, and the Legislature ought to undertake the work of dismantling the prison stove foundry plant with great caution. My own judgment is, having due regard to the taxpayers of this State as well as to the demands of free labor and the manufacturer, that whether provision is made for convicts on the roads or in some other manner, legislation to this end ought to be conservative rather than radical and ought to provide for increasing the employment of convicts in such new field as may be adopted for them without abandoning the present system at once, leaving large discretion to the executive. The purchase of rock quarries at one or more convenient places and the crushing of rock for public roads might be tried successfully and gradually extended, but in order to accomplish this an appropriation of sufficient amount to house and care of the convicts must be made.

I submit this matter to your very careful consideration, and assure you that I have not found it one easy of solution.

PUBLIC ROADS

The improvement of the highways of Oregon has become a vital and burning question, and the time has arrived when there should be appointed a State Engineer, whose duty it should be to supervise the construction of all new and permanent roads. The State could afford to utilize the labor of a certain number of the convicts in the penitentiary for the preparation of crushed rock necessary for the construction of such

highways, and I am sure that quarries could be established at points where arrangements could easily be made with railroad companies to transport the output thereof to points easy of access in those counties which desired to make permanent improvements.

THE JAMESTOWN EXPOSITION

In my last message to the Legislature I called attention to the fact that beginning April 26th of this year, an Exposition would be held at Jamestown, Virginia, commemorative of the three hundredth anniversary of the first permanent settlement of English-speaking people in the United States. The exposition is to be largely historical in character, covering the nation's history and progress since the landing of the first settlers in 1607. The Federal Government, besides having made a liberal appropriation in aid of the work, will participate therein by a splendid exhibit. Many, if not all of the States are preparing to erect buildings and to make displays, and I submit to you the question as to whether Oregon should go unrepresented at an exposition which will be the first of its kind ever held in the United States. I have appointed a Commission to arrange for this State's participation, in case an appropriation is made for that purpose. One of the Commissioners has visited the exposition grounds and reports that rapid progress is being made in preparing the grounds, the erection of buildings and arranging the exhibits.

ALASKA-YUKON-PACIFIC-EXPOSITION

There will be held at Seattle in 1909 an exposition having for its object, as the name above indicates, the exploitation of the resources of the whole Pacific Coast, as well as those of Central and South America. I am advised that already twenty-five States have in contemplation the erection of buildings for suitably displaying their resources, and Oregon ought to lend its liberal assistance to this great enterprise, for two reasons: first, because the people of Washington by their liberality did much toward making the Lewis and Clark Exposition a success last year, and second, a building erected and maintained under the auspices of the State, with a display of its agricultural, mineral and other products, is the best advertisement possible of its possibilities for future commercial and industrial development. I have already appointed a Commission to take the initial steps looking to Oregon's proper representation at this Exposition, and I trust this Legislature will make an appropriation in aid of the movement commensurate with its importance to the State and to the Pacific Coast.

RETIRING STATE OFFICERS

It is my pleasant duty to publicly express to the retiring State officials and their employees my grateful appreciation of their many courtesies to me during the past four years. We have differed at times on questions of public policy, but notwithstanding this our relations have at all times been most cordial.

CONCLUSION

In conclusion, gentlemen, permit me to remind you that every bill should receive your most careful consideration and be thoroughly digested before being permitted to become a law. The danger of ill-advised legislation would be somewhat lessened if, on the first day of the session, a resolution should be adopted, providing that no bill shall pass from either body to the other during the last five days of the session. This would give ample time for a full and fair discussion of all measures pending for passage. Quality before quantity is applicable here as elsewhere, and it were better to have no legislation than such as is ill-advised or faulty. That member is not the best who introduces and secures the passage of the greatest number of laws. He who watches all bills introduced and points out the defects in each is rather entitled to the grateful thanks of the people.

I trust your deliberations may be characterized by wisdom, and that the work of your hands may redound not only to your credit, but to the prosperity and advancement of all the people of this magnificent commonwealth.

GEO. E. CHAMBERLAIN
Governor's Message, 1909

Source: Oregon Messages and Documents, 1909, Governor's Regular Session Message, Salem, Oregon, Willis S. Duniway, State Printer, 1909.

MESSAGE Of George E. Chamberlain Governor of Oregon. To the Twenty-fifth Legislative Assembly Regular Session 1909

State of Oregon,
Executive Department
Salem, January 11, 1909.

Gentlemen of the Senate and House of Representatives:

Section 11 of article of the constitution provides 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 judge to be expedient," and in pursuance of this requirement, I submit to you as briefly as it is possible to do, a report as to the condition of the State's finances and institutions, and make such recommendations as to me seem at this time expedient.

ELECTION OF A SENATOR

My message to the legislature in 1907 contained the following with reference to the election of United States Senators:

"The provisions of the direct primary nominating law, with respect to the election of a United States senator should be carried out in letter and in spirit. At the last primary election Mr. Frederick W. Mulkey received the nomination of the Republican party for Senator for the short term, and Mr. Jonathan Bourne for the long term, while Mr. John M Gearin received the nomination of the Democratic party. At the election held late, Mr. Mulkey received the highest number of the votes cast for the short term and Mr. Bourne for the long term, whilst a majority of the members elect (Democratic and Republican) of the Legislature pledged themselves to vote for the choice of the people for Senator. But whether they did or not, the people have expressed their choice for the important office, and their wishes should be respected and obeyed, and the gentlemen who have been nominated by the people ought to be elected unanimously, for the short and the long term respectively. I suggest that this be done as soon as the legislature is organized, so that the work of the session may proceed, and the time which has heretofore been devoted to this purpose may be given to legislation vitally affecting the welfare of the State."

When the election occurred, the vote of the Senate and the House was unanimous in favor of Mr. Mulkey, with only three dissenting votes in the House and four in the Senate with reference to Mr. Bourne, showing that the members of the legislature respected their pledges, and that many who took no pledge nevertheless obeyed the voice of the people with respect to the election of Senators. The fact that a majority of this legislature subscribed to pledges promising to vote for the people's choice for Senator, supplemented by a law enacted by the people commanding all members of the legislature to vote for the people's choice for Senator, is a sufficient guaranty that the election this year will be as summarily disposed of as it was two years ago, and the time of the legislature devoted to the consideration of measures of public interest.

FINANCES

The financial condition of the State was never better than it was at the close of the fiscal year. The reports of the Treasurer and Secretary of State show in detail the receipts and disbursements during the two years ending September 30, 1908, and the balance now in the hands of the Treasurer of the several funds of the State.

At the time of the financial stringency which occurred during November and December, 1907, the State Treasurer had funds of the State in the following banks:

The Oregon Trust and Savings Bank \$35,432.21

The Merchants National Bank \$12,478.20
The Title Guarantee and Trust Co. \$107,483.81
The Title Guarantee and Trust Co. (Educational Fund) \$288,426.87

The deposits in the first two banks were fully secured to the Treasurer under the banking law passed at the last session of the legislature, and \$100,000 of that deposited with the Title Guarantee and Trust Company was similarly secured. These several amounts were promptly paid by the American Surety Company. The balance of the deposit in the Title Guarantee and Trust Company, amounting to \$295,910.68, was secured to the State by the bond of the State Treasurer, upon which the American Surety Company and others were sureties. An adjustment of this was made with the American Surety Company under the terms of which the company settled and adjusted the matter with the State, paying a part in cash and giving their contract for the balance, together with the sum of \$295,910.68 with interest at the rate of five per cent per annum, payable on or before December 31, 1909. Already the company have paid on this contract \$33,723.86. Not a dollar was lost to the State, and the promptness with which the American Surety Company adjusted the matter entitles them to commendation. The contract between the State and the company is on file with the Secretary of State, and for the terms upon which the settlement was made the legislature is respectfully referred thereto.

The balance now the hands of the Treasurer belonging to the different funds of the State is on deposit in the numerous banks of the State, but in each case the Treasurer hold securities therefore exacted by him under the depository act of 1907, and the bond of the Treasurer to the State for the faithful performance of his duty is held as additional security. The duty of approving the securities taken by the Treasurer from the several depositories is vested, not in the Executive, but in the Treasurer and Attorney-General. I do not believe that there is any danger of loss to the State in future if the provisions of the depository act of 1907 with respect to deposit of the State funds is strictly observed.

TAX LEVY

It must be expected in the very nature of things with the steady increase in population and the consequent increase in the burdens and expenses of government that the tax levy will be higher, unless subjects which now escape taxation are brought within the taxing power. I fear to recommend any revision of the assessment laws of the State, but it is unfortunate that some system has not been adopted to bring about a uniformity of assessment and taxation in the several counties of the State. The constitution requires that taxes shall be uniform and equal, but it is a well known fact that in most of the counties of the State, personal property and money almost entirely escape taxation. In some counties lands are assessed at from one-third to one-half of their actual cash value, while in others they are assessed at two-thirds of their value, and in none at actual cash value, as required by law. Until some uniformity of assessment is devised there must be inequality of taxation, and so long as some property escapes taxation entirely and real property is not assessed at cash value, the levy for county and State purposes must continue to be high, and taxation must lack the constitutional requirement of equality and uniformity.

EDUCATIONAL FUNDS OF THE STATE

Irreducible School Fund—The Irreducible School Fund of the State has increased during the past two years from the sale of land and other sources: \$830,720.21, the principal thereof on the 30th day of September, 1908, being \$5,429,930.60. Of which sum \$4,206,713.42 is invested in first mortgage loans drawing six per cent per annum; \$263,645.00 in school district bonds bearing five and six per cent per annum; \$659,410.45 in certificates of sale of school lands, bearing six per cent, seven per cent, and eight per cent; \$250.00 in farms purchased by the State at foreclosure sales; cash in bank, \$11,484.86; the Balance thereof, \$288,426.87 was in the Title Guarantee and Trust Company's bank at the time it failed, and is secured by the obligation of the American Surety Company, drawing interest at the rate of five per cent per annum, and due and payable December 31, 1909, although the Company has paid thereof in advance of maturity and since the end of the fiscal year, \$33,723.86. The Agricultural College fund principal now amounts to \$195,878.82, and is all loaned except \$1,166.96, and the University fund principal is \$104,205.36, and is all loaned except \$840.30.

The amount of interest accruing from loans of the Irreducible School Fund for 1908 and distributed among the counties of the State was \$356,067.20, as compared with \$247,289.13 for 1907. All of these educational funds are in excellent condition.

CIVIL WAR CLAIMS

Some time in August 1906, Mr. Frederick L Siddons, of the firm Ralston & Siddons, Washington, D.C., called upon me with letters of introduction, to take up for discussion the claim of the State of Oregon growing out of expenses incurred and moneys paid in raising troops for service in the United States army during the Civil War. Former officials of the State had, in years gone by, employed Mr. John Mullan to look after these claims, but the result of my discussions with Mr. Siddons was, that on the 9th of November, 1906, the Secretary of State entered into a contract in writing with Mr. John Mullan and the firm of Ralston & Siddons to prosecute the claims of the State against the United States, and it was agreed that whatever sum was collected should be paid to the Treasurer and the compensation of the attorneys, which was to be ten per centum on the amount recovered, was to be audited and paid as other claims against the State. On the 31st day of December, 1908, I received a telegram from Ralston & Siddons that the court of claims had, on that day, made an award in favor of the State for \$199,000.00, and I suppose the money will in due course be paid into the treasury. I am glad to report the matter to you, for the claim has been pending a long time for adjustment and settlement.

FOREST RESERVE RECEIPTS

The receipts from the forest reserves in Oregon for the year ending June 30, 1907, was as follows: Blue Mountains, E. and W., \$59,648.55; Cascade, N. & S., \$25,515.89; Freemount, \$4,467.37; Goose Lake, \$11,617.37; Heppner, \$8,130.97; Imnaha (Chesnimunus) and Wallowa, \$22,073.36; Maury Mountains, \$771.94; Siskiyou, \$489.91; Wenaha; \$7,093.55. Total \$139,808.91. Ten per cent of this amount, to-wit, \$13,980.89, was received by me from the Federal authorities and by me paid to the Treasurer of the State October 30, 1907.

It will devolve upon the legislature to provide for the method of expending this sum for the benefit of the public schools and public roads of the counties in which the forest reserves are situated, in accordance with agricultural appropriation act for 1908, approved March 4, 1907.

FIVE PER CENTUM FUND

Five per centum of the sales of public lands within the State for the fiscal year ending June 30, 1907, amounting to \$74,001.17, and from the same source for the fiscal year ending June 30, 1908, amounting to \$66,870.49, has been received by me from the Secretary of the Treasury of the United States and paid over by me to the State Treasurer, to be distributed in conformity with law.

STATE LANDS

The reports of the State Land Board and State Land Agent show the transactions of the board with respect to school, indemnity and other State lands. The price of school lands has been raised to \$5.00 per acre, and in some cases a slightly larger price has been obtained, while the price received for indemnity lands is \$8.75 per acre, which covers the expenses incident to perfecting the selections, netting the State about \$8.65 per acre. At no time in the history of the State has so large a price been received, for it must not be forgotten that the prices now being obtained are for lands which are left over after the best of the princely grant which was made to the State had been disposed of in former years. It is very greatly to be regretted that the school lands were not in years past held for higher prices, for had this been done the Irreducible School Fund might have been large enough to have made it unnecessary to levy a tax for the support of public schools.

The report of the State Land Board with reference to desert lands shows the present statutes of each of the segregations made under the provisions of the Carey Act, and contains the forms of contract, together with the rules and regulations which have from time to time been adopted by the board for the protection of the State, the irrigation companies, and the settlers. Your attention is particularly called to these reports, and I am glad to advise you that with the exception of a suit now pending with reference to the Columbia Southern Irrigating Company, no trouble is being experienced in caring for or disposing of the public lands of the State.

THE SOLDIERS' HOME

There were 131 veterans of the Mexican, Civil, Indian and Spanish-American wars in the home on the 30th day of September, 1908. By virtue of a rule which was adopted before my incumbency, those drawing a pension in excess of \$12.00 per month were not admitted to the home, but on the 27th day of February, 1906, this limit was changed to \$20.00 per month, for the reason that there were many old soldiers who could not live on their pension, and who were yet deprived of the privileges of a home. As soon as the change in this limit was made, the commandant reports that the membership increased to its present number.

The home is in excellent condition, and the relations between the old soldiers and the commandant, officers, and employees is most cordial. The ranks of the old veterans are gradually thinning, and those who, by reason of wounds, ill-health, and misfortune are unable to earn a support, are entitled to the tenderest consideration of both the State and Nation.

ASYLUM FOR THE INSANE

The report of the superintendent deals at length with present conditions and needs of this institution, and I invite your particular attention thereto. It will be necessary, as is suggested by the superintendent, to expend quite a considerable sum of money in order to place the asylum in a condition to properly care for and treat the inmates along the lines of improved methods for the care of the insane. The superintendent and his assistants are to be commended for many innovations which they have made, particularly with reference to the installation of a bacteriological department, and the arrangement of quarters with the limited means at their command for the treatment and separation of patients afflicted with tuberculosis. The record of the percentage of recoveries as disclosed by the superintendent's report is quite remarkable, and it is due to the splendid attention bestowed upon these unfortunate wards of the State.

It cannot be too persistently urged upon your attention that better facilities must be installed soon for protection against fire. The State has had one warning, and nothing but prompt and vigorous action upon the part of the officers and attendants at the asylum, ably assisted by the fire department of the city of Salem, prevented the entire destruction of the main asylum building, and the possible loss of a number of lives. This happened since the adjournment of the last legislature. Unless something is done, and that promptly, the time will come when there will be a most terrible holocaust at the institution. The responsibility must rest upon the legislature, and not upon the Board of Trustees and the superintendent and officers of the asylum, who have not been given the means with which to install suitable safe-guards against fire, although the warning has been sounded and the demand has been made time and time again in the past and is renewed now, both by the superintendent and by me. The institution is now crowded to its limit, and moneys must be appropriated either to build a new asylum or enlarge the facilities of the present one. The population thereof increase in proportion as the population of the State increases, and it is safe to predict that in ten years the population will increase 100 per cent.

I trust that a committee of the legislature will carefully investigate conditions at this institution and report fully as to the needs thereof.

THE PENITENTIARY

Acting upon the assumption that the purposes to be subserved by the administration of criminal justice are three-fold, namely: First, the protection of society; second, the punishment of the wrong-doer, and third, his reformation, the penitentiary has been conducted during the last six years along lines entirely at variance with those heretofore in vogue. Stripes have been done away with; cruel and unusual punishments have been abolished, and although strict discipline is maintained, the prisoners are treated more humanely than ever before. The result has been good, and it has been found that where a disposition upon the part of the officials is evinced to place some confidence in the prisoner, it is appreciated, and is not apt to be betrayed.

It has been my policy to assist wherever possible in restoring convicts to useful citizenship, particularly where in my opinion the three purposes of punishment have been attained. In this work I have had the active co-operation of the superintendent, wardens, and employees of the prison, as well as the Prisoners' Aid

Society, Rev. E.W. St. Pierre, and Father A.A. Moore, and have made it a part of my duty to keep in touch with the institution by visiting it on frequent occasions and according the inmates interview whenever requested so to do.

Under the indeterminate sentence law passed in 1905, when a minimum term of sentence has expired, and there is some one ready to take the prisoner, give him employment and report monthly upon his conduct, it has been usual to parole such prisoner, except in cases of "repeaters," but unless there is an opportunity to furnish employment to the convict to as to take away from him the temptation to fall back again into criminal ways, he is not usually paroled at the expiration of the minimum term of sentence. In the cases of those released it has been ascertained that most all of them returned to useful employment, and in only a few instances have the paroles been revoked and the prisoner returned to serve out his unexpired term.

I have also, during my term, conceived the idea of conditionally commuting or pardoning a prisoner where the facts involved in the conviction seemed to warrants it, reserving the right upon condition broken to return him to the penitentiary. This conditional commutation or pardon has been sustained by the Supreme Court of this State, and it has been found to be a strong factor in restraining the released prisoner from the commission of a crime.

The administration of justice is uneven. To illustrate: There are ten judicial districts in the State. A many may be convicted in one of a simple felony, and sentenced to a long term in the penitentiary; while in another, where the crime committed is the same and under almost identical circumstances, the prisoner may be given a very short term. It seems to me that it is a part of the duty of the executive branch of the government to equalize, where conditions warrant, this apparent inequality in the administration of justice. It may be that I have exercised too frequently the power of the Executive in behalf of prisoners, and that an occasional mistake has been made, but in the aggregate the results accomplished have been most beneficial, for the public has been relieved of the support of the convict, he has been restored to useful citizenship, and in many cases he has returned to the support of a dependent family, who, during his incarceration, were the objects of charity.

The efforts in most States have been directed to making the prisoner earn, during his term of imprisonment, his cost to the State, but that effort, it seems to me, has been in the wrong direction. Experience has proven to me that men are now confined in prison who have wives and little children supported by public charity, while the prisoners are barely earning for the State their daily bread. A poor return, indeed, is the mere pittance for the suffering of the family and their burden to the community! Some system ought to be adopted and crystallized into a statute which would leave the prisoner to be supported by the State, but compel his earnings to be paid to his wife and family. If a general policy of road construction with convict labor is to be adopted, the earnings of the prisoner should go to the support of those dependent upon his labor, if there are such persons; otherwise, to the State, to be kept until the release of the individual, so that he may not be turned out penniless to return to a criminal career. In a word, it is cheaper for the taxpayer to maintain the prisoner during his incarceration and give to those dependent upon him, or reserve for him as a capital to begin life with anew upon his discharge, his earnings during imprisonment.

I call attention to the report of the superintendent for detailed information as to the prison, and take occasion to commend him and the officers and employees thereof for the excellent discipline that has been maintained, the hygienic condition of the prison, and the generally improved methods which have been successfully carried out and which have been instrumental in placing the Oregon State Penitentiary in the forefront of the model penal institution of the country.

TAKING PRISONERS TO THE PENITENTIARY

A great saving can be effected in the matter of bringing prisoners to the penitentiary if the same system is adopted with reference to that institution as was heretofore adopted with respect to patients for the asylum. Convicts should be conveyed to the penitentiary by officials of that institution, without other cost than their actual expenses.

The cost for this service to the State under the present system for the two years ending September 30, 1906, was \$13,573.45 for 378 prisoners, an average cost of \$35.91 per capita. For the two years ending September 30, 1908, it was \$17,726.74 for 462 prisoners, an average cost of \$38.37 per capita. The cost of conveying 314 insane patients from July 1, 1905, to July 1, 1906, was \$5,668.52, an average cost of \$18.05 per capita. For the two years ending September 30, 1908, it was \$14,911.12 for 992 insane, an average cost of \$16.91 per capita.

It will thus be seen that a saving of more than fifty per centum may be made to the State, and the prisoners transported in custody of men trained in the work.

INSTITUTE FOR THE FEEBLE-MINDED

The report of the superintendent of the Institute for the Feeble-Minded shows that the institution has just been completed and is being organized for the purpose of its creation. Your attention is directed to this report for information as to what has been done during the few weeks that the institution has been open for the reception of the feeble-minded, and for the recommendations made as to future needs.

There is no question but that the institution will be a factor for greater good.

OTHER STATE INSTITUTIONS

The reports of the superintendent of the Oregon Institute for the Blind, for Deaf-Mutes, and the Reform School are before you for consideration. These are so replete with information that I do not deem it necessary to do more than call your attention thereto and to the recommendations of the several superintendents.

The institution are well managed, and keep abreast with those of their kind in other States of the Union.

STATE BOARD OF AGRICULTURE

The annual fair held under the auspices of the State Board of Agriculture has grown to be one of the most important factors in industrial, agricultural, and horticultural development. The last showed an increase in receipts over any one previously held of about twenty-five per centum, as shown by the following:

Receipts for 1902 \$19,240.56
Receipts for 1903 \$25,375.83
Receipts for 1904 \$22,444.02
Receipts for 1906 \$23,103.22
Receipts for 1907 \$36,375.55
Receipts for 1908 \$45,114.47

It may be safely claimed that no one factor has played a more important part in stimulating the livestock interest, in improving methods in agriculture and in horticulture, and in attracting the attention of the people of other States to the possibility of our soil and climate. Because of the inadequacy of buildings and accommodations for exhibitors and others, the board was compelled last year to incur an indebtedness of \$6,249.40, as follows:

Addition to grandstand, 30x260 feet \$3,975.50
Race department stables, 40x220 feet \$1,250.00
Creamery annex \$950.00
Grandstand extras \$25.70
Horse barn and creamery extras \$48.20

These improvements were of a permanent nature and were necessary to meet the public demands, and I recommend that an amount sufficient to meet their payment be appropriated.

The amount appropriated annually for the payment of premiums is too small, and it has been exceeded each year as the fair has grown in usefulness and importance, and it is because a part of the general fund has been used for premiums that the above indebtedness had to be incurred. The appropriation for premiums ought to be increased to meet the growing demands of the people for a first-class agricultural fair.

Many improvements of a permanent nature are needed, and I earnestly request that a committee be appointed by the legislature to examine the grounds, confer with the officers of the board and report on just what is necessary to be done.

WATER SUPPLY FOR STATE INSTITUTIONS

As the population of the State increases, that of the charitable, penal, and reformatory institutions increases in the same proportion. The question of a more ample and purer water supply is becoming a vital one, and particularly with reference to the insane asylum. The health of the unfortunates confined in this institution must suffer unless something is done in the very near future to relieve the conditions as to water, for an epidemic of typhoid fever and other diseases always is imminent under present conditions. The citizens of Salem have already appointed committees to investigate the possibility of securing an ample water supply from one or the other of the mountain streams to the east of the city, and to secure estimates of probably cost of construction of a pipe line and a distributive system. This line must of necessity come within easy reach of the State institutions, and I deem it advisable to suggest that a committee of the legislature be appointed to confer with a committee of the citizens of Salem to ascertain if it might not be feasible for the city and State to cooperate in the construction of a waterworks system upon some basis that might be equitable and just to all concerned. This, in my opinion, will be much more economical than for the State to proceed independently in the matter.

INSURANCE COMMISSIONER

The growth of the State, and the development of its business institutions has been so rapid, that it seems to me the time has arrived for making some change in the insurance laws for the better protection of the people. The law which requires the deposit of \$50,000 with the State Treasurer as a condition upon which foreign insurance companies may do business in the State, results: First, in keeping many strong companies out of the State, and, second, in driving business men to insure with companies outside of the State, because those here have not the facilities for carrying the amount of insurance necessary for full protection. If security is to be demanded from a company as a condition to its doing business in the State, a surety company's bond ought to be sufficient to protect the holders of policies and those doing business with such company. The suggestion is often made that a repeal of the deposit law will result in inviting irresponsible underwriters to the State, but this can be guarded against by establishing an Insurance Department and the appointment of a capable Insurance Commissioner as is done in other States. Such a department ought to be created now, and ought to be entirely divorced from the office of the Secretary of State. It is impossible for this latter officer, with the numerous duties which the law devolves upon him, to give that attention to the insurance business of the State which its importance requires. The Insurance Department should be presided over by an experienced Insurance Commissioner. With such a department and such a commissioner, vested with ample authority, there would be no danger to our people on account of the admission to the State of irresponsible companies. I trust that this matter will be taken up seriously by the legislature and given that careful consideration which its importance demands.

EDUCATIONAL INSTITUTIONS

The Agricultural College and the State University are in excellent condition, and the enrollment at both of these institutions is larger than ever before. The policy has been to raise the standard of both each year, bringing them on a par with the higher educational institutions of the country. Like all of the State institutions, with the increase of population in the State, the enrollment of the schools will be greater, demanding each year larger appropriations to meet actual needs. I hope that committees of the legislature will visit both the University and the Agricultural College and acquaint themselves with the present needs of both institutions.

NORMAL SCHOOLS

Under an act of the last legislature the Normal schools of the State were placed under one Board of Regents and their report has been filed with the Governor. It will be found that there is a greater uniformity in the course of study, and a better system in vogue in these schools, under one Board of Regents, than was possible under a board for the control of each. There is no question but that there is a necessity for training schools for teachers for the public schools of the State, and if these training schools are to be maintained they ought to be placed on the basis of the highest efficiency. A majority of the Board of Regents have recommended the continuance of the Normal schools at Monmouth, Ashland, and Weston, and have called attention to their needs, if they are to be continued. The appropriations suggested are large, but they are no larger than will be necessary to thoroughly equip and maintain the schools so as to attain the best results. It is folly to undertake to educate and train teachers for the public schools by any starvation policy. In order to have a good public school system it is necessary to have well trained teachers, and they cannot be obtained except from properly equipped Normal schools.

I trust the legislature will once and for all settle the Normal school question, and probably the best way to do it is to act upon the recommendation of the regents and make provision for maintaining three schools in the State.

INDIAN WAR VETERANS

For more than half a century the State has neglected to pay a just debt due from it to those who risked their lives and gave their property for the protection of the homes of the early settlers of this State. There is no question but that the different Indian tribes of Oregon and Washington in 1855 and prior thereto, entered into an alliance to prevent any further settlement of the white man in the Northwest. The Governor of Oregon Territory called for volunteers to suppress hostilities, and those who responded to the call furnished their own arms, horses and equipment. The legislature of the Territory, of 1856, agreed to pay the volunteers while engaged in these Indian wars at the rate of \$2.00 per day for their services, \$2.00 per day for the use of their horses, and further pay for horses lost, killed or disabled while in service. Claims of the survivors of these wars have been paid within the past few years so far as personal services were concerned, but the State has neglected to compensate them for the use of their horses or for those which were disabled, or lost. If the obligation for personal service was a just one, the latter is equally as binding upon the State, and the survivors of these early Indian wars ought to be paid by the State the moneys which are justly due them. It is not a question of charity, it is a debt of honor, which the State cannot afford to repudiate.

RAILROAD COMMISSION

The Railroad Commission has been in existence scarcely two years, but the work it has done has already vindicated the judgment of those who advocated its creation with ample powers and the legislature which passed it. No one who has the best interest of the State at heart will for a moment listen to a suggestion for the repeal of the present law. The commission has moved with caution and with extreme conservatism, but it has accomplished splendid results, and its members are to be commended. Attention was first given to betterment of the service, and a comparison of the service today with that of two years ago is invited to prove that its efforts have resulted in improvement. It has brought about the bulletining of delayed trains, regulations have been prescribed and enforced as to the hours that station buildings should be opened, and as to lighting and heating of depots, and lighting of platforms, as well as to sanitary conveniences at stations and on trains; new depots have been ordered and constructed at Albany, Gaston, Airlie, and Lyons, and additional station facilities have been procured for Woodburn, Monmouth, Salem, Anlauf, Haines, Jefferson Street, Portland, Milwaukie, and other stations. The commission has done efficient work in the matter of livestock shipments; the service is now better than ever before, the years are cleaner, and prices for feed more reasonable, and in addition to these things, new yards, loading chutes and other conveniences have been constructed at various places.

The commission has taken up many questions involving rates, and some of these are pending in the courts. In the Portland distributive rate case a reduction amounting to about fourteen per centum on all shipments between Portland and points east of The Dalles was ordered. This order was enjoined in the Federal Court, and is now pending there. Fares were reduced on the Milwaukie-Oak Grove line, and appeals from the order are now pending in the courts. A readjustment of passenger fares on the Astoria and Columbia River

Railroad on a more uniform and somewhat lower basis was secured, and a freight schedule put in force on the Coos Bay, Roseburg and Eastern Railroad and Navigation Company. The rates charged for transportation of grain from Eastern Oregon to Portland, and all rates charged by express companies, are now under investigation, and many minor complaints relating to individual rates have been adjusted without litigation.

Although no funds were made available for that purpose, the commission has been investigating and making considerable progress in arriving at the valuation of the various railroads in the State, following the Wisconsin and Minnesota plan of having the railroads submit inventories and appraisements covering the original cost and cost of reproduction. Testimony has already been taken as to about 800 miles, and the railroads are preparing inventories and appraisements as to about 1,100 miles more. This, when done, will cover practically all the important lines in the State. The information thus obtained can be readily verified as to original cost items, and by the employment of one or more competent engineers to check the engineering items which require expert analysis. The method prescribed by the commission is by far the cheapest, and has been found to be just as efficacious as having the State making the inventory in the first instance. The importance of a determination of the value of property devoted to the public use is evident, as it is, or ought to be, the basis of rate-making, taxation, and capitalization. The increase in transcontinental rates, effective the 1st instant, both east and west bound, is under investigation by the commission, and it is proposed in the near future to take some appropriate action in reference thereto. The effect of this increase in rates is far-reaching, and affects the welfare of the entire West, and an exhaustive examination will be necessary to ascertain even approximately the extent of the increase.

The commission is to be commended for the splendid work it has done, is doing, and will do. It has usually been able to get the railroad companies to comply with its requirements without litigation, and it is probably that much more can be done in future than has been done in the past.

LIBRARY COMMISSION

I call particular attention to the report of the Oregon Library Commission. It shows a steadily increasing interest in libraries and in library work throughout the State. The commission serves the cities of the State which are organizing public libraries by the practical help of a trained librarian, as well as the villages and other districts by supplying library facilities which the State offers these communities in place of the library advantages of the cities. The plan of the commission to make its State Library a traveling one has resulted in the collection of 5,000 of the best books distributed throughout the State at ninety stations, with a record of about 25,000 books loaned to readers during the biennial period. The commission has delivered to the schools of the State during this period 54,825 volumes, at a cost of \$30,589.79, the method of purchase resulting in a saving of about one-third to the schools.

The debate libraries and the legislative reference work of the commission have shown the demand of the people of Oregon for information upon public questions from the experience of other States and communities in matters of public policy. Hundreds of collections of literature have been sent to debating societies, granges, schools, and public men, and many investigations have been made for members of the legislature. The limited resources of the commission have been taxed to the utmost to meet the demands made upon it, and the people of the State seem to appreciate the fact that no citizen of Oregon is deprived of the library privileges which the State has to offer. Under the initiative and referendum amendment to the constitution, every man is a law-maker, and everyone must pass upon public measures of first importance, therefore every voter should have the use of the best facilities the commission is able to give to educate and enlighten him upon the duties of citizenship.

OREGON NATIONAL GUARD

The Oregon National Guard was never in a higher state of efficiency than at this time, and your attention is called to the report of the Adjutant-General for information as to its present condition. Larger support is given each year by Congress to the States for assisting in the equipment, maintaining, and instruction of the National Guard, because it is better understood now than ever before, that in time of war it is to a well-trained militia that we must look for protection. In the very nature of things the standing army is small, but it

serves the purpose of protection in times of peace and is a splendid factor for instruction whenever it becomes necessary to call the militia into service. The personnel of the National Guard of this State is one of the best, composed as it is of the flower of our youth from every walk of life, and I bespeak for its needs, as suggested by the Adjutant-General, your deliberate consideration.

CONSERVATION OF NATURAL RESOURCES

In May last there was held at the White House in Washington City, a conference of the Governors of the States and Territories with the President and his advisers and others, pursuant to a call of the President, for the purpose of discussing the natural resources of the country and taking steps looking to their conservation. Later, the President appointed a National Conservation Commission to act in co-operation with State Conservation Commissions, and a conference of the National and State commissions was held in Washington City in December, 1908, to further consider the questions for which the first conference was called at the White House. The attention of the country has been called by these meetings to the rapid depletion of our natural resources, both renewable and non-renewable, and to the necessity of co-operation upon the part of the Nation and the States for the conservation of those resources which now remain and the reproduction of those which it is possible to reproduce.

In many of the States the forest have been destroyed; the coal and iron mines are being wastefully robbed of their stores; soil erosion is rapidly taking place as the result of deforestation; the navigable streams are in flood at certain seasons and unnavigable at others for the same reason, and the time has arrived when something must be done by State and Nation for the protection of the present and future generations. Oregon is the richest State in the Union in forest and in mineral resources which have not been destroyed to satisfy individual or corporate greed, and it behooves our people to see to it that these resources are cared for and protected. The Oregon commission appointed by me in pursuance of the request of the President, consist of the following well-known citizens of the State": Mr. J.N. Teal, Mr. C.S. Jackson; Mr. R.W. Montague; Professor J.R. Wilson, and Mr. J.C. Stevens, of Portland; Hon. R.S. Bean and Professor F.G. Young, of Eugene; Mr. Austin T Buxton and Hon. Wilbur K. Newell, of Washington County; Hon. J.N. Hart, of Baker City; Judge Will R. King, of Ontario; Professor E.R. Lake, of Corvallis; Hon. Frank J Miller, of Albany; Hon. C.B. Watson, of Ashland, and Mr. J.H. Lewis, State Engineer, of Salem. These gentlemen, at a great sacrifice of time and money, set to work with diligence immediately after their appointment, and prepared a splendid report of the natural resources of Oregon, and their condition, finely illustrated and full of valuable statistical information. Theirs was the only printed report in evidence at the recent conference in Washington City, and it was not only in great demand but presented in most excellent shape the present condition of the resources of the State. It is probably that the National and State Conservation Commissions will be continued, for they have but begun the work necessary to be done, though I believe that Federal control of the undisposed natural resources, as well as navigable waterways—State and inter-State, and tributary irrigation—is best, yet I fully realize the difficulties in the way of such control. In the meantime, as a means to the end of co-operation between the Federal and State authorities for the purpose of bringing about, if possible, the enactment of a uniform code, as well as for the purpose of collecting definite information as to the resources of the State, whether of forest, of mineral, of water, or of other related subjects, the commission ought to be created by act of the legislature and a limited appropriation made to defray the expense of the work necessary to be done to accomplish the purpose of its creation. Constant applications are made for some authoritative publication as to the State and its resources, and I know of not better body of men to prepare for distribution information as to the resources of the State.

THE FISHING INDUSTRY

Two bills were proposed by initiative petition at the last election regulating fishing on the Columbia River and its tributaries, and both were duly enacted. One was entitled "A Bill to propose by initiative petition a law to protect salmon and sturgeon in the waters of the Columbia River and its tributaries, and in the Sandy River, within the boundaries of the State of Oregon, and in all waters over which the State of Oregon has jurisdiction, and prescribing a penalty for a violation of the law." And the other, "A Bill to propose by initiative petition a law for the protection of salmon and sturgeon in the waters of the Columbia and Sandy rivers and their tributaries, and prescribing a penalty for a violation of the law."

The first measure radically changed existing laws as to fishing at the mouth of the Columbia River, and the second put an end to all fishing except with hook and line, commonly called angling, in the Columbia River or any of its tributaries, at any place up stream or easterly from its confluence with the Sandy River, as well as in the latter river and its tributaries.

The effect of these laws, aside from the fact that they are measurably conflicting and operate to radically change the pre-existing laws regulating fishing on the Columbia and its tributaries, is to bring the authorities in this State in conflict with those of the State of Washington with reference to the question of jurisdiction of the two States over the waters of the Columbia. The first act became operative from and after September 10, 1908, and at a time when, under the laws of the State of Washington, it was lawful to fish within the territory where the Oregon law made it unlawful and with devices prohibited by that law, if the contention of the Oregon authorities was correct that the jurisdiction of this State extended over the Columbia River to the Washington shore. The authorities of the latter State contended that the jurisdiction of the Oregon authorities extended only to the thread of the stream, and that between the thread of the stream and the Washington shore line the Oregon laws were of no force or effect. This conflict of opinion, when the Oregon authorities attempted to enforce the provisions of the laws between the thread of the Columbia River and the Washington shore in a season which was open under the laws of the latter State, and against fishermen who were duly licensed under the laws thereof, was about to lead to riot, when the Governors and other officials of the two States met in conference to devise, if possible, some means of averting bloodshed, which seemed inevitable. No adjustment could be arrived at because of opposing views as to the question of jurisdiction, and thereupon the State of Washington instituted a suit against the Master Fish Warden of Oregon and his deputies and enjoined them from interfering with or molesting those who were fishing on the Columbia River on the part thereof over which that State claimed jurisdiction, until the question of jurisdiction could be finally determined. The injunction was finally made general, and the case is now pending before the United States District Court for Oregon, and it is hoped that an early decision may soon be reached.

In the meantime, the two States ought to be able, through committees appointed by their respective legislatures for conference, to frame and pass laws which will be uniform, and have for their aim and purpose the protection of one of the greatest industries of the Northwest rather than the protection of the individuals who may happen to be engaged therein.

I call your attention to the report of Mr. H.C. McAllister, the Master Fish Warden, which is replete with information, and contained recommendations which he deems necessary for the protection of the fisheries industry.

WATER LEGISLATION

A carefully prepared code of water laws was submitted to the last legislature for enactment, but was defeated. The need for such legislation was apparent then; it is more apparent now, and as time slips by and more land is brought under irrigation, the difficulties growing out of conflicting claims to the use of water become more difficult of adjustment. A sub-committee of the State Conservation Commission has been appointed to prepare a bill on the subject, to be submitted to the legislature. They have had the matter under careful consideration and have listened to discussions by experts on the subject, and there is no doubt but that a bill will be reported to meet the necessities in this State. It ought to receive the careful consideration of the legislature.

The experience of other States has proven that, in order to be effective, legislation upon the subject should cover:

1. Complete (Federal where that is possible, or) State control of diversions from streams. No water right in future should become vested except by appropriation under the laws, rules and regulations prescribed by the State, and the diversion of water without right from a public stream, including all knowingly wrongful interference with the rights of others, to the injury of another, should be made a misdemeanor.

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2. A system whereby the priority and limitations of every existing right to the use of water can eventually be ascertained.
 3. Provisions for a reliable record in some central office of all rights to the use of water as determined, and of new rights as initiated.
 4. That actual measurements of ditches and streams be made as a basis for the adjudication of existing rights and for the initiation of new rights.
 5. To provide a definite procedure whereby rights to the use of water can be acquired.
 6. That beneficial use be made the basis, the measure, and the limit of all rights to the use of water, and that water for irrigation purposes should be made appurtenant to the land irrigated.
 7. All rights to the use of water for power development should be limited to some specified time, subject to renewal under certain restrictions.
 8. An efficient administrative system, with proper officers, for the distribution of the water supply among those entitled to its use.
 9. An adequate system of fees payable to the State by those benefited, so that eventually the system shall become self-supporting.

UNAPPROPRIATED WATER POWERS

The unappropriated water powers of the State ought to be reserved for the use of the public. Many of the most valuable water powers have been appropriated by corporations and individuals, not for present, and sometimes not even for future use, but for the purposes of speculation. There is some evidence that a deliberate purpose has been formed by persons of other States who understand and know the future uses to which these powers may be put, to acquire, under laws now in force, the unappropriated powers of mountain and other streams. Some steps ought to be taken to prevent this. All rights to the use of water for power development should be limited to some specified time, subject to renewal under certain restrictions, and compensation should be charged by the State for the use thereof. If powers acquired for a limited and specified time are not put to beneficial use within that time, there should be a forfeiture thereof. The time will come when the water powers of this State which are at present unappropriated, will become very valuable, and if they are held by the State a revenue may be derived therefrom that will go far toward the reduction of taxation.

EMPLOYERS' LIABILITY LAW

An act was passed by the legislature of 1903 known as the "Fellow Servant Law." It was made applicable to railway employees only, and has been most beneficial in its results. The purposes of the act should be extended to all employers for the protection of all employees. In theory it may appear all right to say, that there are certain open and visible risks which the employee ought to assume when he enters the employ of one engaged in a hazardous enterprise. But the necessities of the man seeking employment frequently compel him to take whatever offers to enable him to earn his daily bread. The employer has it in his power to furnish a safe place to work, and suitable and safe appliances and machinery to work with, leaving nothing to be assumed by the employee but the results of his own carelessness. He should use every device, care, and precaution practicable for the protection of life and limb, limited only by the necessity for preserving the efficiency of the structure, machine, or other apparatus or device, and without regard to the additional cost of suitable material or safety appliances and devices. If the business will not justify this precaution and expenditure, it were better that the business be not entered upon or that it be abandoned, rather than that human life and limb be made to pay the penalty.

In actions for injuries suffered by an employee, the negligence of a fellow servant should not be a defense where the injury was caused or contributed to by any of the following causes: Any defect in the structure, materials, works, plant, or machinery of which the employer or his agent could have had knowledge by the exercise of ordinary care; the neglect of any person engaged as superintendent, manager, foreman, or other person in charge or control of the works, plant, machinery, or appliances; the incompetence or negligence of any person in charge of or directing the particular work in which the employee was engaged at the time of the injury or death; the incompetence or negligence of any person to whose orders the employee was bound to conform and did conform, and by reason of his having conformed thereto, the injury or death resulted;

the act of any fellow servant done in obedience to the rules, instructions or orders given by the employer or any other person who has authority to direct the doing of said act.

Nor should contributory negligence of the person injured be a defense, but only to be considered by the jury in determining the amount of damages to which a party might be entitled.

In my message to the legislature in 1905 I recommend for the consideration of that body a general employers' liability law, but the recommendation was ignored, and I trust the matter will receive your earnest consideration. The enactment of such a law will do more than all else combined to protect life and limb, and it is particularly needed now when the State is entering upon an era of great development.

CARRYING CONCEALED WEAPONS

Many of the fatal accidents caused by the promiscuous sale and careless use of fire-arms, and much crime, can be avoided by a law that will restrict the sale and use of guns, pistols, and similar deadly weapons. The constitutional provision which give to every man the right to carry arms for his own defense, would not be abridged by the enactment of a law placing some restrictions upon the sale and use of deadly weapons. It ought to be made a misdemeanor to sell weapons except upon a permit to be issued by the sheriff, or some one upon whom might be devolved the duty of examining each applicant as to character and fitness, and the right to purchase should be denied to the drunkard, the minor, and the irresponsible person. Neither should guns or rifles be sold to persons except those who hold hunting permits for the current year. If a law embodying provisions along the line of these suggestions were enacted. I am sure it would result in avoiding many accidents and be a great protection to human life.

SUIT AGAINST THE OWNERS OF THE CANAL AND LOCKS AT WILLAMETTE FALLS

Under the provisions of an act passed by the legislature in 1882, the Willamette Falls and Locks Company, or those claiming under it, were required to certify to the Board of Canal Commissioners on January 1, 1883, and quarterly thereafter, the number of tons of freight and the number of passengers passing through the canal and locks and the number and names of the steamboats and other craft passing through the same for each quarter immediately preceding the return of said reports. Shortly after my inauguration as Governor in 1903, I began an investigation of the matter with the view of securing reports from the successor in interest of the Willamette Falls and Locks Company, so as to collect for the State for the benefit of the common school fund ten per centum of the net profits arising from tolls collected at the rate of fifty cents per ton for freight and ten cents for each passenger passing through the canal and locks. After some correspondence and one or more interviews with the officers of the Portland General Electric Company, the successor in interest of the original company, they refused to render any statement or make any report, claiming that the State had acquiesced in the company's exercise of its claim of ownership in fee of the canal and locks and was stopped from making any claim for net profits under any act of the legislature. The matter was then submitted to the Attorney-General by me with a request for an opinion as to the liability of the company, and in October, 1905, the Attorney-General furnished me an opinion, in which he said, after reviewing all the acts of the legislature upon the subject: "Relative to this matter, I am of the opinion that the acts taken altogether and under authorities I am able to find upon the question, the construction and intention of the legislature and the corporation which constructed the locks was, that net profits should mean all receipts above the actual operating expenses and necessary repairs. If this is correct, then there should be some net profits each year to be accounted for. While I am unable to say in what light a court may look upon the matter, I am of the opinion the interests of the State are sufficient to warrant a suit being brought to settle the matter, and if your Board of Canal Commissioners are of the same opinion, after examining this communication, and direct that suit shall be brought therefore, I would suggest that instructions to that effect be issued by the board or your Excellency both to this office and to the District Attorney of the judicial district in which said suit must be brought in order to avoid any question as to whether the Attorney-General has authority to institute the suit."

On the 14th day of November, 1905, the Board of Canal Commissioners requested the Attorney-General to take the matter up with the proper District Attorney and unite with him in instituting the proper proceeding for an accounting against the present owners of the canal and locks, and endeavor, if possible, to compel

payment to the State of whatever sum might be ascertained to be due upon such accounting. Shortly thereafter suit was instituted in Multnomah County by the Attorney-General and the District Attorney against the Portland General Electric Company to collect ten per centum of the net profits arising from tolls collected on the canal and locks under the statute. Issue was joined, and the court decided against the State's claim, but on appeal, the Supreme Court on the 12th day of May, 1908, reversed the decree of the lower court and remanded the case to the lower court with instructions to sustain the demurrer of the State to each of the defenses of the defendant, and for such other proceedings as might be proper. The cause is now pending in the lower court, and it is hoped that an accounting will in due course be had and a considerable sum recovered for the use of the common school fund.

I am glad to take this occasion to commend the ability with which this case has been handled by the Attorney-General, the District Attorney, and Hon. W.P. Loard, who assisted in the trial in the Supreme Court. The just claim of the State has been already too long delayed and an early determination of the matter is a consummation most devoutly to be wished for.

NON-PARTISAN JUDICIARY

In some of the States, steps are being taken to secure the election of a non-partisan judiciary. This state ought not to be behind others in this important progressive movement. Each of the several parties might nominate candidates at the primary elections, and when the nominations are made the names of the candidates nominated could be arranged on the ballot for the general election in alphabetical order without disclosing the party to which they belong. This would require the voter to exercise the power of selection, and I am sure the result would be more satisfactory and eliminate politics entirely from the judicial department of the government.

BANK GUARANTY LAW

The question of enacting a law for the protection of the depositors in State banks has been generally discussed since the panic of one year ago, and numerous bills will doubtless be up for consideration. I am sure that of those presented one can be selected which will accomplish the purposes proposed and not be unjust to those engaged in the banking business by the imposition of restrictions so severe, and a tax so burdensome, as to seriously interfere with the conduct of the banking business. Oklahoma has a law on the subject which is said to give general satisfaction, and has been instrumental in attracting a large volume of money from other State. The effect of such a law will be salutary, and will lead to conservatism rather than to recklessness in the conduct of the banking business, and at the same time protect the depositor and mitigate the evils of the occasional panic.

RELIEF FOR SUPREME COURT

The Supreme Court, as at present constituted, was organized twenty years ago. Since that time the population of the State has more than doubled, and the business of the court is more than four times as great as it was when it was organized. Temporary relief was granted at the last session of the legislature by the creation of a commission, and that commission will soon expire by limitation unless the law providing therefore is re-enacted by the present legislature. There are two ways to relieve the court of the work which it is impossible for three Justices to perform: First by the addition of new Justices; second, by the creation of a commission.

The best way, because it is the direct and honest way to do, is to provide by law for the addition of at least two new Justices. Can this be done?

No rule is more clearly established than that a constitution of a State is a limitation and not a grant of power, from which it follows that a legislature may enact any law not expressly or impliedly inhibited by the constitution. The question, then, with which you are confronted in determining whether you have the power to add more Justices to the Supreme Court must be tested by this rule, in respect to which it is necessary to its solution only to determine whether the constitution of this State limits the number of Justices to constitute the Supreme Court, and if so, to what number.

This question has been looked into by many of the prominent lawyers throughout the State and thus far practically all who have fully investigated the subject agree that it is within the power of the legislature to increase the number of Justices, so long as the number does not exceed seven. But very few, after a full consideration, are inclined to doubt the constitutionality of a measure increasing the number of Justices, and their view appear to be based upon the construction to be given section 10 of article VII of our constitution, which provides for the election of Supreme and circuit court judges in distinct classes, and manifestly overlooking section 2 of the same article. To confine the investigation to section 2 is to violate the rule of construction that the entire constitution must be construed together, and that when two constructions are possible, one of which raises a conflict or takes away the meaning of any section or word, and the other does not, the interpretation must be given which will harmonize and give effect to the whole. Section 2 of article VII is as follows: "the Supreme Court shall consist of four Justices to be chosen in districts by electors thereof, who shall be citizens of the United States, and who shall have resided in the State at least three years next preceding their election, and after their election to reside in their respective districts. The number of Justices or districts may be increased, but shall not exceed five until the whole population of the State shall amount to 100,000, and shall never exceed seven; and the boundaries of districts may be changed, but no change of districts shall have the effect to remove a Judge from office, or require him to change his residence without his consent."

Section 10 of article VII is as follows: "When the white population of the State shall amount to 200,000, the Legislative Assembly may provide for the election of Supreme and circuit judges in distinct classes, one of which classes shall consist of three Justices of the Supreme Court who shall not perform circuit duty, and the other class shall consist of the necessary number of circuit court judges who shall hold full terms without allotment and who shall take the same oath as the Supreme Judges."

It seems to me that construing these two sections together it clearly provides that the minimum number of Justices shall be three, and that the most favorable construction possible to any limitation is that the number shall never exceed seven. To limit the number to three would be to disregard entirely the words "shall never exceed seven." It would be as logical to see the word "three" should be modified by the words "not less than three," and have it read that the number of Justices shall never be less than three, as to hold that it was intended to be qualified by the words "and no more," making it read shall "consist of three Justices and no more."

It will be observed from the first section quoted, with other sections of the constitution, that four Justices were first provided for, and that the number, with the districts from which they were to be elected until the population reached 100,000, were limited to five, and that after the population exceeded 100,000, should never exceed seven. It is this section that creates the office of Justice of the Supreme Court and provides what the limit should be after the State grew to exceed the population there specified.

Further provision is made by section 8 of article VII for the Justices performing circuit duty. The words "shall never exceed seven" could not have been intended to limit the number of circuit judges, for under that section they were not to be termed "circuit judges," but were to be Justices of the Supreme Court, and section 10 provides for a distinct class (or give the legislature the power so to provide) and the time when circuit judges shall appear and be recognized as such, and that they shall consist of such number as may be necessary. There was no occasion in that section for placing a limit upon the number of Justices to constitute the Supreme Court, for that was done by section 2, where that office was created. The material parts of section 2 bearing on this feature, omitting incidental provisions, reads: "The Supreme Court shall consist of four Justices * * * the number of Justices may be increased * * * and shall never exceed seven." Section 10 was not creating a Supreme Court, hence the rules of construction relative to limiting the number to the number specified can not apply. This court was created by section 2, and only the circuit court was authorized to be created by section 10, and the power given to the legislature to segregate the two courts and divide them into classes. It only authorized the legislature to act in the matter and to provide for the divisions into these two classes. In order, therefore, that both sections may stand, it must be held that it was intended that the minimum should be three and the maximum as provided in section 2. This would, in effect, leave it as the court stood when the four Justices performed circuit duty, for when a cause was appealed, the

trial judge did not sit in the case appealed, leaving three Justices to sit and hear the appeal. When, therefore, section 10 came into effect by reason of the population reaching 200,000, it was intended that the number of Justices should not be reduced below the number formerly sitting in all cases, hence specified that it shall consist of three, which, with the other limitation of "shall never exceed seven," was and is clear. The necessity of changing the minimum from four to three is manifest, and when construed with the other provisions of the article of the constitution of which it is a part, is only susceptible of the construction that it was not intended as a limitation upon the number to constitute our highest court. As stated by the late Justice Hailey, in a brief prepared on the subject after his service on the bench and but a few months before his demise, "The object for which the constitution was enacted was to secure a government, and one of the departments of that government is the judicial, and the Supreme Court of the judicial department. And it was and is the purpose of the constitution that each department should be efficient and able to perform the duties devolving upon it. To say that the framers of our constitution intended to limit forever the number of Justices of the Supreme Court to three, is to place a very low estimate, indeed, upon their intelligence, and to condemn largely their opinion as to the future prospects and development of this now great State.

"The judicial department of our State was organized for the purpose of furthering the interests of government by performing its ordinary judicial functions in the disposition of litigation, and it was unquestionably intended by the makers of the constitution to so organize that department that it would meet the ends and objects for which it was organized. To say that the framers of our constitution intended that three men should for all time do all the work which necessarily devolves upon the Supreme Court of a great and growing State is, it seems to me, a very narrow and uncharitable view to take of the wisdom of the founders of this State. It seems to me rather that the broader, better, and more charitable and more logical view is that they intended to provide, and did provide in effect, for a court which should be of not less than a certain number nor more than a certain number, in order that whatever volume of business might come to that court it could be readily increased to a sufficient number for the proper performance of its functions."

It has been suggested that since a proposed amendment, having for its purpose, among other things, the increase of the number of Justices, was voted down at the last election, further action in that direction would be ill-advised. This objection, however, is without foundation, for the reason that it is difficult to ascertain the cause of its defeat. It provided for other changes, principal among which was included a probably change in the entire judicial system, including the circuit and county judiciary, which change met with strong opposition throughout the State. Another feature which aroused strong opposition among the electors who favor direct legislation, was that the amendment proposed to give the legislature the exclusive power to increase or decrease the membership of the Supreme Court at its will, depriving the people of any right in this respect through the initiative and referendum system of law-making in the State. No active and affirmative effort was made to secure its adoption, while the combined opposition made its adoption with these various "riders" impossible. It is also probably that it was assumed that the legislature, or the people through the initiative, could increase the Supreme Court to meet the greatly increased demands before it, without a constitutional amendment for the purpose, and, rather than accept all the proposed changes, preferred to leave this matter to another effort in that direction, either through the legislature or by direct vote on the subject.

If you differ from me in reference to your power to provide for additional Justices, then the law under which the present temporary commission is acting ought to be re-enacted for another term. The refusal to grant the Supreme Court relief, in one or the other of the two ways suggested, is a virtual denial of justice to all who are unfortunate enough to be involved in litigation. I submit this whole matter to you for your very careful consideration.

NATIONAL AND STATE EXPERIMENT STATION

Some time ago the citizens of Umatilla County undertook to have the reclamation branch of the Interior Department establish an experiment and demonstration farm at some point on the Umatilla irrigation project, and finally, after the matter was again taken up by President W.J. Kerr, of the Oregon Agricultural Station, the Secretary of the Interior, following our the suggestion of President Kerr for co-operation, agreed upon this plan. On the 21st day of November, 1907, the secretary wrote President Kerr that he had

authorized the use of \$3,500.00 of the reclamation fund for providing permanent improvements and equipment for a demonstration farm on the project mentioned, and had directed that the preparation of the farm be undertaken and carried to completion as soon as possible. This action, however, he announced, was taken by him with the understanding that an earnest effort would be made to secure authority and funds from the legislature to maintain and operate this demonstration farm in the interest of settlers.

The importance of this work will be better appreciated when it is remembered that there are thousands of homes being established on irrigated lands by settlers who know nothing of irrigation or the possibilities of the land upon which water has been placed. Most of the lands embraced within the several irrigation projects, whether under Federal or private construction, are of the same character and governed by the same conditions, and experimental farming on the Umatilla project will serve as an object lesson for other districts.

I submit the matter for your consideration, and trust the legislature will not let this opportunity pass for co-operative work with the Federal Reclamation Service.

WILLAMETTE LOCKS

The legislature at its last session appropriated \$300,000.00 to assist the United States in acquiring, by purchase or otherwise, a canal and locks at the falls of the Willamette. It was provided, however, that within three years the United States was to appropriate a like sum, and upon failure so to do the appropriation made by the State was to be and become a part of the general fund. In other words, the purpose of the act was to fail. And yet Congress has done nothing. The present canal and locks are owned by a private corporation, vested by law with the power of levying a tax of not to exceed fifty cents a ton upon every pound of freight in either direction, and ten cents for each passenger carried, passing through the locks.

This rate, fixed by law, establishes as well the rail, as the water rate, and imposes an enormous burden upon the producers and consumers of the whole Willamette Valley directly, and indirectly largely upon those of the whole State. Whether the United States complies with the act or not (and the prospects for compliance are not flattering), the legislature should continue it in force, and a fund ought to be accumulated sufficient to enable the State to proceed independently if necessary. The canal and locks ought to be owned and operated free of charge by the United States, but if Congress declines to act, they should be owned and operated by the State, and this unjust burden removed from the enterprise and industry of the people.

PRIVATE INSANE ASYLUMS

There are a number of private institutions in this State for the reception, care and treatment of the insane. Many persons of all ages, sexes, and conditions are now confined therein, and the number is increasing each year in proportion to the increase in the State's population. They should be compelled to submit, by proper enactment, to visitation and investigation by some public visitorial board, and required to report at regular intervals to such board as fully and as completely as do the institutions under State control. I do not mean to charge that these are any irregularities or cruelties practiced in any of these private asylums. It is to guard against such things that this suggestion is made, for under present conditions it is possible to confine a patient in one of these establishments and to keep him there for all time, or as long as some interested party may be willing to pay. Just so sure as legislation along these lines is not enacted, there will come a time when the State will be scandalized by stories of brutality and of crimes committed within the recesses of some one or other of these private institutions.

ANNIVERSARY OF OREGON'S ADMISSION

Oregon was admitted to the Union on the 14th day of February, 1859. The Oregon Historical Society has for some time been making arrangements for suitably celebrating the fiftieth anniversary of this important event, and as the day occurs on Sunday this year, the day before will probably be selected for the proper observance. The preliminary arrangements have doubtless been made, but it is proper that the State be represented in whatever is done, and to that end I recommend that a committee from the Senate and House be appointed to co-operate with the Oregon Historical Society in making the occasion a noteworthy one, and that an appropriation be made sufficient to defray the expenses incident thereto.

LINCOLN'S BIRTHDAY

Many States have enacted laws making February 12th a legal holiday in honor of the birthday of the immortal Abraham Lincoln. Oregon ought not to be the last State to do honor to "one of the few immortal names that were not born to die." I suggest that the day be added to the list of those now observed as legal holidays.

TUBERCULOSIS

The world is coming to understand that while tuberculosis is one of the greatest scourges of the human race, yet that it is a preventable disease and, in a large percentage of cases, curable if taken in time and properly treated. The legislatures of many of the States have passed laws having for their object the prevention of the spread of the disease and appropriating money to establish sanatoria where it can be properly treated. Oregon has done nothing, and measures ought to be passed at this session having for their object the comprehensive and effective treatment, prevention, and control of the disease.

PROPORTIONAL REPRESENTATION

At the last general election, section 16 of article II of the constitution was amended so as to read as follows: "Section 16. In all elections authorized by this constitution until otherwise provided by law, the person or persons receiving the highest number of votes shall be declared elected, but provision may be made by law for elections by equal proportional representation of all the voters for every office which is filled by the election of two or more persons whose official duties, rights and powers are equal and concurrent. Every qualified elector resident in his precinct and registered as may be required by law, may vote for one person under the title for each office. Provision may be made by law for the voter's direct or indirect expression of his first, second or additional choices among the candidates for any office. For an office which is filled by the election of one person it may be required by law that the person elected shall be the final choice of a majority of the electors voting for candidates for that office. These principles may be applied by law to nominations by political parties and organizations."

I call your attention to this constitutional amendment because legislation is necessary, in my opinion, to make the same effective in so far as proportional representation is concerned.

CONCLUSION

IN conclusions, gentlemen, permit me to express the hope that you may approach the duties incumbent on your in a spirit of compromise and patriotism. All legislation is the result of compromise, because men are so constituted by nature as to differ sometimes essentially on questions that vitally affect the public welfare. Upon one thing we are all agreed, we love this magnificent commonwealth and its institutions, and however much we may differ on non-essentials, we are agreed that we only want to do those things which will be productive of the greatest good for the greatest number.

I promise you that I will with the help of Him who doeth all things well, assist you as best I can in the discharge of our mutual obligation to the people of the State, who servants we all are.

GEO. E. CHAMBERLAIN,
Governor.