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THE QUARTERLY
of the
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THE QUARTERLY
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[The Quarterly disavows responsibility for the positions taken by contributors to its pages.]

OREGON COUNTIES

THEIR CREATIONS AND THE ORIGINS OF THEIR NAMES.

ADDRESS BY FREDERICK V. HOLMAN, PRESIDENT OF THE
OREGON HISTORICAL SOCIETY, AT ITS ANNUAL MEET-
ING, PORTLAND, OREGON, DECEMBER 18, 1909.

When I agreed to write an address on Oregon Counties—their creations and the origins of their names—I was not aware of the time and trouble it involved. Few of the early books on Oregon have indices. And this is true of the "Oregon Archives," which contain the Journals of the Provisional Legislature, and of several of the compilations of early laws. In consequence I was compelled to go over several thousand pages of books, page by page, and, in some cases, to do this several times. Some of the early laws of Oregon have not been printed, one on the creation of Clatsop County cannot be found. Excepting some of the compilations of early laws and the manuscripts expressly noted herein, I have in my library all the books, pamphlets, and reports cited in this address. I have endeavored to go to original sources, as far as possible, and not to rely on statements or impressions at second hand.

In an appendix to this address I set forth the descriptions of the boundaries of the respective counties as originally

created. There have been numerous Acts passed changing, mostly in small ways, the boundary lines of counties. To set forth all these changes would make this address too long. I must leave these matters to the future historians of the several counties.

To a better understanding of these counties, and, for the reason that most of the earlier counties were large and later counties were created out of pre-existing counties, I have arranged these counties chronologically, instead of alphabetically.

EARLY COUNTIES HAD NATURAL BOUNDARIES.

An examination of the map will show that many of the counties in Oregon, particularly west of the Cascade Mountains, are very irregular in shape. This is due to the fact that their boundaries were made according to physical conditions,—the situation of mountains, rivers, and streams, which make, what may be called, natural boundaries. In addition, when the population of Oregon was small, the size of the counties was of little moment, for the white population was mostly in small settlements west of the Cascade Mountains. When Wasco County, comprising all of Eastern Oregon, was created in 1854, its population was small and mostly living near the Columbia River, a part of its northern boundary.

There were no official surveys of land in Oregon by the United States Government prior to the passage of the Oregon donation land law of September 27, 1850. In the Act establishing the Territory of Oregon, approved August 14, 1848, all laws of the Oregon Provisional Government were recognized excepting only laws relating to the disposition of land in Oregon. Under the Oregon donation land law claims settled on prior to its passage were, in effect, recognized and patents, in course of time, were issued to lawful claimants, and they were granted patents without regard to township or section lines, after governmental surveys had been made. The surveys of the Willamette Meridian and of the Base Line were

begun in June, 1851. The first contract for governmental surveys in Oregon is dated May 28, 1851. Prior to that time county lines could not be established with reference to governmental surveys. Up to the year 1856, parts only of the portions of Oregon west of the Cascade Mountains had been officially surveyed. The first county, the boundaries of which had reference to official surveys, was Multnomah County, created December 22, 1854.

The number of counties has increased, from the original four districts, to thirty-four. Two of the original four, Twality and Clackamas, included all of what is now the State of Washington.

OREGON COUNTIES NOW IN THE STATE OF WASHINGTON.

Washington Territory was created out of the northern part of Oregon by Act of Congress, approved March 2, 1853. Prior to that time a number of counties had been created in that part of Oregon by its Provisional and Territorial Legislatures. Of these counties I shall refer only to Vancouver (now Clark) County. I spent much time in an endeavor to find the Act creating Vancouver District or County, but without finding the Act or the boundaries. Neither the Journals of the Legislatures nor the published laws show any record of it. At last I applied to Mr. George H. Himes, the efficient Assistant Secretary of the Oregon Historical Society, who had been away from Portland for several weeks during my search. He found a copy of this Act in the Oregon Historical Library. I believe it to be the only copy in existence. It is contained in a manuscript book setting forth copies of laws of the Provisional Legislature approved by Governor George Abernethy in August, 1845. Each of these laws is attested by the genuine signature of J. E. Long, Secretary of the Provisional Government. These copies are apparently all the laws passed by the Provisional Legislature at its session, at Oregon City, begun June 24, 1845, which were approved by the Governor.

According to the "Oregon Archives," this session adjourned July 5, 1845, to meet August 5, 1845. After meeting according to adjournment it held continuous meetings until August 20, 1845, when it adjourned *sine die*. Among these copies of laws is one passed July 3, 1845, and five passed July 5, 1845, all of which were approved August 15, 1845. The only acts which, according to the Journal, as set forth in the "Oregon Archives," were passed in July, 1845, and are not contained in these copies, are: "The bill concerning the sittings of the Legislature," passed July 3, and "The bill for locating county seat of Tuality," passed July 5, and two bills granting divorces, passed July 3. None of these laws is contained in the compilation of the laws of 1843-1849, published in 1853, or otherwise printed so far as I have been able to ascertain. The next Legislature should cause these laws to be printed.

This book formerly belonged to Judge William Strong. After his death it was given by his son, Thomas N. Strong, of Portland, to the Oregon Historical Society. Judge Strong was appointed a Judge of Oregon Territory in 1849, and arrived in Oregon in August, 1850. His judicial district comprised all of Oregon Territory north of the Columbia River, which was the original Vancouver District, and also Clatsop County.

This Act creating Vancouver County appears on page 24 of this manuscript book. The following is a correct and full copy:

"An Act to Organize the District of Vancouver, passed 18th Aug., 1845.

"Be it enacted by the House of Representatives of Oregon Territory as follows

"That all that portion of the Territory of Oregon lying north of the middle of the main channel, of the Columbia River, shall be and the same is hereby declared a separate District, under the name and style of Vancouver District and the said District shall be entitled to elect one member of the House of Representatives, at the next annual Election.

"This act to take effect and be in force from and after its passage—

"Oregon City 20th Aug. 1845.

"Attest J. E. Long

"Approved

"Secretary (Signed) Geo. Abernethy."

This District was named for Captain George Vancouver, R. N., the explorer, who was in charge of what is known as Vancouver's Voyage in 1790-1795. His expedition was on the North Pacific Coast in the years 1792, 1793, and 1794.

The first Oregon Territorial Legislature, September 3, 1849, changed the name of Vancouver County to that of Clark in honor of Captain William Clark of the Lewis and Clark Expedition. The following is a correct and full copy of the Act changing the name of Vancouver County to Clark, and the only law I have found on the subject:

"AN ACT, to change the name of Vancouver County.

"Section 1. *Be it enacted by the Legislative Assembly of the Territory of Oregon*, That the name of the county of Vancouver be, and hereby is, changed to *Clark*.

"Sec. 2. That all acts, or parts of acts, coming within the purview of this act, are hereby repealed.

"Sec. 3. This act to take effect from and after its passage."

"Passed, September 3d, 1849."

(Local Laws of the Territory of Oregon of 1850-1, page 54).

In the copy of this Act, as printed in said Local Laws, the name Clark is in italics.

In an Act passed by the Oregon Territorial Legislature January 3, 1854, after Clark County had become a part of Washington Territory, releasing Clark County from the payment of certain taxes due to the Territory of Oregon by that County, the name is spelled Clark. (Special Laws of 1853-4, page 18).

In Abbott's "Real Property Statutes of Washington Territory From 1843 to 1889," page 69, this Act of September 3, 1849, is set forth. It erroneously spells the name *Clarke*. As

this work of Abbott's gives all the laws in relation to the creation, boundaries, and names of counties in Washington Territory to 1889, it may be said, safely, that the name of Clark County has never been changed to Clarke. Abbott cites no law in relation to the change of name of this County, other than said Act of September 3, 1849. The heading of this Act changing the name of Vancouver to Clark, as printed in Abbott's book, is "Vancouver or Clarke County," which shows that the misspelling of the name Clark was not done inadvertently. But that does not change the name. An Act of a Legislature is more authoritative than ignorant or deliberate misspelling in a private compilation. It is to be regretted that so valuable a work is thus marred.

It is to be hoped that as this County was intended to be named in honor of Captain William Clark, and as adding a final "e" to the name makes it appear to be named for some unknown man named Clarke and, as the use of such name is wholly unauthorized, that the proper authorities of Clark County, and especially its Superior Court, hereafter will use the correct name. A Court should follow the law.

EARLY HISTORY OF THE ORIGINAL OREGON COUNTRY.

For a better understanding I think it well to give a brief statement of some facts in connection with the original Oregon Country and the formation of the Oregon Provisional Government.

Prior to the boundary treaty of June 15, 1846, what is now the State of Oregon, was only a part of what, prior to that time, was known as the Oregon Country. The southern boundary of the latter was well known. It was latitude forty-two, or what is now the northern boundary of California and Nevada. Its western boundary was the Pacific Ocean, its eastern boundary was the Rocky Mountains, and its northern boundary was latitude fifty-four degrees, forty minutes, on which was the southern boundary of Russian America, the

present southern boundary of Alaska. This northern boundary of the Oregon Country was supposed to run along that latitude from the Pacific Ocean to the Rocky Mountains.

From October 20, 1818, to June 15, 1846, the Oregon Country, under conventions between the United States and Great Britain, was free and open to occupation by the citizens and subjects of these two countries, being what was called "joint-occupancy." There were no laws made by either of these countries which applied to all the inhabitants of the Oregon Country, but Canada had some criminal laws which, in a way, applied to British subjects, including officers and employees of the Hudson's Bay Company.

In 1842, prior to the immigration of that year, the population of Oregon south of the Columbia River, excluding Indians, was about one hundred and two white citizens of the United States, men, women and children, of whom about seventy were men. These were called Americans. There were also about sixty-three French-Canadians, who were British subjects. These were mostly former employees of the Hudson's Bay Company. In these numbers are not included Indian women, who were wives of white men, and half-breed children.

October 5, 1842, there arrived at Oregon City the immigration of 1842, consisting of about one hundred and twenty-five persons, of whom a few more than half were men. May 30, 1843, fifty-three of these immigrants, of whom twenty-five were men, left for California.

May 2, 1843, at a public meeting held at Champooick [Champoege], Oregon, attended by one hundred and two men, Americans and British, the latter being almost wholly French-Canadians, by the close vote of fifty-two for, and fifty against, a 'provisional government was formed. Certain officers were elected and a legislative committee of six was appointed to report July 5, 1843. The report of this committee was adopted at a public meeting held at Champooick, July 5, 1843. ("Oregon Archives," page 23). It divided the Oregon Country into four Districts. After the creation of Clatsop and

Polk Districts the Provisional Legislature, by an Act approved December 22, 1845 (General and Special Laws of 1843-9, page 35), changed these Districts to Counties, and these political or civil divisions of Oregon have been called counties ever since.

THE ORIGINAL FOUR DISTRICTS OR COUNTIES.

The original four Districts were named Twality, Clackamas, Yamhill, and Champooick. Of these Districts, Twality and Clackamas were the northern, and Yamhill and Champooick the southern.

The northern boundary of Twality and Clackamas was the supposed northern boundary of the Oregon Country, viz.: latitude fifty-four degrees and forty minutes. The southern boundary of Twality was the Yamhill River and, presumably, a line which would be the westerly continuation of the Yamhill River to the Pacific Ocean, the latter being the western boundary of Twality District. Its eastern boundary was the Willamette River, and, presumably, an extension of a line from its mouth north to the north line of the Oregon Country. Its full boundaries, as is the case with those of the other three Districts, are somewhat uncertain.

The southern boundary of Clackamas was a supposed line drawn from the mouth of Pudding River running due east to the Rocky Mountains, the latter being the eastern boundary of Clackamas District. Its western boundary was the Willamette River, and, north of that river, the eastern line of Twality District.

The southern line of Yamhill and Champooick Districts was the northern California and Nevada lines as they are today. The northern boundary of Yamhill District was the south line of Twality District, i. e., the Yamhill River and an indefinite line running west from that river to the Pacific Ocean, the latter being the westerly boundary of Yamhill District. Its eastern boundary was the Willamette River and

a supposed line running south from the latter river to the California line.

The northern boundary of Champooick District was the south line of Clackamas County, i. e., the supposed line running east from the mouth of Pudding River to the Rocky Mountains, the latter being the eastern boundary of Champooick District. Its western boundary was the Willamette River and a supposed line running south from the latter river to the California line.

The boundaries of these four Districts, as adopted on the report of the Legislative Committee, are hereinafter set forth.

To make a rough map showing these four Districts, take a map of the original Oregon Country and, at a point where the Willamette River flows into the Columbia, draw a line running north to latitude fifty-four degrees and forty minutes. Then show the Willamette River from its mouth to, say, Springfield, in Lane County, then draw a line south from Springfield to the California line. This will be the boundary separating Twality and Clackamas Districts and Yamhill and Champooick Districts. Draw a line from the mouth of the Yamhill River west to the Pacific Ocean. This will be the line separating Twality and Yamhill Districts. Then draw a line from the mouth of Pudding River east to the Rocky Mountains, this will be the line separating Clackamas and Champooick Districts.

The division lines between these four Districts were changed, several times, by Acts of the Provisional Legislature.

June 26, 1844, the division line between Yamhill and Twality Districts was changed to be as follows: "Commencing in the middle of the Willamette River, at the mouth of Pudding River; thence in a direct course to the divide of the waters in Chehalem Valley; and thence due west to the Pacific Ocean." (General and Special Laws of 1843-9, page 87.)

December 19, 1845, the division line between Yamhill and Twality Districts was again changed to be as follows: "Commencing in the middle of the main channel of the Willamette

River, one mile below the Bute [Butteville] ; thence in a direct course due west to the Pacific Ocean." (General and Special Laws of 1843-9, page 36).

December 11, 1846, the division line between Yamhill and Tuality Districts was again changed to be as follows: "Commencing at a point on the northwest bank of the Willamette River, opposite the mouth of Pudding River, and run thence in a northwest direction on the top of the main ridge dividing the waters of the Tuality River from the waters which flow into Chehalem Valley, and thence along on the dividing ridge near Jesse Cayton's, in a straight line to the top of the dividing ridge between the waters of the Rivers of Yamhill and Tuality, to the top of the Mountain between said rivers, thence west to the Pacific Ocean." (General and Special Laws of 1843-9, page 7).

December 19, 1845, the dividing line between Champooick and Clackamas Districts was changed to be as follows: "Commencing one mile below the Bute [Butteville], in the middle of the main channel of the Willamette River, thence in a due east course to the summit of the Rocky Mountains." (General and Special Laws of 1843-9, page 36).

By the Report of the Legislative Committee of the Provisional Government under which the first four Districts were created it was uncertain as to whether any part of the Willamette River was included in either of these Districts. By the Act of December 19, 1845, the middle of the main channel of the Willamette River was made the dividing line between Tuality and Clackamas Districts and between Champooick and Yamhill Districts. (General and Special Laws of 1843-9, page 36).

June 27, 1844, the Provisional Legislature passed an Act "that all those parts of any Counties heretofore organized which lie north of the Columbia river be and they are hereby stricken off respectively, and that the said river shall constitute the northern boundary of said Counties respectively." (General and Special Laws of 1843-9, page 74). This law,

as printed, recites that it was passed June 27, 1854. The figure 5 is a misprint. That it was passed June 27, 1844, is shown by the Journal of the Provisional Legislature. ("Oregon Archives," page 52). It is also shown by the title of an Act, passed December 24, 1844. The latter Act is entitled: "AN ACT Explanatory of an Act entitled 'An Act to amend the several Acts organizing Counties', passed June 27, 1844, making the Columbia River the northern line of Clatsop, Tuality and Clackamas Counties." Section 1 of this Act provides: "That Oregon shall consist of the following territory: Commencing at that point on the Pacific Ocean where the parallel of forty-two degrees of north latitude strikes the same, as agreed upon by the United States and New Mexico; thence north along the coast of said ocean, so as to include all the islands, bays and harbors contiguous thereto, to a point on said ocean where the parallel of fifty-four degrees and forty minutes of north latitude strikes the same; thence east along the last parallel, as agreed between the United States and Russia, to the summit of the main dividing ridge of the Rocky Mountains, dividing the waters of the Atlantic and Pacific Oceans; thence southerly, following said main dividing ridge, to the said parallel of forty-two degrees north latitude; and thence west to the place of beginning." (General and Special Laws of 1843-9, page 72).

TWALITY DISTRICT.

As originally created Twality District was described as:

"First district, to be called the Twality District, comprising all the country south of the northern boundary line of the United States, west to the Willamette, or Multnomah, River, north of the Yamhill River, and east of the Pacific Ocean." "Approved by the people July 5th, 1843." ("Oregon Archives," page 26).

This Indian name has been spelled in many ways. It is the name of a river, mostly now in Washington County, which

flows into the west side of the Willamette River, about two miles above its falls at Oregon City. Indian names are few, as are all words in the languages of the different Indian tribes. The word apparently means *sluggish* and also *restful*, and, what is one meaning of the English word *peaceful*, as applied to a beautiful plain or scene. The Tualatin River is a very sluggish stream. Tualatin Plains, now in Washington County, is a beautiful country, in many places almost level, in other places slightly rolling, with many beautiful oak and other trees.

The name Twality, is spelled also Twalaty and Tuality in the laws and journals of the Provisional Legislature. In the Act of September 3, 1849, passed by the Territorial Legislature changing the name to Washington County, the name of the County is referred to as " 'Faulitz' or 'Falatine' ". (Local Laws of 1850-1, page 54).

Nathaniel J. Wyeth, who came overland to Oregon in 1832 and in 1834, kept a Journal of his two expeditions. These were published by the Oregon Historical Society in 1899. In the "Journal" of his second expedition, page 25, under date of April 13, 1835, he spells the name *Fallatten*. Commodore Charles Wilkes, U. S. N., who was in the Willamette Valley in 1841, on page 357 of Volume 4 of his "Narrative of the United States Exploring Expedition," published in 1849, spells the name *Faulitz*. In other books on early Oregon the name is spelled in several ways: *Fualitine*, by L. W. Hastings, an immigrant of 1842, on page 40 of his book, "A New Description of Oregon and California," published in 1849; *Fallatry*, by Peter H. Burnett, an immigrant of 1843, in his letters to the *New York Herald*, written in 1844. A part of these letters is in an appendix of the "History of Oregon," by George Wilkes, published in 1845. (See page 101); *Tualatin*, on the map in "Ten Years in Oregon", written by Rev. Daniel Lee, a Methodist missionary of 1834, and Rev. J. H. Frost, a Methodist missionary of 1840, published in 1844; *Fallatine*, by Dr. Elijah White, a Methodist missionary of 1837, on page 240 of

his book "Ten Years in Oregon", published in 1850; *Twalatin*, by J. Quinn Thornton, an immigrant of 1846, on page 292 of Volume 1 of his book "Oregon and California," published in 1849; and *Quality*, in Joel Palmer's "Journal," published in 1847, pages 90 and 115.

Report No. 101 of the House of Representatives, 25th Congress, 3d Session, ordered to be printed February 16, 1839, is the Supplemental Report of the Committee on Foreign Affairs on the Territory of Oregon. Its appendix N is the Report of William A. Slacum to Hon. John Forsyth, Secretary of State, dated November 11, 1835. (Senate Document 1837-8, No. 24). On page 42 of this Supplemental Report No. 101, the name is given as that of a tribe of Indians and is spelled *Fallatah*. Slacum was in Oregon a part of December, 1836, all of January, and a part of February, 1837, on a secret mission from the Department of State. The name is now spelled *Tualatin*.

What was left of this County, after Clatsop County was created, January 15, 1855, was named Washington County by an Act of the Territorial Legislature, passed September 3, 1849. (Local Laws of 1850-1, page 54). For present boundaries see Washington County.

YAMHILL DISTRICT.

As originally created Yamhill District was described as:

"Second district, to be called the Yamhill District, embracing all the country west of the Willamette, or Multnomah, River and a supposed line running north and south from said river, south of the Yamhill River to the parallel of 42° north latitude, or the boundary line of the United States and California, and east of the Pacific Ocean." "Approved by the people, July 5th, 1843". ("Oregon Archives," page 26).

December 19, 1845, three days before Polk District was created, the Provisional Legislature changed the boundaries of Yamhill District so as to be as follows: "Commencing in

the middle channel of the Willamette river, one mile below the Bute [Butteville]; thence a direct course due west to the Pacific Ocean; thence south along the coast of the Pacific ocean to a point due west of George Gray's house; thence due east to the middle channel of the Willamette river, leaving said George Gray's house in Yamhill district; thence down said channel to the place of beginning". (General and Special Laws of 1843-9, page 36).

Although in this Act of December 19, 1845, as printed in the compilation of the laws of 1843-9, the name of the owner of the house as therein specified is George Gray, this is undoubtedly an error and the name should be George Gay. The latter was a notable character in the history of early Oregon. George Gay was born in England in 1810. He became a sailor. He left his ship at Monterey, California, in 1833, and became a trapper, with Ewing Young. He came to the Willamette Valley from California with Dr. W. J. Bailey, in 1835, and settled near Wheatland in the southeastern part of Yamhill County, as it now is, and near the present southern line of Yamhill County. In 1843 he built the first brick house in Oregon. He became a wealthy man, for those early days, having herds of cattle and horses roaming over the southern part of Yamhill County and the northern part of Polk County. These facts I have obtained from a short biography of Gay written by Col. J. W. Nesmith, a noted Oregon Pioneer of 1843, and who was, from 1861 to 1867, an United States Senator from Oregon. This biography is published at pages 88-90 of "Transactions of the Oregon Pioneer Association" for the year 1882. In this biography Col. Nesmith says of Gay: "His house was a general resort for travellers and immigrants in early days. He dispensed a rude but unbounded hospitality, to which all comers were welcome. I have known him to slaughter a bullock for the breakfast of his guests, the remnants of which were eaten for supper."

Commodore Wilkes, in his "Narrative," Vol. 4, pages 357-363, writes of George Gay. The latter entertained Wilkes, on

his trip to the Willamette Valley, in June, 1841, and accompanied Wilkes to Oregon City.

The origin and meaning of the name *Yamhill* is somewhat uncertain. The Yamhill River runs through this County which is one of the most beautiful and fertile parts of Oregon. It flows into the Willamette River, on the west side, about twenty-five miles above Oregon City. The first mention of the name appears in Coues' "Journals" of Henry and Thompson, under date of January 23, 1814, written above the portage at the falls of the Willamette River. After speaking of meeting a party of seven Indians it is said: "They were Yamhelas, who dwell in houses on Yellow River, a branch of the Willamette." (Vol. 2, page 812). Frances Fuller Victor, one of Oregon's best historians, in her book "All over Oregon and Washington", published in 1872, at page 195, says, of the name Yamhill: "The original name, let it here be stated, was Che-am-il—the Indian term for bald hills—and was applied first to the river at the falls of the Yamhill River, just above which was the ford, because these hills served as a landmark by which they easily found the ford". These bald hills are beautiful hills. In pioneer days, in the spring, they were covered with a luxuriant growth of grass. When the early pioneers came the name was sometimes pronounced as though spelled *Yamil*. As many of the early immigrants were from the southern states, in a jocular way, they called the name *Yam Hill*. This is the spelling used by Peter H. Burnett (Appendix of George Wilkes "History of Oregon," page 101). It is spelled *Yam-Hill* by Palmer, in his "Journal," pages 91, 92, 93, 115 and 116.

Com. Charles Wilkes published, in 1849, a pamphlet entitled "Western America, including California and Oregon". This pamphlet is supplementary to his "Narrative of the United States Exploring Expedition", in five volumes, published in 1849. In this pamphlet he quotes numerous excerpts, relating to the Oregon Indians, from the "Ethnological Remarks" made by Horatio Hale, the Philologist of the Exploring Expedition.

Hale made a careful investigation of Oregon Indian tribes. In this pamphlet Wilkes makes the curious error of using the word "Yam" as the name of a range of hills in Yamhill County. In speaking of valleys adjacent to the Willamette Valley he says: "The principal one is called Faulitz Plains, and is divided from the Willamette by the Yam Hills. These are clothed to their very top with grass, and afford excellent pasturage." ("Western America," page 56). The same error appears in Wilkes' Narrative, Vol. 4, pages 356 and 357, where he says, under date of June 9, 1841: "We started for the Yam Hills, which divide the valleys of the Willamette and Faulitz These hills are clothed to the very top with grass On our route through the Yam Hills, we passed many settlers' establishments". While Com. Wilkes' "Narrative" is, in the main accurate, he, occasionally, was careless. He made the ridiculous error of calling *Campement du Sable* [Champoege] *Camp Maude du Sable*. (Wilkes' "Narrative," pages 346 and 347).

Yamhill County is now bounded: on the north by Washington County; on the east by Washington County and the Willamette River, its common boundary with Marion County; on the south by Polk County and a small portion of Tillamook County; and on the west by Tillamook County. Its county seat is McMinnville.

CLACKAMAS DISTRICT.

As originally created Clackamas District was described as:

"Third district, to be called the Clackamas District, comprehending all the territory not included in the other three districts". "Approved by the people, July 5th, 1843". ("Oregon Archives," page 26). The other three districts were Tuality, Yamhill, and Champooick, which see for descriptions.

Clackamas is an Indian name. It is first mentioned in Lewis and Clark's "Journals." Under date of April 3, 1806 ("Original Journals", Dodd, Mead and Company edition (1904), Vol.

4, page 241), it is said that an old man gave the names of four nations residing on the "Multnomar" [Willamette] river." The "Journals" then set forth: "The first is Clark-a-mus nation reside on a small river which takes its rise in Mount Jefferson and falls into the Moltnomar about 40 miles up. This nation is numerous and inhabit 11 towns." The Oregon Indians have no "r" sound in their languages. In the Chinook jargon the word for rope is taken from the English word. It is pronounced "lope". But Indians often gave a very broad pronunciation to the letter "a" and, especially when using "cl", gave a clucking sound which, with an "a" following, gave to that letter a sound, to a stranger, very much like "r". Besides Lewis and Clark were not only intrepid explorers but they were also "fierce" spellers. Under date of April 7, 1806, their "Journals" ("Original Journals", Vol. 4, page 254), after setting forth about a map made on the sand by an old Indian showing the Multnomah river, proceeds: "He also lays down the Clarkamos passing a high conical mountain near its mouth on the lower Side and heads in Mount Jefferson." Thus Lewis and Clark give the name *Clarkamos*, not only as the river, but of the tribe which lived near the river. On Clark's map, printed in 1814, the name is spelled *Clack-a-mus* and *Clackamus*.

In Coues' Henry and Thompson's "Journals," Vol. 3, pages 810-811, under date of January 22, 1814, it is said: "It was dark before we saw the village on the S [present site of Oregon City] near a small but rapid river on our left, called the Clukemus, from a numerous tribe who dwell up it".

It is also spelled in various ways in other early books on Oregon: *Klackamus*, in Hasting's "Description of Oregon and California," page 55; *Clacamur*, in George Wilkes' "History of Oregon", in the main work, page 44, and *Klackamus*, in the appendix, by Peter H. Burnett, page 100; *Klackamus*, in Com. Charles Wilkes' "Narrative", Vol. 4, pages 36 and 343; *Klackamas*, in Rev. Gustavus Hines' "Oregon", page 44; *Clackamis* in Joel Palmer's "Journal", pages 84 and 116; and

Clatmus, page 2, House Report 213, 19th Congress, 1st Session, dated May 15, 1826.

Duflot de Mofras, an attache of the French Legation in Mexico, came to Oregon in 1841. He came ostensibly, at least, to study the country and to write a book. His work in two volumes was published in Paris in 1844. Its title is "Exploration du Territoire de Oregon, des Californie et de la Mer Vermeille". In Volume 2, page 335, he calls this tribe of Indians, *Clakemas*.

In a letter dated at Fort Vancouver, September 28, 1841, written by Rev. F. N. Blanchet, afterwards Catholic Archbishop of the Diocese of Oregon City, the name is spelled *Flackamar* ("Letters and Sketches", by Rev. P. J. De Smet, S. J., page 233, published in 1843). On page 43 of the preface to "Notice sur le Territoire et sur la Mission de l'Oregon" (1847), the name of Clackamas River is spelled *Tlakemas*.

Paul Kane, the artist, was in Oregon in 1846 and 1847. He returned to Toronto in October, 1848. His book "Wanderings of an Artist" was published in 1859. In January, 1847, he made a visit to Oregon City. On page 196 of his book he writes of the river and the tribe and gives the name as *Klackamuss*.

Lieuts. Warre and Vavasour, of the British army, were at Fort Vancouver in 1845. In their "Census of the Indian Tribes," dated at Fort Vancouver, October 26, 1845, and "derived from the Trading Lists of the Hudson's Bay Company and best obtainable information," the name is spelled *Clakamus*, as printed in Martin's "Hudson Bay Territories" (1849), page 81, while in Prof. Joseph Schafer's copy of this "Census," in the March, 1909, Quarterly of the Oregon Historical Society, page 61, it is spelled *Clackamas*.

In Coues' edition of Lewis and Clark's "Expedition," Vol. 3, page 924, there is a foot-note relating to the name Clackamas, where it is said: "Preferably now Clackama, pl. Clackamas The Clackama is one of the best known Upper Chinookan tribes." That the name is *Clackama* and

not *Clackamas*, seems to have been adopted by the United States Bureau of Ethnology. The name is given as *Clackama* in its "Hand Book of American Indians North of Mexico," Vol. 1, page 302. If the name be *Clackama*, then the final syllable, "mas," should be pronounced as the plural of "ma" and not as though spelled "mass." It is true that writers of early reports, journals, and books on Oregon usually gave the name of the Indians of a tribe and not that of the tribe itself, so they are given in an English plural form, e. g.: Clatsops instead of Clatsop; Multnomahs, instead of Multnomah, etc. But the Indians did not form plurals of their names by adding a final "s". *Camas* is the Indian name of an edible root and is not a plural of *camā*, if there be such a word as *camā*. At least I never heard of it. It will be noted that Lewis and Clark, in their "Journals," say the name is that of the river as well as that of the tribe, as I have already shown by quotations from their "Journals." In their "Estimate of the Western Indians", giving names of tribes west of the Rocky Mountains and drawn up by Lewis and Clark during the winter of 1805-6, while they were at Fort Clatsop, the names of many tribes are given. On their return journey, they came into further contact with the tribes and learned more of those southward on the Willamette River. This information they added to the original draft of said "Estimate." This is shown in an editorial note by Reuben Gold Thwaites in the "Original Journals," Volume 6, pages 113 and 114. The complete "Estimate" is set forth in Volume 6, pages 114-120. In this "Estimate" the names of one hundred and thirteen tribes are given. Of these fourteen only are spelled with a final "s". Of the other ninety-nine, a few have a final "s", but used with an apostrophe. On page 118 of Volume 6, it is said:

"CLARK-A-MUS Nation reside on a large river of the Same name which heads in Mt. Jefferson and discharges itself into the Multnomah", etc.

In Coues' Henry and Thompson's "Journals," Vol. 2, pages 810-811, it is said, as I have already quoted, that the river is

"called the Clukemus, from a numerous tribe who dwell up it".

So, notwithstanding the eminent authority of Elliott Coues and of the Bureau of Ethnology, I am of the opinion that the name is *Clackamas* and not *Clackama*.

Clackamas County is now bounded: on the north by Multnomah County; on the east by portions of Hood River and Wasco Counties; on the south by Marion County; on the west by Marion County, Pudding River, and portions of Yamhill and Washington Counties. Its county seat is now, and has been always, Oregon City, the original Capital of the Provisional Government and of Oregon Territory.

CHAMPOOICK DISTRICT.

Champoick District, as originally created was described as:

"Fourth district, to be called the Champoock District, and bounded on the north by a supposed line drawn from the mouth of the Anchiyoke [Pudding] River, running due east to the Rocky Mountains, west by the Willamette, or Multnomah River, and a supposed line running due south from said river to the parallel of 42°, north latitude; south by the boundary line of the United States and California, and east by the summit of the Rocky Mountains." "Approved by the people, July 5th, 1843." ("Oregon Archives," page 26).

By an Act of the Provisional Legislature, approved December 28, 1847, a new southern boundary of Champoock County was established. The Act provides: "That the southern boundary of Champoege County be located in the following manner: Commencing in the middle of the channel of the Willamette River, opposite the mouth of the Santiam River, thence up said River to the North Fork; thence up said Fork to the Cascade Mountains; thence due east to the summit of the Rocky Mountains." (General and Special Laws of 1843-9, pages 55 and 56). This Act also created Linn County, making the latter all of the original Champoock District south

of said new southern boundary of Champooick County and east of Benton County.

While the name was sometimes spelled *Champooick* and *Champoick* in early Oregon days, it is usually spelled *Champoeg* in the Journals of the Provisional Legislature. The name is now spelled *Champoeg*. It is now the name of a small town in Marion County, on the east bank of the Willamette River. Its main point of interest is that it is the place where the Provisional Government was started. The first mission in Oregon was the Methodist mission, established in 1834, by Revs. Jason Lee and Daniel Lee, at a place about ten miles north of Salem, and a few miles south of Champoeg. In "Ten Years in Oregon," by Revs. Daniel Lee and J. H. Frost, at page 126, Lee says, of his first trip up the Willamette River: "We struck the river at the lower point of the settlement [French-Canadian] called Campment du Sable, that is, 'Sandy Encampment.' The Indian name is Chumpoeg." It is spelled *Shampoic* in Palmer's "Journal," pages 96 and 116, and *Champooing* in Wilkes' "Narrative," Vol. 4, pages 347, 349 and 360.

Willard H. Rees, an Oregon pioneer of 1844, who located near the Town of Champoeg, in the Annual Address before the Oregon Pioneer Association, June 17, 1879, said: "Champoeg was the principal Indian village between Chemeketa [Salem] and Willamette Falls [Oregon City] and the home of the Champoeg chieftains from time immemorial." ("Transactions of the Oregon Pioneer Association" for 1879, page 25).

In a letter written by Rev. P. J. De Smet, S. J., to Bishop F. N. Blanchet, dated at St. Francis Xavier, Willamette [St. Paul], Oregon, June 20, 1845, Father De Smet gives the name of the village as *Champois*. ("Oregon Missions," page 97). On a map attached as a part of the book "L'Oregon et les Cotes de l'Ocean Pacific du Nord," by M. Fedix, and published at Paris in 1846, the name is spelled *Champoing*.

December 11th of this year, I had an interview with Francois

Xavier Matthieu, the noted Oregon Pioneer, who is now staying in Portland, with his son. Mr. Matthieu was born April 2, 1818, in Terrebonne, Canada. In 1838 he came to the United States, escaping from Canada, where he had taken part in what is called the Canadian Rebellion of 1837-8. He was engaged as a fur trader by the America Fur Company, and lived in the Indian country until, at Fort Laramie, he joined the Oregon immigration of 1842. He settled about three miles east of Champoege. He became well acquainted with Dr. W. J. Bailey. Dr. Bailey was an Englishman of birth, breeding, and education, and was an educated physician and a skillful surgeon, but, by association with wild companions in London, he became almost a dipsomaniac. In an endeavor to reform he came to America with his mother and three sisters. Without their knowledge he shipped as a common sailor on a vessel bound for California. On reaching California he deserted and stayed in different places there, for several years, until he came to Oregon, overland, in 1835. His party of eight was attacked by the Indians, two of the party were killed, two mortally wounded, and Bailey, badly wounded, arrived at the Methodist mission not far from Champoege. He settled at Champoege, where he reformed, married Miss Margaret Smith, one of the Methodist missionaries, and resumed the practice of his profession and became a man of affairs. In May, 1844, he was elected one of the Executive Committee to frame a Constitution and laws for a provisional government, in place of Rev. F. N. Blanchet, who declined to serve. In May, 1844, he was elected one of the Executive Committee of three, of the Provisional Government. He was a member of the last Provisional Legislature. He died February 5, 1876, at Champoege.

Dr. Bailey, as a man of education, inquired into the origin of Indian names. From Michel La Framboise, a well known employe of the Hudson's Bay Company, stationed at Champoege, Dr. Bailey learned that the name of the place was derived from the Indian word *Champoo* or *Shampoo*, the Indian

name of a weed growing on the west side of the Willamette River, opposite Champoeg. This information Dr. Bailey gave to Mr. Matthieu. While this is hearsay, based on hearsay, I believe it is true. Spelling the name Champooick is more in accordance with the origin of its name and its pronunciation by the Indians than Champoeg. It is difficult or impossible, with Roman letters, to spell Indian names as pronounced by the Indians. The use of "C" instead of "S" as the initial letter of the name was due to the French influence in the spelling of names and other words e. g., Willamette. Willamette is an Indian name, with French spelling and English pronunciation. French was largely used by the Hudson's Bay officers and employees, including voyageurs, the latter speaking French almost exclusively, as they were French-Canadians.

Champoeg is the most convenient natural place near French Prairie, to reach the Willamette River. It is a sandy place, on a prairie which extends to the river, and is above the ordinary freshets of the river. This led to its selection as a camping place by the Indians, and as a convenient point for them to cross the river. Its advantages also led to its selection by Dr. John McLoughlin as the site of a Hudson's Bay Company warehouse. It enabled the former Canadian-French employes of that Company, whom he had induced to settle at French Prairie, to deliver their wheat to the Company there. They could go to Champoeg with their heavy wooden carts, having log wheels, without cutting a road through a heavy belt of timber and digging out the stumps.

Mr. Matthieu, although nearly ninety-two years old, and almost blind, is still in good bodily health for a man of his age and retains his mental faculties, including a remarkable and accurate memory.

I trust I may be pardoned the digression in giving Mr. Matthieu's account of the voting on the formation of the Provisional Government, May 2, 1843. In my interview I asked him to tell me about the matter. He told in substance the following facts: When the result of the *viva voce* vote was

uncertain, and a division was called for, Joseph Meek called on all who desired to establish a provisional government to line up with him. There were fifty persons all Americans [citizens of the United States], including Meek, standing for the affirmative. There were fifty-one standing for the negative, all "Hudson's Bay men", as Mr. Matthieu called them, i. e. French-Canadians, almost all former employes of the Hudson's Bay Company, who had settled in the Willamette Valley, Mr. Matthieu not being of the latter class. He stood at first with the Hudson's Bay men in an endeavor to have one or more of them join with the Americans in the vote. Mr. Matthieu said that his experience with British rule in Canada had made him in favor of government by the United States. Mr. Matthieu, during the winter of 1842-3, had lived with Etienne Lucier at the latter's place on French Prairie. Lucier was the first settler in the Willamette Valley, having located on French Prairie about the year 1829. During the winter Matthieu had had many conversations on the subject with Lucier. When the other French-Canadians refused to join the Americans, Matthieu went to the American line-up and Lucier followed him and thus the vote was made fifty-two for the establishment of the Provisional Government to fifty against.

After I wrote out this interview I read it to Mr. Matthieu, when he made a few corrections, and as thus corrected I here set it forth.

Champooick County as existing September 3, 1849, was named Marion County by an Act of that day, passed by the Territorial Legislature. (Local Laws of 1850-1, page 53). For present boundaries see Marion County.

CLATSOP DISTRICT.

Clatsop District was created by the Provisional Legislature by an Act passed June 22, 1844. It comprised parts of the northern and western portions of Twality District. After a

long and careful search I have not found the original Act creating this County. I found, in the Journal of the Provisional Legislature, under date of June 22, 1844, that the Act creating Clatsop District was passed that day. ("Oregon Archives," page 43). December 19, 1845, there was approved an Act of the Provisional Legislature defining the line dividing Clatsop and Twality Districts. This Act provides: "That the line dividing Clatsop and Twality districts shall commence in the middle of the main channel of the Columbia river, at Oak Point mountain on said river; thence south to a supposed line dividing Yamhill and Twality districts; thence west along said line to the Pacific Ocean; thence north along said line to the mouth of the Columbia river; thence up the middle of the main channel to the place of beginning." (General and Special Laws of 1843-9, page 36.)

The Act of June 27, 1844, which I have already quoted from, cutting off all parts of Districts north of the Columbia River, passed five days after the Act creating Clatsop District, so it probably became necessary to again define its boundaries. By the Act of December 19, 1845, Clatsop District became all of the northern portion of Twality District, south of the Columbia River, and all of the western portion of Twality District, including what is now Tillamook County.

Its name is that of a small Indian tribe whose habitat was south of the mouth of the Columbia River and near the adjacent shore of the Pacific Ocean. This tribe is mentioned many times in the Journals of Lewis and Clark. Their winter quarters, on Lewis and Clark River, in 1805-6, was named Fort Clatsop by Lewis and Clark.

In the "Original Journals" of Lewis and Clark it is spelled in several ways: *Clatsop*, Vol. 3, pages 241, 258, 311, 312, 313, 317 and numerous other places; *Clat-sop*, Vol. 3, pages 258, 282; Vol. 4, page 278; Vol. 6, page 117; *Clap-sott*, Vol. 3, page 238; *Clot-sop*, Vol. 3, pages 244, 294.

Patrick Gass was a sergeant in the Lewis and Clark expedition. He kept a Journal, which was published in Pittsburgh,

Pennsylvania, in 1807. It was the first publication of an authoritative book concerning the expedition. The first edition of the "History" of the Lewis and Clark expedition was published in Philadelphia in 1814. All prior books, purporting to be by them are spurious. I have a copy of the Gass "Journal" re-printed in London in 1808. I quote from the latter volume. On page 244, under date of November 23, 1805, he spells the name *Clat-sop*. He spells it *Clatsop* on pages 257, 261, 274 and 276.

In Coues' Henry and Thompson's "Journals" the name is spelled *Clatsop*, only, in numerous places in volume 2 from pages 756 to 815, inclusive.

Gabriel Franchere, a Canadian-Frenchman, was one of the clerks of the Astor expedition which came around Cape Horn on the ship *Tonquin* and founded Astoria, April 12, 1811. He declined to enter into the employ of the Northwest Company when the Astor establishment was treacherously sold to the latter Company in October, 1813, by Duncan McDougal, a partner of John Jacob Astor. Franchere returned overland to Montreal in 1814, arriving there September first. He kept a private Journal which was written in French. This "Journal" was published in French, at Montreal, in 1820. Its title is "Relation d'un Voyage a la Cote du Nord-Ouest de l' Amerique Septentrionable". On page 86 of this book the name of this Indian tribe is spelled *Clatsoppe*.

The name is spelled in several ways in early books and letters relating to Oregon: *Clatsop*, by Alexander Ross, who came to Astoria with the original Astor expedition, in 1811, in his book "Adventures of the First Settlers on the Oregon or Columbia River" (1849), page 87; *Clatsop*, by Ross Cox, who came to Astoria in 1812 on the *Beaver*, in his book "Adventures on the Columbia River" (1831), page 116; *Clatsop*, in Wyeth's "Journal" of his first expedition, page 177; *Klatsap*, in Townsend's "Narrative," page 175; *Clatsap*, by Sir Edward Belcher, whose expedition visited the Columbia River in 1839, in his "Narrative" (1843), page 307; *Clatsop* in Com. Wilkes' "Nar-

rative," Vol. 4, pages 322; in Gustavus Hines' "Oregon," page 195; and in Farnham's "Travels" (1843), page 273. In Rev. P. J. De Smet's "Letters and Sketches" (1843), in a letter dated September 28, 1841, he spells the name *Klatraps*, page 231, but in a letter dated August 15, 1842, he spells it *Classop*, page 220. In Dunn's "History of the Oregon Territory" (second edition, 1843), page 114, the name is spelled *Clotso*p. Dunn came to Oregon in 1830 from England as an employe of the Hudson's Bay Company. He stayed with the Company for eight years, when he returned to England. For some time he was in charge of Fort George, now Astoria. The first edition of his book was published in London in 1844.

I have a very rare book, printed in French, published in Brussels, in 1847, entitled "Notice sur le Territoire et sur la Mission de l'Oregon." It contains 180 pages, of which 65 are taken up by a preface, evidently written by a Catholic priest, living in Oregon, and 105 pages made up of copies of letters by Sisters of Notre Dame de Namur, written in the years 1844-6, excepting one short letter written by Rev. Modeste Demers. January 9, 1844, Rev. P. J. De Smet, S. J., left Belgium on the Bark L'Indefatigable for Oregon with four Catholic priests, a lay brother, and six Sisters of Notre Dame de Namur, all missionaries to Oregon. They arrived at Astoria July 31, 1844. October 19, 1844, these sisters opened a school for girls in a house built for that purpose at St. Paul on the French Prairie, between Salem and Champoege in Marion County. In a letter dated at Sainte-Marie-de-Wallamette (the name of their mission school at St. Paul), November 15, 1844, written to Mother Constantine by Sister Loyola, telling of their arrival and the establishment of their school, and printed in this book, she writes that at Astoria the Chief of the *Clapsapes* brought them some salmon, and she also writes of the Indians there as *Clapsapes* (page 106). In the preface of this book, page 33, the name of the Indians at Astoria is spelled *Tlatsaps*.

Solomon Howard Smith, came to Oregon as one of Na-

thaniel J. Wyeth's party, in 1832, and settled on Clatsop Plains. In his biography, published in the "Transactions of the Oregon Pioneer Association" for 1887, page 85, the name is spelled *Tschlahtsoptschs*. As Smith's wife was Celiast, daughter of Kobaway, the Chief of that tribe, this spelling undoubtedly gives the name as nearly correctly as it can be spelled.

Clatsop County is now bounded: on the north by the Columbia River; on the east by Columbia County; on the south by Tillamook County; and on the west by the Pacific Ocean. Its county seat is now, and has been always, Astoria.

POLK DISTRICT OR COUNTY.

Polk District was created December 22, 1845, by the Provisional Legislature. (General and Special Laws of 1843-9, page 38). It comprised all that portion of the original Yamhill District, south of the south line of the latter District, as established by the Act of December 19, 1845, to the California line. Before Benton County was created, December 23, 1847, the south line of Polk County had been re-established, presumably at or near its present location. After a careful search I have been unable to find any description of the latter south line, in the "Oregon Archives," in the General and Special Laws of 1843-9, or elsewhere.

This County is named for James K. Polk, then President of the United States.

Col. J. W. Nesmith, in the "Occasional Address," delivered by him, before the Oregon Pioneer Association, June 15, 1875, told of being a member of the Provisional Legislature in 1847, of which Dr. Robert Newell was the presiding officer, called "The Speaker". Col. Nesmith said he was not then well learned in parliamentary law, but he found a copy of Jefferson's "Manual," which he had never heard of before, but he studied it and learned there was such a thing in parliamentary usage as "the previous question." The Provisional Legislature consisted of one house. It held its meetings in

the old Methodist Church at Oregon City. Near the Church Barton Lee had constructed a ten-pin alley, which was frequented by members of the legislature, for various purposes "including *refreshment* from their legislative toils". Col. Nesmith then said:

"I had a bill then pending to cut off the southern end of Yamhill, [County] and to establish Polk County, which measure had violent opposition in the body. One morning while most of the opponents of my bill were amusing themselves at 'horse billiards' in Lee's ten-pin alley, I called up my bill, and, after making the best argument I could in its favor, I concluded with: 'and now, Mr. Speaker, upon this bill I move the previous question'. Newell looked confused, and I was satisfied that he had no conception of what I meant; but he rallied, and, looking wise and severe (I have since seen presiding officers in Washington do the same thing), said: 'Sit down, sir! Resume your seat! Do you intend to trifle with the Chair! when you know that we passed the previous question two weeks ago? It was the first thing we done!' I got a vote, however, before the return of the 'horse billiard' players, and Polk County has a legal existence today, notwithstanding the adverse ruling upon a question of parliamentary usage." ("Transactions of Oregon Pioneer Association" for 1875, page 59).

Col. Nesmith was in error in saying the bill passed was for the establishment of Polk County. That bill passed the Provisional Legislature December 19, 1845, ("Oregon Archives," page 151) and was approved by Governor George Abernethy December 22, 1845, (General and Special Laws of 1843-9, page 38). Col. Nesmith was not a member of the Provisional Legislature until 1847. That session was held at Oregon City, beginning December 7, 1847. Col. Nesmith was a member from Polk County. ("Oregon Archives," page 221). The bill he referred to must have been the bill, which I have been unable to find, entitled "An Act to define the boundaries of

Polk County" which was passed by the Provisional Legislature December 20, 1847 ("Oregon Archives," page 237).

Polk County is now bounded: on the north by Yamhill County; on the east by the Willamette River, its common boundary with Marion County; on the south by Benton County, and a small portion of Lincoln County; and on the west by a portion of Lincoln County and a small portion of Tillamook County. Its county seat is Dallas.

As I have said, by an Act of the Provisional Legislature, approved December 22, 1845, the name District was changed to County. Thereafter all former Districts were called Counties. This Act was approved the same day the Act creating Polk District was approved.

BENTON COUNTY.

Benton County was created December 23, 1847, by the Provisional Legislature. (General and Special Laws of 1843-9, page 50.) It comprised the southern portion of the original Yamhill District out of which Polk District had been created. Benton County, at the time of its creation, was all of the original Polk District from the re-established southern line of Polk County to the California north line. Prior to the creation of Umpqua County, January 24, 1851, a new southern line of Benton County was established by an Act of the Territorial Legislature passed January 15, 1851. The description of this line in Section 1 of said Act is as follows:

"The southern boundary of Benton [County] shall be located as follows: commencing in the middle of the channel of the Wallamet River, at a point where a line, running west, will pass three miles south of the ford on Long Tom [River] (near Roland Hinton's field), and running due west to the Pacific Ocean." (Local Laws of 1850-1, page 34).

It is named for Senator Thomas H. Benton, of Missouri, who, for many years, had been a strong advocate for Oregon.

Benton County is now bounded: on the north by Polk

County; on the east by the Willamette River, its common boundary with Linn County; on the south by Lane County; and on the west by Lincoln County. Its county seat is Corvallis, originally named Marysville.

LINN COUNTY.

Linn County was created December 28, 1847, by the Provisional Legislature. (General and Special Laws of 1843-9, page 55). It comprised all that portion of the original Champooick District south of a line commencing in the middle of the channel of the Willamette River, opposite the mouth of the Santiam River, thence up the latter river to its north fork, thence up said north fork to the Cascade Mountains, thence due east to the summit of the Rocky Mountains. Its original southern boundary was a part of what are now the California and Nevada north lines.

By an Act of the Territorial Legislature, passed January 4, 1851, a new southern line of Linn County was established. The description of this line in Section 1 of said Act is as follows:

"The south line of Linn County shall commence as follows: Commencing at west point, lying south of William Vaughn's claim, and running a westerly course to a point of the Wallamet River, at a distance of eight miles below Jacob Spoor's, [Spore's], then at the place of beginning, due east to the Rocky Mountains." (Local Laws of 1850-1, page 33).

It is named for Senator Lewis F. Linn, of Missouri, a great friend of Oregon, and the originator of the Oregon donation land law.

Linn County is now bounded: on the north by the Santiam River and Marion County; on the east by Crook County; on the south by Lane County; and on the west by the Willamette River, its common boundary with Benton County. Its county seat is Albany.

WASHINGTON COUNTY.

The name of Twality County was changed to Washington by the first Territorial Legislature by an Act passed September 3, 1849. It was only after a long and tedious search that I was able to find this Act. After going through, page by page, the Journals of the House of Representatives and Council for the session of the Legislature begun and held at Oregon City, July 16, 1849, and also the compilation of the laws of that session, I was unable to find that this Act passed both Houses, or to find the Act itself. I did find that the Act had passed the Council. The Local Laws for the session of 1850-1 has no index and I went through this book, page by page, and was rewarded by finding on pages 53 and 54 the three Acts, each passed by the Territorial Legislature September 3, 1849, changing the names of the Counties of Twality, Champooick and Vancouver. One of said Acts provides: "That the name of the county commonly called 'Faulitz' or 'Falatine' be and the same is changed to Washington." (Local Laws of 1850-1, page 54).

Of course this County is named for George Washington.

Washington County is now bounded: on the north by Columbia County; on the east by Multnomah County and portions of Columbia and Clackamas Counties; on the south by Yamhill County, a small portion of Clackamas County, and a very small portion of Tillamook County; and on the west by Tillamook County. Its county seat is Hillsboro.

Hillsboro is situated on the Donation Land Claim of David Hill, and was named for him. David Hill was a member of the Executive Committee of three of the Provisional Government elected by the people on July 5, 1843, to serve one year, the other two being Alanson Beers and Joseph Gale, who were practically the first governors of Oregon. The name of the town has been Hillsboro ever since it was platted. Prior to the time it was platted it was apparently called Columbus. In a letter now in the possession of the Oregon Historical Society,

dated January 6, 1850, written by David Hill to S. R. Thurston, then delegate to Congress from Oregon, Mr. Hill wrote: "The name of our county has been changed to Washington and the county seat is located at Columbus, the north-east corner of my claim."

MARION COUNTY.

September 3, 1849, the Territorial Legislature changed the name of Champooick County (which had come to be spelled "Champoeg") to Marion. The Act provides:

"That the name of the County of Champoeg be, and the same is hereby changed to Marion". (Local Laws of 1850-1, page 53). This County then comprised all that part of Oregon bounded on the north by Clackamas County, on the east by the Rocky Mountains, on the south by Linn County, and on the west by the Willamette River.

This change of name was made in honor of General Francis Marion of the American Revolutionary war. The Weems-Horry life of Marion was then largely read in Oregon and other frontier settlements. The praise of Marion in this book greatly appealed to these people.

Marion County is now bounded: on the north by Clackamas County and the Willamette River, the latter being its common northern boundary with Yamhill County; on the east by portions of Crook and Wasco counties; on the south by Linn County; and on the west by the Willamette River, its common boundary with Polk and Yamhill Counties. Its county seat is Salem, the capital of the State.

LANE COUNTY.

Lane County was created January 28, 1851, by the Territorial Legislature. (Local Laws of 1850-1, page 32). It comprised "all that portion of Oregon Territory lying south of Linn County and south of so much of Benton County as is east of Umpqua County". Its eastern boundary, presumably,

was the Rocky Mountains. December 22, 1853, the Territorial Legislature passed an Act to define the southern boundary of Lane County. It is there defined as follows: "Commencing on the Pacific Coast, at the mouth of the Siuslaw, [River] on south bank, thence following up the south bank of said stream, to a point fifteen miles west of the main traveled road, known by the name of the Applegate road, thence southerly to the summitt of the Calapooya mountains, thence eastward, along the summit of said mountains to the summit of the Cascade range." (Special Laws of 1853-4, page 13).

Lane County is named for Joseph Lane, the first Territorial Governor of Oregon, who had been a distinguished Brigadier-General in the Mexican war. He was a Territorial Delegate to Congress from Oregon, and one of its first United States Senators. He was a candidate for Vice-President, with John C. Breckenridge, for President, in 1860. He also took a prominent part, and was the head of the Oregon Volunteer forces in the Rogue River Indian war of 1853.

Lane County is now bounded: on the north by Linn, Benton and Lincoln Counties; on the east by portions of Crook and Klamath Counties; on the south by Douglas County; and on the west by the Pacific Ocean. Its county seat is Eugene.

DOUGLAS COUNTY.

January 24, 1851, the Territorial Legislature created Umpqua County. (Local Laws of 1850-1, page 33). Umpqua is the name of a river which flowed through that county and also of an Indian tribe, whose habitat was near that river. It comprised: "All that portion of Oregon Territory lying within the following boundaries: Beginning at the southwest corner of Benton County, and running due east along the south line of Benton County to the dividing ridge of the Calapooiah mountains, thence along the ridge of the said Calapooiah mountains, to the source of the main fork of the Calapooiah creek, thence down said creek to its mouth, thence due west to

the Pacific ocean, and thence along the Coast to the place of beginning”.

Douglas County was created January 7, 1852, by the Territorial Legislature, out of the eastern portion of Umpqua County. (Local Laws of 1851-2, page 18). It comprised all that portion of Umpqua County lying east of the Coast Range. A portion of Umpqua County was given to Coos County when the latter was created, December 22, 1853. October 16, 1862, what was left of Umpqua County was added to Douglas County (General Laws of 1862, page 59) and Umpqua County ceased to exist.

Douglas County is named for the distinguished Stephen A. Douglas.

Douglas County is now bounded: on the north by Lane County; on the east by Klamath County; on the south by Jackson and Josephine Counties; and on the west by Coos County and the Pacific Ocean. Its county seat is Roseburg.

JACKSON COUNTY.

Jackson County was created January 12, 1852, by the Territorial Legislature. (Local Laws of 1851-2, page 19). It comprised all of Oregon south of Umpqua County to the California line and west of the Cascade Mountains to the Pacific Ocean.

It is named for the great Andrew Jackson.

Jackson County is now bounded: on the north by Douglas County; on the east by Klamath County; on the south by the State of California; and on the west by Josephine County. Its county seat is Jacksonville.

On or near the common boundary line of Jackson and Klamath Counties, is situated the beautiful snow-covered mountain named Mount McLoughlin. It was named for Dr. John McLoughlin, by early residents of Oregon prior to the year 1838. It is so designated on a number of early maps of Oregon. Its name was officially declared to be Mount

McLoughlin by House Concurrent Resolution No. 27, which passed both Houses of the Oregon Legislature in February, 1905 (House Journal, page 916; Senate Journal, page 789). This is the mountain called "Mount Pitt" by the ignorant.

TILLAMOOK COUNTY.

Tillamook County was created December 15, 1853, by the Territorial Legislature. (Special Laws of 1853-4, page 6). It comprised parts of the western portions of Yamhill and Clatsop Counties and, possibly, of Polk County.

As an instance of how loosely the boundary lines of counties were described in Acts of the Legislature, in early days, the following is the description of the boundaries of Tillamook County as given in the legislative Act creating that County:

"All that portion of Yamhill and Clatsop Counties, embraced within the following boundaries, towit: Commencing at a range of hills near the Pacific ocean, north of the Nehalem river, known as Saddle mountain, thence east following the summit of said range of hills to the summit of the coast range of mountains, thence south following the summit of said coast range of mountains, to the southern boundary of Polk County, thence due west to the Pacific ocean, thence along the sea shore to the place of beginning".

Possibly instead of the southern, the *northern* boundary of Polk County was intended, for the latter is the southern boundary of Yamhill County, and Polk County is not otherwise mentioned as having a portion of it included in Tillamook County.

Its name is derived from a small tribe of Indians, whose habitat was near and south of Tillamook Head. In the "Original Journals" of Lewis and Clark the name is spelled *Kilamox* and *Killamuck*, Vol. 4, pages 12, 49, and 183; Vol. 6, pages 71 and 117. In Patrick Gass' "Journal," (London edition, 1808), page 260, he spells it *Callemieux* and, page 274, *Cal-a-mex*. In Coues' Henry and Thompson's "Journals," Vol. 2, page 858,

it is spelled *Callemex*. In other early books on Oregon it is spelled in different ways: *Killimux*, in Ross' "Adventures," page 87; *Kallamook*, in Slacum's "Report," page 42, House Rep. 101, 25th Congress, 3d. Session; *Killemook*, in Townsend's "Narrative," page 175; *Kilemook*, in Lee and Frost's "Ten Years in Oregon," page 307; *Killamuck*, in Hastings' "Description," page 60; *Killamook*, in Warre and Vavasour's "Census" as printed in Martin's "Hudson's Bay Territories"; and *Kilamook*, as printed in Schafer's article in Oregon Historical Quarterly, March, 1909, page 61; *Killimous*, in Duflot de Mofras' "Exploration," Vol. 2, page 335; *Kilamook*, in Palmer's "Journal," page 105; and *Killamuke*, in Wilkes' "Western America", page 88, quoting from Hale.

In Hall J. Kelley's book or pamphlet of eighty pages, "A Geographical Sketch of that part of North American called Oregon", published in 1830, on page 40, it is said: "*Killamuck* river is one hundred yards wide, has no falls, and no difficult rapids. It opens into Killamuck bay, ten miles South of the creek of the same name, and forms a communication, for a considerable Indian trade, with the Multnomah valley; there being a short portage from the head of this river to the Multnomah".

In House Report 101, ordered to be printed February 16, 1839, is bound a finely engraved map, showing what is called the "Territory of Oregon". It was "compiled in United States Bureau of Topographical Engineers from the latest authorities under the direction of Col. J. J. Abert by Wash. Hood, 1838". On this map the name of Tillamook River is spelled *Killimoux*. On this map the Rocky Mountains are called "Rocky or Oregon" Mountains.

Lieut. Neil M. Howison, U. S. N., came to Oregon in July, 1846, in command of the United States Naval schooner *Shark*. October 10, 1846, his vessel was wrecked, and became a total loss, on South Spit, near the Columbia River bar. A portion of the hull, with three carronades attached to it, was found by Midshipman Simes on the beach below Tillamook Head. He

succeeded in getting one of these carronades ashore above high-water mark. From this circumstance that beach is still called "Cannon Beach". In his Report, dated February 1, 1847, House Miscellaneous Report No. 29, 30th Congress, 1st Session, ordered to be printed February 28, 1848, Lieut. Howison mentions Tillamook Head as "Killimuk's Head".

A. N. Armstrong, for several years a government surveyor in Oregon, published a book entitled "Oregon", in 1857. In this book, page 74, he calls the bay, *Tillamook*. On page 101 he calls the Indians "Tillamooks (or Killamooks)". These are the earliest mentions I have found in early books on Oregon of the name Tillamook.

I have been unable to ascertain when the name was changed to begin with a "T" instead of a "K". Judging from the date of books, mentioning the name, it was about or at the time the County was created.

Tillamook County is now bounded: on the north by Clatsop County; on the east by Washington and Yamhill Counties, and by a small portion of Columbia County; on the south by Lincoln County; and on the west by the Pacific Ocean. Its county seat is Tillamook.

COOS COUNTY.

Coos County was created December 22, 1853, by the Territorial Legislature. (Special Laws of 1853-4, page 13). It comprised parts of the western portions of Umpqua and Jackson Counties, and south of the Umpqua River. Its western boundary was the Pacific Ocean.

Its name is derived from a tribe of Indians of the Kusan family, whose principal habitat was at what is now called Coos Bay, in that County. The name of the tribe and of the Bay was the same. In Lewis and Clark's "Journals" the name is spelled *Cook-koo-oose*, ("Original Journals," Vol. 6, page 117). This name they obtained from the Clatsop Indians.

In Slacum's Report (1837) he gives the name of Coos River as *Cowis*. In Wilkes' "Western America," page 73, he spells

the name of the river *Cowes*, and on page 101, quoting from Hale, he called the Indians *Kaus* and says they are "on a small river called by their name, between the Umpqua and Klamet" [Rivers].

In Armstrong's "Oregon," pages 68-70, he says the name of the Bay is *Kowes*, but that it is usually written *Coose*, and he quotes from a letter by C. Clark, dated Empire City, April 23, 1855, in which the name of the Bay is spelled *Coose*. On page 116 he writes of the "Kouse Indians."

Coos County is now bounded: on the north and east by Douglas County; on the south by Curry County; and on the west by the Pacific Ocean. Its county seat is Coquille.

WASCO COUNTY.

Wasco County was created January 11, 1854, by the Territorial Legislature. (Special Laws of 1853-4, page 26). It comprised all of Eastern Oregon, that is, all that part of Oregon Territory east of the Cascade Mountains, from the Columbia River to the north lines of California and Nevada.

It is the name of a small tribe of Indians, who lived at a place which is now Dalles City, but colloquially called "The Dalles," although it is several miles from them. This tribe seems to have had more of a local habitation than a name. The name is not mentioned by Lewis and Clark, nor by Henry, nor Thompson, nor by many of the authors of early books on Oregon. This is probably because these Indians were few in number, and a miserable lot. Most of the early travellers passed by The Dalles in the fishing season when sometimes thousands of Indians, of various tribes, were congregated along the river, from the falls of the Columbia at Celilo, to a point where the Wasco Indians lived. The latter were therefore overlooked as a tribe. In Com. Charles Wilkes' "Narrative," under date of July 1, 1841 (Vol. 4, page 382), he says of these Indians, without giving their name: "There are only a few Indians residing near the mission during the winter, and

these are a very miserable set, who live in holes in the ground, not unlike a clay oven, in order to keep warm. They are too lazy to cut wood for their fires."

Rev. Daniel Lee says in his book, "Ten Years in Oregon," that he and Rev. H. K. W. Perkins went to The Dalles in March, 1838, to establish a mission there. He made his home there for more than two years. While he gives the names of other Indian tribes, he refers to the local Indians at the mission only as "the Dalls Indians." Dr. Elijah White, on page 192 of his book, "Ten Years in Oregon," says that on December 25, 1843, he reached *Wascopum*, meaning the Methodist mission at The Dalles. Rev. Gustavus Hines in his book, "Oregon," says of these Indians, under date of May 5, 1843 (page 159): "They are known by the name of the Wasco Indians, and they call their country round the Dalls, Wascopam," but on page 143 he calls them the *Wascopam* Indians, and, on page 151, he says they belong to the *Wascopam* tribe.

De Saint-Amant, an Envoy of the French Government, made a trip to Oregon in 1851-2. His book, "Voyages en Californie et dans Oregon," was published in Paris in 1854. On page 241, in enumerating Indian tribes east of the Cascade Mountains, he mentions the *Wascos*, and, on page 282, he writes of arriving at the mission of the *Wascos*.

In 1852 there was published at Portland by S. J. McCormick an anonymous dictionary of the Chinook jargon. A copy of the second edition, published in 1853, is in the possession of the Oregon Historical Society. On page 14, in an enumeration of Indians the *Wascos* are mentioned. In Armstrong's "Oregon," page 111, he writes of these Indians as *the Dalles tribe*.

Elizabeth Laughlin Lord, wife of Wentworth Lord, Esq., of Dalles City, wrote a very interesting book entitled "Reminiscences of Eastern Oregon." It was published in Portland in 1903. She came to what is now Dalles City with her father and mother in the immigration of 1850. The only place she mentions the name of the *Wasco* Indians is on page

142, where she says: "In June, 1855, a treaty was held out on Three Mile [Creek] by General Joel Palmer with the Wasco, Deschutes and John Day Indians."

On page 16 of the preface to "Notice sur le Territoire et sur la Mission de l'Oregon," what is now called The Dalles is called "*les Grande Dalles ou Wascopom.*"

Concerning the meaning of the word *dalles*, Rev. P. J. De Smet, S. J., in a letter to the Father Provincial, dated at St. Paul's Station, near Colville, May 29, 1846, wrote: "Dalle is an old French word, meaning a trough, and the name is given by the Canadian Voyageurs to all contracted running waters, hemmed in by walls of rock" (De Smet's "Oregon Missions," page 214). J. G. Swan in his "Three Years' Residence in Washington Territory" (1857), page 123, speaks of his visit to The Dalles and says that the word *dalles* is "a corruption of the French d'allier, a term, as I am informed, applied by the Canadian French to the raceway of a mill, which this part of the river resembles. The Dalles are rapids formed by the passage of the water between vast masses of rock."

Wasco County is now bounded: on the north by the Columbia River; on the east by the Deschutes River, Sherman County, and John Day River, the latter being the boundary between Wasco County and Wheeler County; on the south by Crook County; and on the west by Hood River County and portions of Clackamas and Marion Counties. Its county seat is Dalles City.

COLUMBIA COUNTY.

Columbia County was created January 16, 1854, by the Territorial Legislature. (Special Laws of 1853-4, page 32). It comprised the northeast part of Washington [Twality] County as it was after Clatsop County had been created.

It is named for the Columbia River, which is its eastern and northern boundary.

Columbia County is now bounded: on the north and east by the Columbia River; on the south by Multnomah and

Washington Counties; and on the west by Clatsop County and a small portion of Tillamook County. Its county seat is St. Helens.

MULTNOMAH COUNTY.

Multnomah County was created December 22, 1854, by the Territorial Legislature. (Special Laws of 1854-5, page 29). It comprises a part of the eastern portion of Washington County and a part of the northern portion of Clackamas County. It is the smallest, but the most populous and wealthy County in Oregon.

Its name is the Indian name of the Willamette River from the falls, at Oregon City, to its mouth. It was also the name of a tribe of Indians whose principal habitat was at the upper end of Wappatoo (now Sauvie's) Island, near the mouth of the Columbia River. *Multnomah* was not the name of a Chief nor of any one Indian, but it may have been used as a nickname. In the "Original Journals" of Lewis and Clark the name of the tribe and of the lower Willamette is spelled *Mulknomau*, Vol. 3, page 198; *Mult-no-mah* and *Multnomah*, Vol. 4, pages 221, 233, 242, and Vol. 6, page 116; Volume 4, page 241, the name is spelled *Multnomar*. It is also spelled in several ways in early books on Oregon: *Multnaba*, by Franchere in his "Relation," page 84, under date of May 6, 1811; *Moltnoma*, by Ross in his "Adventures," page 87; *Multonomah*, by Wyeth, in the "Journal" of his first expedition, page 178, under date of November 29, 1832; *Multnomah*, by Townsend, in his "Narrative," page 175; *Multnomah*, by Parker in his "Journal," page 141. On the same page, under date of October 17, 1835, Parker writes of the island, which he calls Wappatoo [Sauvie's], and says: "It was upon this island the Multnomah Indians formerly resided, but they have become, as a tribe, extinct." The name is also spelled: *Multonomah*, by Peter H. Burnett, Appendix of George Wilkes' "History of Oregon," page 98; and *Multinoma*, in Palmer's "Journal," page 87. Sir George Simpson, Governor-in-Chief of the Hudson's Bay

Company, was at Fort Vancouver, in 1841, on his trip around the world. His book, "Narrative of a Journey Round the World," in two volumes, was published in 1847. On page 174 of Volume 1, he gives the name *Multonomah* as being the name of the island now called Sauvie's. The name is spelled *Multonomah* in Slacum's "Report," (1835), and in Hall J. Kelley's "Memoir" (1839).

In De Saint-Amant's "Voyages" he also spells the name *Multonomah*, and, on page 153, he gives it as the original name of the Willamette River. On pages 153, 368, and 372 he says it is the name of the island [now called Sauvie's Island]. On page 327 he writes of the *Multonomah* tribe of Indians.

I have the Second Edition, published in Paris in 1863, of "Six Ans en Amerique, Californie et Oregon," a book written by Abbe L. Rossi, a Catholic Missionary. He left Brussels in July, 1856, and returned to the same place in November, 1862. In December, 1856, he arrived at Vancouver, Washington, from San Francisco. On page 59 he gives the name of Sauvie's Island as *Multonamah*.

The text of Coues' edition of the "History" of the Lewis and Clark Expedition is that of what is called the "Biddle edition" (sometimes called the "Paul Allen" edition). It was published in 1814, and is the first authentic history of the expedition. The author of this book was Nicholas Biddle, whose work was edited by Paul Allen. In the preface of this edition Allen says that, in addition to the original Journals of Lewis and Clark, they "were carefully perused in conjunction with Captain Clark himself, who was able, from his own recollection of the journey . . . to supply a great mass of explanations." The following excerpts are taken from this edition, but they do not appear in this exact form, although to the same effect, in what I have called, in this address, the "Original Journals" of Lewis and Clark (Dodd, Mead and Company edition). Speaking of Wappatoo [Sauvie's] Island, it is said:

"The nations which inhabit this fertile neighborhood are

very numerous. Wappatoo Inlet [Willamette Slough] extends 300 yards wide, for ten or twelve miles to the south, as far as the hills, near which it receives the waters of a small creek [probably Scappoose Creek], whose sources are not far from those of the Killamuck River. On that creek reside the Clackstar nation, a numerous people of 1200 souls, who subsist on fish and wappatoo, and who trade by means of the Killamuck River with the nation of that name on the Seacoast. Lower down the Inlet, toward the Columbia, is the tribe called Cathlacumup. On the sluice which connects the Inlet with the Multnomah are the tribes Cathlanahquiah and Cathlacomatup; on Wappatoo Island, the tribes of Clannahminamun and Clahnaquah. Immediately opposite, near the Towahnahiooks [i. e., an Indian tribe living on the Cahwahnahiooks or Cathlapotle or Cathlapootle River, now called Lewis River] are the Quathlapotles; higher up on this side of the Columbia [north side] the Shotos. All these tribes, as well as the Cathlahaws, who live somewhat lower on the river, and have an old village on Deer Island, may be considered as parts of the great Multnomah nation, which has its principal residence on Wappatoo Island, near the mouth of the large river to which they give their name. . . . All the tribes in the neighborhood of Wappatoo Island we have considered as Multnomahs—not because they are in any degree subordinate to that nation, but as they all seem to regard the Multnomahs as most powerful. There is no distinguished chief, except the one at the head of the Multnomahs; and they are, moreover, linked by a similarity of dress, manners, and language, which, much more than the feeble restraints of Indian government, contribute to make one people. These circumstances also separate them from nations lower down the river.” (“Biddle edition,” Vol. 2, pages 226 and 227; “Coues’ edition,” Vol. 3, pages 931-933.) For comparison see “Original Journals,” Vol. 4, pages 216, 222, 238; Vol. 6, pages 116 and 117.

The aggregate number of Indians composing these tribes, as estimated by Lewis and Clark, was 5490, of which the

Multnomah tribe had 800. All these tribes were practically exterminated by the epidemics of 1829-32.

Daniel Williams Harmon was a partner in the Northwest Company. He left Montreal in 1800, in the employ of that Company, and did not return until 1819. From the autumn of 1811 until the spring of 1819 he was in charge of the Northwest Company's affairs in what was then called New Caledonia, in the northern interior of British Columbia. While Harmon did not keep a continuous journal, he made many entries in a book, of incidents occurring during the time he was in the Indian Country. These were published at Andover in 1820, under the title of "A Journal of Voyages and Travels in the Interior of North America." In the original edition of this book is a map of North America. On it is shown a river, called *Multnomah River*, rising at a lake, in what is now the State of Nevada, and flowing northwesterly into the Columbia at a point about where the Willamette flows into the Columbia.

In connection with *Multnomah River*, as set forth on the map in Harmon's book, I call attention to Report number 213 of the House of Representatives, dated May 15, 1826, of the 19th Congress, 1st Session, being a supplemental report of the Select Committee on the bill to authorize the establishment of a military post or posts within the Territory of the United States, on the Pacific Ocean, and to provide for the exploration of its Coasts and Waters. This Report sets forth some fictions as well as facts.

In this Report particular attention is called to the fact that the Committee "has obtained some interesting information respecting the geographical character of the Territory of the United States on the Pacific Ocean. This information was derived from Samuel Adams Ruddock, who, in the year 1821, performed a journey by land from the Council Bluffs to the mouth of the Columbia River. Ruddock was one of a trading party, which left the Council Bluffs after the 12th of May."

In this Report it is said that, after reaching *Lake Trinidad*,

Ruddock's party "then pursuing the same direction across the upper branches of the Rio Colorado of California, reached Lake Timpanagos, which is intersected by the 42d parallel of latitude, the boundary between the United States of America and the United States of Mexico. This lake is the principal source of the river Timpanagos, the *Multnomah* of Lewis and Clarke. They then followed the course of this river to its junction with the Columbia, and reached the mouth of the Columbia on the first day of August, completing the journey from the Council Bluffs in seventy-nine days.

"Many geographers have placed the Lake Timpanagos in latitude 40, but they have obviously confounded it with the Lake Theguayo, which extends from 39° 40', to 41°, and from which it is separated by a neck or peninsula; the two lakes approaching in one direction as near as 20 miles.

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 "The river Multnomah, the great Southern tributary of the Columbia, of which, heretofore, so little has been known, is represented as navigable for any vessels which can enter the Columbia, for a distance of one hundred and fifty miles from its junction with the Columbia, where it is obstructed by a rapid. At the distance of about seventy miles, it receives the Clatmus [Clackamas], a considerable river from the East, and, at the distance of the eighty miles, it receives the Callapoio, a large river, which has its sources near the ocean, and South of latitude 42.

"From its first rapid to the Lake Timpanagos, the distance is about three hundred and twenty-five miles, making the whole distance from that source to the Columbia, four hundred and seventy-five miles. Throughout the whole length it is represented as navigable for vessels of eight feet draught at certain seasons of the year, no rapid (and there are several), being worse than the rapid of the Ohio at Louisville.

"The other branches of the Multnomah or Timpanagos interlock with the branches of Lewis's river."

Ruddock was a good and circumstantial liar.

In Hall J. Kelley's "Geographical Sketch," published in 1830, there is a map of Oregon, showing the Multnomah River, substantially the same as on the map in Harmon's Journal, excepting a larger lake in Nevada, as its source, and showing more tributaries, especially near its source. None of these tributaries is named. On page 35, Kelley says: "Multnomah river receives its name, as do many others, from the Indians. Its origin is from the union of two branches: one springing from a spur of the Rocky Mountains, in lat. 41° N. The other issuing from Lake Timpanogos. It traverses about 500 miles through a country of extreme fertility, and empties itself into the Columbia, opposite Wappatoo island. The first part of the country through which it runs, is level and open; but the last, and much the greater part, is covered with the thickest and loftiest forests on the globe. This river is 500 yards wide, and furnishes five or six fathoms of water at its mouth. Excepting a sand bar, immediately at its entrance, it is free of all obstructions to navigation, 70 miles, to a place, where there are rapids, and considerable falls. This navigable section of the river furnishes a number of delightful islands, and widens into bays, where shipmasters from the ocean might find secure and commodious harbours. There are nine branches to the Multnomah. 1. Clackamus. 4. Callalipoewah. 8. Timpanogos."

Hall J. Kelley was a Boston school teacher who was an Oregon enthusiast. From the year 1815, for many years, he wrote and published pamphlets, some of which may be called books, on Oregon and its advantages. He came to Oregon, in 1834, from California, where he arrived, in 1833, by the way of Mexico. He stayed in Oregon several months and returned home by sailing vessel by way of Cape Horn. His "Geographical Sketch," which I have mentioned, is a mixture of information taken from early books and from that which he had obtained from other sources, but not from personal observation. In his description of the *Multnomah River* he evidently relied on House Report number 213, dated May 15,

1826, from which I have quoted. This book and map show how little was known of the geography of Oregon, especially west of the Cascade Mountains, in 1830, by persons not living in that part of Oregon.

In Hall J. Kelley's Memoir to Hon. Caleb Cushing, Chairman of the Committee on Foreign Affairs of the House of Representatives, dated January 31, 1839 (Appendix O, of House Rep. 101, February 16, 1839), Kelley makes a brief statement of his trip to Oregon in 1834, and gives a fairly accurate description of the Willamette River and says: "This river has been sometimes misnamed the 'Multonomah.'" (Page 55.) On page 61 he says: "The Multonomahs, who formerly occupied the Wappatoo islands, and the country around the mouth of the Wallamette, and who numbered 3,000 souls, are all dead, and their villages reduced to desolation."

One of the rarest books relating to Oregon is the "Narrative of Zenas Leonard," published at Clearfield, Pennsylvania, in 1839. Only three or four copies of the original edition are known to be in existence. A limited edition of it was reprinted, in 1904, by The Burrows Brothers Company of Cleveland, Ohio. I have a copy of this reprint. Leonard was one of a trapping party under command of Captains Gant and Blackwell, which left St. Louis, Missouri, in April, 1831. In September, 1832, the party arrived at the headwaters of the Willamette River, which Leonard calls "the Multenemough river." (Pages 123 and 124 of the Reprint). In the summer of 1833 Leonard joined the party of Capt. Bonneville (page 147 of the Reprint).

What was originally called Wappatoo Island, near the mouth of the Willamette and lying between the Columbia River and Willamette Slough, is now known as Sauvie's Island. Sauve, for whom it is named, was a French-Canadian employe of the Hudson's Bay Company, who lived on the Island. The earliest public mention of the change of its name from Wappatoo, I have found, is in the following act of the Provisional Legislature, passed August 15, 1845, and approved

August 19, 1845. It is entitled "An Act to locate a Road from Twalaty Plains to Sauves Island." Section 1 of this Act appoints Charles McKay, Robert Poe and John Flett "commissioners to lay out and establish a Territorial road to start from some point on the Twalaty Plains and in the road leading to Smiths Ferry on Yam Hill River to be settled on by said commissioners and terminate at Sauves Island." ("Manuscript copies of Laws of 1845," pages 17 and 18).

Multnomah County is now bounded: on the north by the Columbia River and a portion of Columbia County; on the east by Hood River County; on the south by Clackamas County; and on the west by Washington County. Its county seat is Portland.

CURRY COUNTY.

Curry County was created December 18, 1855, by the Territorial Legislature. (General Laws of 1855-6, page 49). It comprises a part of the southern portion of Coos County. It was bounded on the south by the California north line; on the west by the Pacific Ocean; and on the north and east "beginning at a point on the Pacific Coast at the mouth of New River, thence east to the dividing ridge of the waters of the Coquille river and Horse creek; thence following said divide which separates all of the waters of the Coquille river from those which discharge themselves directly into the ocean, until such ridge connects itself with the dividing ridge between the waters of the Coquille and Rogue rivers; thence east along said ridge or divide forming the eastern tributaries of John Mule creek; thence south to the parallel of 42 degs. north latitude."

It is named for George L. Curry, the last Territorial Governor of Oregon. It is the southwestern County of Oregon.

Curry County is now bounded: on the north by Coos County; on the east by Josephine County; on the south by the State of California; and on the west by the Pacific Ocean. Its county seat is Gold Beach.

JOSEPHINE COUNTY.

Josephine County was created January 22, 1856, by the Territorial Legislature. (General Laws of 1855-6, page 30). It comprised a part of the western portion of Jackson County.

It is named for Josephine Rollins, a daughter of an early miner in that part of Oregon.

Josephine County is now bounded: on the north by Douglas County; on the east by Jackson County; on the south by the California line; and on the west by Curry County. Its county seat is Grant's Pass.

BAKER COUNTY.

Baker County was created September 22, 1862, by the State Legislature. (General Laws of 1862, page 112). It comprised the eastern part of Wasco County, bounded on the north by the forty-sixth parallel of latitude, the boundary line there between Oregon and Washington, on the east by Snake River to the mouth of the Owyhee River, thence south to the boundary line between Oregon and Nevada, on the south by the latter line to the one hundred and eighteenth parallel of west longitude, and on the west by the latter longitude and the summit of the Blue Mountains.

It is named for Col. E. D. Baker, who was a brilliant orator. He came to Oregon from California in the spring of 1860 with the intention of being elected an United States Senator from Oregon. In this he was successful, being elected in the autumn of 1860. He was killed at the battle of Ball's Bluff, Virginia, October 21, 1861, while leading a spectacular but ill-advised charge against the Confederate forces.

Baker County is now bounded: on the north by Union and Wallowa Counties; on the east by Snake River, the boundary between Oregon and Idaho; on the south by Malheur County and a portion of Grant County; and on the west by Grant County. Its county seat is Baker City.

UMATILLA COUNTY.

Umatilla County was created September 27, 1862, by the State Legislature. (General Laws of 1862, page 91). It comprised a part of Wasco County east of the mouth of Willow Creek, south of the Columbia River and the north line of Oregon, west of the summit of the Blue Mountains, and north of the divide between the middle and south forks of John Day River. It was bounded on the west by the divide between the middle and south forks of John Day River, and the divide between the latter river and Willow Creek.

It derives its name from the river which flows through the county and empties into the Columbia.

The first mention of the name is in the "Original Journals" of Lewis and Clark, Vol. 4, page 327, under date of April 27, 1806, on their return trip east, up the Columbia River. It is there spelled *Youmalolam*. It is spelled in various ways in early books on Oregon: *Umataallow*, by Ross in his "Adventures," page 125, under date of August 11, 1811; *Otillah*, by Wyeth in the "Journal" of his first expedition, page 184, under date of February 14, 1833; *Utallah*, by Townsend in his "Narrative," page 151, under date of September 2, 1834; *Umatilla*, by Hastings in his "Description," page 39; *Umatillo*, by Palmer in his "Journal," page 58, under date of September 19, 1845; *Umatilla*, by Farnham in his "Travels in the Great Western Prairies," page 284. Gustavus Hines, in his "Oregon," page 163, under date of May 8, 1843, spells the name *Utilla*, while in his "Summary," page 322, he spells it *Unatilla*. Fedix in his book, "L'Oregon" (1846), page 48, spells the name *Umotella*. Hall J. Kelley, in his "Geographical Sketch," pages 27 and 37, adopts the name *Youmalolam* as given by Lewis and Clark. On the United States map of 1838, and on the British map of 1840 compiled by J. Arrow-smith, the name of the Umatilla River is spelled *Umataallow*. In the autumn of 1834, Captain Louis Eulalie de Bonneville, U. S. A., known as Captain Bonneville, was at the headwaters

of the Umatilla River. On page 206 of Volume 2 of "The Rocky Mountains," by Washington Irving, published in 1837, and being an account of the adventures of Captain Bonneville, the name of this river is spelled *Ottolais*. On the map in this volume the river is shown and spelled *Ottalais*. Medorem Crawford was an Oregon immigrant of 1842. In his manuscript Journal, kept by him on his journey across the plains, and published by the University of Oregon in 1897, he says that on September 20, 1842, the party "crossed the Unadilla" (page 21) meaning the Umatilla River.

It is popularly supposed that there is a tribe of Indians whose name is Umatilla. This is erroneous. This name, as applied to Indians, arises from the fact that Indians live on the Umatilla Indian Reservation and are therefore called *Umatillas*. The tribe, whose habitat was partly on the Umatilla River, is the *Cayuse*, a branch of the Shahaptian family. This family includes the Nez Perce, Walla Walla and other tribes. The Cayuse was a powerful but treacherous tribe in early Oregon days, with whom was fought the Cayuse War of 1847-8, caused by the Whitman massacre.

Umatilla County is now bounded: on the north by the Columbia River and the State of Washington; on the east by Union County; on the south by Grant County; and on the west by Morrow County. Its county seat is Pendleton.

GRANT COUNTY.

Grant County was created October 14, 1864, by the State Legislature. (Special Laws of 1864, page 43). It comprised parts of the eastern portion of Wasco County and of the southern portion of Umatilla County as those two Counties then were.

It is named for General U. S. Grant, who, at the time of its creation, was the most popular Union general in the Civil war.

Grant County is now bounded: on the north by Umatilla

County and portions of Morrow and Union Counties; on the east by Baker County and a small portion of Malheur County; on the South by Harney County; and on the west by portions of Wheeler County and Crook County. Its county seat is Canyon City.

UNION COUNTY.

Union County was created October 14, 1864, by the State Legislature (Special Laws of 1864, page 37). It comprised a part of the northern portion of Baker County.

Its name was given during the Civil War, when the word Union was popular and used as a name without particular regard to its fitness. The motto on the seal of the Territory of Oregon was "*Alis Volat Propriis*—she flies with her own wings. The motto on the seal of the State of Oregon, "*The Union*," was adopted June 2, 1859. As was said by Judge M. P. Deady, in a foot-note on page 627, of his compilation of the Laws of Oregon 1845-1864, "It is to be regretted that this seal [Territorial Seal] was not continued as the seal of the State, by simply substituting 'the State of Oregon' for 'the Territory of Oregon.' In design and propriety, it is in every way superior to the obscure and meaningless one of the State."

Union County is now triangular in shape, Wallowa County having been created out of the eastern portion of Union County. The apex is at the north, on the Washington State line. By an act of the State Legislature, approved February 18, 1899 (General Laws of 1899, page 169), there was annexed to Wallowa County "all that portion of Union County lying east of the summit of the Blue Mountains and north of what is known as Elbow Gulch." Where the forty-sixth parallel of latitude crosses the summit of the Blue Mountains was the beginning point of the original north line of Union County.

Union County is now bounded on the north by the Washington State line; on the east by Wallowa County; on the

south by portions of Baker and Grant Counties; and on the west by Umatilla County. Its county seat is La Grande.

LAKE COUNTY.

Lake County was created October 24, 1874, by the State Legislature (General Laws of 1874, page 38). It comprised the southern portion of Wasco County as the latter then was. It was bounded on the south by the California State line; on the west by Jackson, Douglas, and Lane Counties; on the north by the south line of township number twenty-two south of the Oregon Base line, the present south line of Crook County; and on the east by the east boundary of township number twenty-three east of the Willamette Meridian.

It derives its name by reason of the numerous lakes within its boundaries.

Lake County is now bounded: on the north by a portion of Crook County; on the east by a portion of Harney County; on the south by the California and Nevada State lines; and on the west by Klamath County. Its county seat is Lakeview.

KLAMATH COUNTY.

Klamath County was created October 17, 1882, by the State Legislature. (Special Laws of 1882, page 107). It comprises the western portion of Lake County as the latter was originally.

Its name is derived from Klamath Lakes. Upper Klamath Lake is in Klamath County. Lower Klamath Lake is partly in that county and partly in Siskiyou County, California. From the fact that the country around Upper Klamath Lake is the habitat of an Indian tribe it is usually called the *Klamath* tribe.

The name is spelled in various ways in early books on Oregon: *Clammat*, in Wyeth's Journal of his first expedition, page 181; *Clamath*, in Lee and Frost's "Ten Years in Oregon," page 177; *Klamac*, in Duflet de Mofras' "Exploration," Vol.

2, page 335; *Klamet*, in Appendix of George Wilkes' "History of Oregon," page 102; and *Clamet*, in Dr. Elijah White's "Ten Years in Oregon," page 259, and in Farnham's "Travels in California and Oregon" (1852), page 338. In Farnham's "Travels" (1843) at pages 246 and 247, the name is spelled *Klamet*. In many early books and reports on Oregon the name is spelled *Klamet*.

Capt. John C. Fremont, in his exploring expedition to Oregon and north California in 1843-4, went from The Dalles to California overland, east of the Cascade Mountains and by Upper Klamath Lake. In his report, dated March 1, 1845, he writes of this Lake and the Indians living near it, spelling the name *Tlamath*. On page 196 of this report, under date of November 18, 1843, he says: "The first of these points was the Tlamath lake, . . . from which lake a river of the same name makes its way westwardly direct to the ocean. This lake and river are often called Klamet, but I have chosen to write its name according to the Indian pronunciation."

Mr. T. C. Elliott, of Walla Walla, Washington, who has a copy of Peter Skene Ogden's Journal, has informed me that Ogden was at or near Klamath Lake in the autumn of 1826. In this Journal the name is spelled *Clamitte*. The Lake and Indians had been named or the name ascertained previous to Ogden's trip, presumably by Hudson's Bay Company's trappers, under Finan McDonald, who were there in 1825.

Report No. 31, House of Representatives, 27th Congress, 3rd Session, was ordered to be printed January 4, 1843. It is the report of the Committee on Military Affairs on the establishment of military posts from Council Bluffs to the Pacific Ocean. An Appendix of this Report (pages 56-61) consists of extracts from the Journal of Capt. Spalding, who was in command of the ship *Lausanne*, which brought to Oregon, in 1840, what is called "the great re-enforcement" to

the Oregon Methodist Missions. In this Journal Capt. Spalding calls these Indians, *Climath*.

In Wilkes' "Western America," pages 57 and 58, he calls the Klamath River "The Klamet or Tootootutna River." On page 101, quoting from Hale, he says: "On the lower part of the Klamet River are the Tototune, known by the unfavorable sobriquet of the Rogue or Rascal Indians," and also says that the name Klamet is probably "a term of Chinook origin." On the map in the Atlas of Wilkes' "Narrative" and on the map bound in Wilkes' "Western America," the Indian tribe near Klamath Lakes is designated as "Klamet or Lutuami."

In Volume 1, page 712 of "Handbook of Indian Tribes North of Mexico," being a report of the Bureau of Ethnology of the Smithsonian Institution, dated July 1, 1905, it is said of the Klamath Indians: "A Lutumanian tribe in S. W. Oregon. They call themselves Eukshikni or Auksni, 'people of the lake', referring to the fact that their principal seats were on Upper Klamath Lake."

Klamath County is now bounded on the north by portions of Crook and Lane Counties; on the east by Lake County; on the south by the California State line; and on the west by Jackson and Douglas Counties and a portion of Lane County. Its county seat is Klamath Falls.

CROOK COUNTY.

Crook County was created October 24, 1882, by the State Legislature. (Special Laws of 1882, page 178). It comprises a part of the southern portion of Wasco County, as the latter was after Lake County was created. Crook County's northern line begins at the western boundary line of Wasco County where it "is intersected by the line between townships eight and nine south." This northern line of Crook County runs east to the John Day River. The line then runs up the main channel of said river to the west line of Grant County. The rest of the east line of Crook County is the line then between

Grant and Wasco Counties. The southern line is the line then between Lake and Wasco Counties to the east line of Lane County. The western line is the line as it then was between Lane and Linn Counties, and Wasco County.

It is named for Major-General George Crook, U. S. A., who had command, at one time, of the Department of the Columbia. He was an officer who had greatly distinguished himself in the Civil war. After this war he won great fame by his successful campaigns against the Indians, in Idaho and Arizona, and later against the Sioux and Cheyennes. In every Indian campaign he was successful. After the Custer Massacre, June 26, 1876, Gen. Crook fought the Indians engaged in that massacre, inflicting a severe defeat on them in Dakota and completely reduced them to subjection. In 1882 he went to Arizona and carried on another successful campaign against the Indians. There never has been another Indian fighter more successful than Gen. Crook. He belonged to the class of "rough and ready" fighters of Indians. He was humane to the Indians in time of peace and was highly respected by them. Throughout the country, west of the Mississippi River, his fame is established for all time. It is fitting that a county of Oregon should be named for him.

Crook County is now bounded: on the north by Wasco County; on the east by portions of Wheeler, Grant, and Harney Counties; on the south by Lake County and a portion of Klamath County; and on the west by Linn, and portions of Lane and Marion Counties. Its county seat is Prineville.

MORROW COUNTY.

Morrow County was created February 16, 1885, by the State Legislature. (Special Laws of 1885, page 239). It comprises a part of the western portion of Umatilla County, as the latter then was.

It is named for Jackson L. Morrow, who is an old resident of what was created Morrow County. He was a member of the Oregon Legislature when the bill passed.

Morrow County is now bounded: on the north by the Columbia River; on the east by Umatilla County; on the south by portions of Grant and Wheeler Counties; and on the west by Gilliam County and a small portion of Wheeler County. Its county seat is Heppner.

GILLIAM COUNTY.

Gilliam County was created February 25, 1885, by the State Legislature. (Special Laws of 1885, page 404). It comprises the northeastern portion of Wasco County, as the latter then was, and a part of the western portion of Umatilla County, as the latter was prior to the creation of Morrow County, nine days previous to the creation of Gilliam County, the latter being west of Morrow County.

It is named for Colonel Cornelius Gilliam, an Oregon pioneer of 1844, who was accidentally killed at Wells Springs, March 20, 1848, while in command of the Oregon Volunteer forces in the Cayuse Indian war. This war was fought against the Indians wholly under the Oregon Provisional Government by Volunteers from the Willamette Valley. He was worthy of having an Oregon county named for him.

Gilliam County is now bounded: on the north by the Columbia River; on the east by Morrow County; on the south by Wheeler County and a very small portion of Morrow County; and on the west by the John Day River, the common boundary of Gilliam and Sherman Counties and a very small portion of Wasco County. The small portions of Morrow County on the south, and of Wasco County on the west is due to the south line of Gilliam County being one mile south of the First Standard Parallel south. Its county seat is Condon.

WALLOWA COUNTY.

Wallowa County was created February 11, 1887, by the State Legislature. (General Laws of 1887, page 142). It comprises a part of the eastern portion of the original Union County. It is the northeastern County of Oregon.

The name is that of the beautiful Wallowa Lake and its outlet, the Wallowa River.

The part of Oregon which comprises Wallowa County, in early days was isolated. It was far from the usually travelled route of early travellers, fur-traders, and immigrants. In October, 1805, and in May, 1806, the Lewis and Clark expedition was at the mouth of the Clearwater River, which Lewis and Clark called the *Kooskooskee*. Lewiston, Idaho, is situated at the junction of the Clearwater with the Snake River. Wallowa County is a short distance south of Lewiston. Lewis and Clark's expedition did not go into what is now Wallowa County.

In the winter of 1811-2, Wilson Price Hunt and his party *en route*, overland, to Astoria, attempted to descend the Snake River. They started in canoes, but they were compelled to abandon their canoes, and proceed down the banks of the river, some of the party being on the east side, the others on the west side of the Snake River. The whole party nearly perished from hunger and other hardships. December 24, 1811, the party left the Snake River and proceeded westward to the Columbia River, which they reached January 21, 1812, at a point not far south of the Walla Walla River. On the way from the Snake River to the Columbia, the exact route of the party is not described nor can it definitely be ascertained, but undoubtedly it was through what is now Wallowa County, probably south of Wallowa Lake. The only river or stream between the Snake River and the Columbia which is mentioned by name, except Walla Walla River, it is said "was called by the natives Eu-o-tal-la, or Umatalla." (Irving's "Astoria", Vol. 2, page 65).

In 1833 and 1834, Capt. Bonneville and his party were in what is now Wallowa County. He does not mention the name Wallowa. He does mention the Imnaha River, which he calls the Immahah, and the Way-lee-way which is the Nez Perce name of the Grande Ronde River.

The eastern and southern parts of Wallowa County, in-

cluding the Wallowa Valley, were the habitat of the Lower Nez Perce Indians, at the time of the beginning of the noted war with them, which began in June, 1877, and ended in October of the same year. Their Chief was the famous Indian known as Chief Joseph.

To be certain of the meaning or origin of the name, I wrote to A. C. Smith, now living at Enterprise, in Wallowa County. For many years he lived with the Indians, in that vicinity, and speaks one or more of the tribal languages. He kindly wrote me saying that he had learned from the Umatilla and the Nez Perce Indians that the Wallowa River was named by the fact that, many generations ago, the Nez Perce Indians placed the first fish trap in that river, and the salmon failed, from some cause unknown to them, to go into the trap and, after leaving the trap set in the river until time to go into their winter quarters, they arrived at a superstitious notion that some charm had intervened to prevent the fish from going in. And so, when they went away, they left the trap standing in the river, to be destroyed by the floods, although in other rivers it had been their constant practice to haul the most valuable timbers out of the river for use the next summer and to save them from destruction from the next spring's floods. Thereafter the river was always called by them by the name "fish trap," an Indian word for which is *Wallowa*.

Wallowa County is now bounded: on the north by the State of Washington; on the east by the Snake River; the boundary between the States of Oregon and Idaho; on the south by Baker County; and on the west by Union County. Its county seat is Enterprise.

MALHEUR COUNTY.

Malheur County was created February 17, 1887, by the State Legislature. (General Laws of 1887, page 138). It comprises what was the southern and middle portions of Baker County. It is the southeastern county of Oregon.

It is named for the Malheur River, which runs through the County, flowing into Snake River. Malheur is a French word meaning misfortune; bad luck; disaster. Literally it means "evil hour." In French its meaning is opposite to that of the word "bonheur." The origin of the name as applied to the River, I have obtained through the courtesy of Mr. T. C. Elliott of Walla Walla, Washington, who is an historical student, well versed in the history of Oregon and Washington. He has a copy of the manuscript Journal of Peter Skene Ogden, the original of which is in the possession of the Hudson's Bay Company at its headquarters in London, England. In Ogden's "Journal" of his second trip to the Snake River country in 1825-6, under date of February 14, 1826, is the following entry:

"Started early; sent my two Snake hunters out with 6 traps each and 2 horses to North side of river. I also gave them two scalping knives $\frac{1}{2}$ doz rings, $\frac{1}{2}$ doz buttons to trade and 20 balls to hunt. I have now all my trappers in motion; we encamped on River au Malheur (unfortunate River) so called on account of goods and furs hid here discovered and stolen by the natives. Gervaise killed 2 small deer; 3 beaver."¹

After a very careful study of the matter Mr. Elliott is of the opinion that the name Malheur was given to the river by Donald McKenzie, one of the officers of the Hudson's Bay Company, who, previous to Ogden's trip in 1826, had charge of a party of trappers in that part of the country. McKenzie had maintained a temporary trading post, for about a year, at the mouth of the Payette River, a short distance from the mouth of the Malheur River. The entry in Ogden's "Journal" indicates that the river had been named before he arrived there.

I have the very rare pamphlet, published at Washington, D. C., in 1846, entitled "Route and Distance to Oregon and California," written by J. M. Shively, an Oregon pioneer of

¹ This Journal is published in full in the Quarterly of the Oregon Historical Society for December, 1910.

1845, whose donation claim is a part of the present City of Astoria, platted as Shively's Astoria. Shively went to the Eastern States in 1846 and returned to Astoria in 1847. It is a guide book for Oregon immigrants intending to cross the plains and is replete with good advice, which must have been of great aid to immigrants as it sets forth what supplies should be taken, the kind of wagons and animals to be used, where good camping places and water could be found, and a table of distances. On page 10, in two places, he speaks of the Malheur River and calls it the *Mallair* River.

Malheur County is now bounded: on the north by Baker County and the Snake River; on the east by the Snake River and the State of Idaho; on the south by the State of Nevada; and on the west by Harney County and a small portion of Grant County. Its county seat is Vale.

HARNEY COUNTY.

Harney County was created February 25, 1889, by the State Legislature. (General Laws of 1889, page 47). It comprises what were the southern and middle portions of Grant County.

It is named for Major-General William Selby Harney, who was a noted Indian fighter, having taken part in the Black Hawk and Florida wars, and a war with the Sioux Indians. He was in the Mexican war and, for his part in the battle of Cerro Gordo, was brevetted brigadier-general. Upon being appointed a brigadier-general in January, 1858, he was assigned to the command of the Department of Oregon, being stationed at Vancouver Barracks. It was while in this command, in July, 1859, he took military possession of San Juan Island, in the waters north of Puget Sound, which nearly led to a war with Great Britain. That he was right in claiming that the San Juan Archipelago belonged to the United States was determined October 21, 1872, by the decision of Emperor William, the matter having been submitted to him for arbitra-

tion and award under the Treaty of Washington, of May 8, 1871. During the early part of the civil war he was in command in Missouri. He was placed on the retired list in August, 1863. At the close of the war he was brevetted Major General "for long and faithful services."

Harney County is now bounded: on the north by Grant County, and small portions of Crook County; on the east by a portion of Malheur County; on the south by a portion of Lake County and the State of Nevada; and on the west by Lake County and a portion of Crook County. Its county seat is Burns.

SHERMAN COUNTY.

Sherman County was created February 25, 1889, by the State Legislature. (General Laws of 1889, page 82). It comprises a part of the northeastern portion of Wasco County, as the latter then was.

Sherman County is named for General William Tecumseh Sherman.

Sherman County is bounded: on the north by the Columbia and John Day Rivers; on the east by the John Day River, the common boundary of Sherman and Gilliam Counties; on the south by Wasco County; and on the west by a portion of Wasco County and the Deschutes River a part of the latter being a part of the common boundary of Sherman and Wasco Counties. Its county seat is Moro.

LINCOLN COUNTY.

Lincoln County was created February 20, 1893, by the State Legislature. (General Laws of 1893, page 68). It comprises the Siletz Indian Reservation, lying between Polk County and the Pacific Ocean, and the western portion of Benton County as the latter then was.

It is named for Abraham Lincoln.

Lincoln County is now bounded: on the north by Tillamook County; on the east by Benton County and a portion of Polk

County; on the south by Lane County; and on the west by the Pacific Ocean. Its county seat is Toledo.

WHEELER COUNTY.

Wheeler County was created February 17, 1899, by the State Legislature. (General Laws of 1899, page 51). It comprises what were then portions of Crook, Gilliam, and Grant Counties.

It is named for Henry H. Wheeler, an old resident of that part of the country which is now Wheeler County.

Wheeler County is now bounded: on the north by Gilliam County and a small portion of Morrow County; on the east by Grant County and a small portion of Morrow County; on the south by a portion of Crook County; and on the west by a portion of Crook County and the John Day River the latter being the common boundary of Wheeler County and Wasco County. Its county seat is Fossil.

HOOD RIVER COUNTY.

Hood River County was created under an initiative petition, as provided by the Constitution of Oregon, at the election held June 1, 1908. The law thus creating it went into effect June 23, 1908. (General Laws of 1909, page 39). It comprises a part of the northwestern portion of Wasco County as the latter then was.

Its name is derived from Hood River, which rises at Mount Hood and runs through the County and flows into the Columbia River. Mount Hood was discovered, October 29, 1792, by Lieut. W. R. Broughton, R. N., who was Vancouver's chief lieutenant and second in command of Vancouver's expedition. He was the first white man to ascend the Columbia River, above Gray's Bay. He named the mountain for Lord Hood, an English nobleman, for whom is also named Hood's Canal, an arm of Puget Sound.

Hood River County is now bounded: on the north by the Columbia River; on the east by a portion of Wasco County;

on the south by a portion of Wasco County; and on the west by Multnomah County and a portion of Clackamas County. Its county seat is Hood River.

In this address I have endeavored to be accurate. If there are any errors they should be corrected by those knowing the facts. I shall be pleased to have any such corrections made, for it is important that the facts relating to the history of Oregon should be written in the life time of living witnesses, so far as possible. It is one of the functions of the Oregon Historical Society to assist in making, from time to time, an accurate record of the history of Oregon.

As the population of Oregon increases there will be probably one or more counties created west of the Cascade Mountains. Owing to the large size of several of the counties east of the Cascade Mountains there will be created out of these, undoubtedly, several counties. One of these counties should be named for Dr. John McLoughlin, the Father of Oregon.

APPENDIX.

DESCRIPTIONS OF BOUNDARIES OF OREGON COUNTIES AS SET FORTH IN ACTS CREATING THEM.

The beginning of the Provisional Government was May 2, 1843; the first regular session of its Legislative Committee, afterwards called its Legislature, began May 16, 1843, at Oregon City. Its last session was at Oregon City and it adjourned *sine die* February 16, 1849.

The Territory of Oregon was established by an Act of Congress August 14, 1848. March 3, 1849, General Joseph Lane, its first Governor, issued his proclamation assuming charge as Governor. The first meeting of the Territorial Legislature began at Oregon City, July 16, 1849. Its last session adjourned *sine die* January 22, 1859, at Salem.

The Act of Congress admitting the State of Oregon into the Union was approved February 14, 1859. The first meeting of the State Legislature began at Salem, May 16, 1859.

BAKER COUNTY.

"All that portion of Wasco county, commencing at a point where the 46th parallel of latitude crosses the summit of the Blue mountains; thence east, along said line to its intersection with Snake river; thence up the middle of the channel of said river, to the mouth of the Owyhee river; thence south, to the 42d parallel of latitude; thence west, along said line, to its intersection with the 118th parallel of west longitude; thence north, along said line to the summit of the Blue mountains; thence along the summit of said mountains, between the waters of Burnt and Powder rivers, and the waters of John Day's river, to the place of beginning." (General Laws of 1862, page 112).

BENTON COUNTY.

"Commencing in the middle of the Willamette river, at the southeast corner of Polk County, and running south along the main channel of said river to the middle fork thereof; thence up said middle fork to its source; thence due south to the 42d parallel of north latitude; thence west along said parallel to the Pacific ocean; thence north along the coast of said ocean to the southern boundary of Polk County." (General and Special Laws of 1843-9, page 50).

CHAMPOOICK DISTRICT OR COUNTY.

"Bounded on the north by a supposed line drawn from the mouth of the Anchiyoke [Pudding] River, running due east to the Rocky Mountains, west by the Willamette, or Multnomah River, and a supposed line running due south from said river to the parallel of 42°, north latitude; south by the boundary line of the United States and California, and east

by the summit of the Rocky Mountains." "Approved by the people, July 5th, 1843". ("Oregon Archives," page 26).

CLACKAMAS DISTRICT OR COUNTY.

"Comprehending all the territory not included in the other three districts" i. e., Twality, Yamhill and Champooick Districts. ("Oregon Archives," page 26.)

CLATSOP COUNTY.

I have been unable to find a copy of the act creating Clatsop County. By an act passed by the Provisional Legislature approved December 19, 1845, it was enacted "That the line dividing Clatsop and Tuality districts shall commence in the middle of the main channel of the Columbia river at Oak Point mountain, on said river; thence south to a supposed line dividing Yamhill and Tuality districts; thence west along said line to the Pacific ocean; thence north along said line to the mouth of the Columbia river; thence up the middle of the main channel to the place of beginning." (General and Special Laws of 1843-9, page 36).

By an act passed January 15, 1855, the Territorial Legislature established the boundary lines of Clatsop County as follows:

"Commencing on the base line west from Portland, at a point where the west line of Washington county crosses said base line; thence, on a direct line, to the head of the south branch of Nehalem river; thence, down said river, to the Pacific Ocean; thence northerly, along the sea shore, to the mouth of Columbia river, thence, up the Columbia river, to west line of Columbia county; thence, along the said west line of Columbia county, to the corner of Washington county; thence, along the west line of Washington county, to the place of beginning." (Special Laws of 1854-5, page 33).

COLUMBIA COUNTY.

"All that portion of Washington county, embraced within the following described boundaries, to wit: commencing at a point on the bank of the Columbia river where John Bonser's and James Miller's line commences on said river, thence running due west, to the west bank of the Willamette slough, thence south-west to the summit range of the Scappoose mountains, thence along the summit of said mountains to the western line of said county of Washington, thence along said line to the Columbia river, thence up the main channel of the Columbia river to the place of beginning." (Special Laws of 1853-4, page 32).

COOS COUNTY.

"All that portion of Umpqua and Jackson counties, embraced within the following boundaries, to-wit: beginning at a point on the Pacific coast, eight miles below the mouth of Umpqua river, thence southeast to the dividing ridge between the waters of Umpqua on the east, and the Coos and Coquille rivers on the west, thence along the summit of aforesaid dividing ridge, to the north-west corner of Douglas county, thence south along the summit of the coast range of mountains to the source of the south branch of Coquille river, thence continuing south, crossing the 42d parallel, thence due west along said line, to the Pacific coast, thence along the coast to the place of beginning." (Special Laws of 1853-4, page 13).

CROOK COUNTY.

"Beginning at a point on the western boundary line of Wasco county where the same is intersected by the line between townships eight and nine south, from thence east on said line to the John Day river; thence up the main channel of said river to the west line of Grant county; thence on the line between Grant and Wasco counties to the southeast corner of Wasco county; thence on the line between Wasco

and Lake counties to the east boundary line of Lane county; thence on the line between Lane, Linn and Wasco counties to the place of beginning." (Special Laws of 1882, page 178).

CURRY COUNTY.

"All that portion of Coos county embraced within the following boundaries, to-wit: beginning at a point on the Pacific coast, at the mouth of New river, thence east to the dividing ridge of the waters of the Coquille river and Horse creek; thence following said divide which separates all of the waters of the Coquille river from those which discharge themselves directly into the ocean, until such ridge connects itself with the dividing ridge between the waters of the Coquille and Rogue rivers; thence east along said ridge or divide, to the divide forming the eastern tributaries of John Mule creek; thence south to the parallel of 42 degs. north latitude; thence west to the ocean; thence north along the line of the Pacific coast, to the place of beginning." (General Laws of 1855-6, page 49).

DOUGLAS COUNTY.

The original boundaries of Umpqua County were as follows:

"All that portion of Oregon Territory lying within the following boundaries, to-wit:

"Beginning at the southeast corner of Benton County, and running due east along the south line of Benton County to the dividing ridge of the Calapooiah Mountains, thence along the ridge of the said Calapooiah Mountains, to the source of the main fork of the Calapooiah Creek, thence down said creek to its mouth, thence due west to the Pacific Ocean, and thence along the coast to the place of beginning." (Local Laws of 1850-1, page 33.)

The boundaries of Douglas County are thus defined by the Act of the Territorial Legislature of January 7, 1852:

"Commencing at the mouth of Calapooia creek; thence following said creek up its main fork to its source; thence due east to the summit of the Cascade range of mountains; thence running due south to the summit of the dividing ridge separating the waters of Rogue river, from the waters of the Umpqua; thence westerly along the summit of said ridge to the summit of the Coast range of mountains separating the waters of Coquille and Cones [Coues] rivers, from the Umpqua; thence northerly along the summit of said Coast range, to a point where the south line of Umpqua county crosses said range; thence due east along the south line of Umpqua county, to the point of beginning." (Local Laws of 1851-2, page 18).

The Act of October 16, 1862, provides:

"That all that portion of territory hitherto embraced within the boundaries of the counties of Douglas and Umpqua be, and the same are hereby, united, and consolidated into one county, under the name, organization and jurisdiction of Douglas County." (General Laws of 1862, page 59).

GILLIAM COUNTY.

"Beginning at a point in the middle of the Columbia river, where the east line of range 22 east Willamette meridian crosses said river; thence south along said east line to the south line of township three south; from thence east along said south line to the east line of range 23 east, thence south along said range line to the south line of township four south; thence east to the east line of range 24 east; thence south to the Grant county line; thence west to the east line of range 22 east; thence south to the John Day river; thence down (to) the center of the main channel of the said river to a point in the middle of the Columbia river opposite the mouth of the John Day river; thence up the center of the main channel of the Columbia river to the place of beginning." (Special Laws of 1885, page 404).

GRANT COUNTY.

"All that portion of Wasco and Umatilla counties embraced within the following lines, to-wit: Beginning at a point on the forty-second parallel of north latitude, crossed by the one hundred and twentieth line of longitude west, thence north along said line to the forty-fifth parallel of north latitude, thence east along said parallel to the one hundredth and eighteenth line of west longitude, thence south along said line to the forty-second parallel of north latitude, thence west along said parallel to the place of beginning." (Special Laws of 1864, page 43).

HARNEY COUNTY.

"All that portion of Grant county lying south of the following described line be and the same hereby is created and organized into a separate county by the name of Harney, viz.: Beginning at a point where the west line of Grant county crosses the township line between townships 18 and 19 in said county of Grant, and running thence east on said township line to the west line of the old Malheur Indian reservation in said county of Grant; thence north following the west line of said Indian reservation six miles; thence east to the east line of Grant county." (General Laws of 1889, page 47).

HOOD RIVER COUNTY.

"Beginning at a point in the middle of the channel of the Columbia river opposite the meander corner between sections three and four, township two north, range eleven east of Willamette Meridian, then running south along the section line between sections three and four and said line extended to a point on the base line at the southeast corner of section thirty-three, in township one north, range eleven east, Willamette Meridian, thence west along said base line to the northeast corner of township one south, range ten east of Willamette

Meridian thence south along the township line to the southeast corner of township three south, range ten east of Willamette Meridian, thence west along the south line of township three south, range ten east and said line extended along the south side of township three south, range nine east of Willamette Meridian, to the summit of the Cascade Mountains, and the line between Clackamas and Wasco counties; thence northerly along the summit of the Cascade Mountains and along the line between Clackamas and Wasco, and between Multnomah and Wasco counties to the middle of the channel of the Columbia River and the northwest corner of Wasco County; thence in a general easterly course along the center of the channel of the Columbia river to the place of beginning." (General Laws of 1909, page 39).

JACKSON COUNTY.

"Beginning at the southwest corner of Umpqua county; thence running due east to the northwest corner of Douglas county; thence southerly along the western boundary line of Douglas county to the southwest corner of said county; thence easterly along the southern boundary of said Douglas county, to the southeast corner thereof; thence in a southeast direction to the eastern extremity of Rogue river valley; thence due south to the boundary line between Oregon and California; thence due west along said boundary line to the Pacific coast; thence northerly along the coast to the point of beginning." (Local Laws of 1851-2, page 19).

JOSEPHINE COUNTY.

"All that portion of Jackson county embraced within the following limits, to-wit: Beginning at the southwest corner of township No. (32) thirty-two, range No. (5) five west, being the southern boundary of Douglas county; thence west along the dividing ridge separating the waters of Cow creek from those of Rogue and Coquille rivers, to the northeast

corner of Curry county; thence south, along the eastern line of said county, to the summit of the divide separating the waters of Rogue river from the waters of Illinois river; thence west, along said divide, to a point on said divide (7) seven miles east of the junction of the waters of Rogue and Illinois rivers; thence south, to the 42d degree of parallel of north latitude; thence east, along said parallel, to a point where range (4) four west intersects said parallel; thence north to the southeast corner of township No. (36) thirty-six; thence west, to the southwest corner of said town; thence north, to the place of beginning." (General Laws of 1855-6, page 30).

KLAMATH COUNTY.

"Beginning on the south boundary line of the State of Oregon at its intersection with the line between range No. 15 and 16 east; thence due north to the south line of township number 32 south; thence due west to the line between ranges No. 11 and 12 east; thence due north to the south line of township number 22 south, being the south boundary of Wasco county; thence due west to the summit of the Cascade Mountains; thence southerly along said summit to its intersection with the line between ranges number 4 and 5 east; thence due south on said range line to the south boundary line of the State of Oregon, and thence east along said boundary line to the place of beginning." (Special Laws of 1882, page 107).

LAKE COUNTY.

"Beginning on the forty-second parallel of north latitude at a point where said parallel is intersected by the east boundary of Township No. 23, east of the Willamette Meridian; thence due north on said Township line to the south boundary line of Township No. 22, south of the Oregon base line; thence due west on said Township line to the east boundary line of Lane county; thence southerly along said boundary

line and the east boundary line of Douglas county to the southeast corner of said Douglas county; thence to, and south, on the east boundary of Township No. 4, east of the Willamette Meridian to said forty-second parallel of North Latitude; thence due east along said parallel to the place of beginning." (General Laws of 1874, page 38).

LANE COUNTY.

"All that portion of Oregon Territory lying south of Linn county and South of so much of Benton county as is east of Umpqua County." (Local Laws of 1850-1, page 32).

LINCOLN COUNTY.

"Beginning at the northwest corner of Siletz Indian reservation; thence east to the Polk county line; thence south to the Benton county line; thence east six miles to the west boundary of range 7 west of Willamette meridian; thence south on said range line to the center of township 13 south; thence west on the section line to range line between ranges 8 and 9 west; thence south to the Lane county line; thence west along the said line of Lane county to the Pacific ocean; thence north along the Pacific ocean to the place of beginning." (General Laws of 1893, page 68).

LINN COUNTY.

The Act creating Linn county is entitled: ("AN ACT Defining the Southern Boundary of Champoeg County, and to establish Linn County."

It provides: "That the southern boundary of Champoeg county be located in the following manner: Commencing in the middle of the channel of the Willamette river, opposite the mouth of the Santiam river, thence up said river to the north fork; thence up said fork to the Cascade mountains; thence due east to the summit of the Rocky mountains" and "That all that portion of Oregon Territory lying south of

Champoege and east of Benton county be and the same is hereby called Linn county." (General and Special Laws of 1843-9, page 55).

MALHEUR COUNTY.

"Beginning at a point on the boundary line between the State of Oregon and Nevada, which is at the southeast corner of Grant county, in the State of Oregon; thence north on the line between Grant county and Baker county to the first angle corner in the east line of said Grant county; thence north on range line between ranges 36 and 37 east to the summit of the Burnt River mountains, in township 15 south of range 36 east; thence easterly and following the summit of said Burnt River mountains to the intersection of the south boundary line of township 14 south of range 43 east; thence east on the said south boundary line of township 14 to the middle channel of Snake river, between the State of Oregon and the Territory of Idaho; thence up the meanderings of said Snake river on the line between Oregon and Idaho to the mouth of the Owyhee river on said line; thence south on the line between Oregon and Idaho to the north line of the State of Nevada; thence west on the north line of Nevada to the place of beginning." (General Laws of 1887, page 138).

MARION COUNTY.

Originally named Champooick District, with the following description:

"Bounded on the north by a supposed line drawn from the mouth of the Anchiyoke River, running due east to the Rocky Mountains, west by the Willamette, or Multnomah River, and a supposed line running due south from said river to the parallel of 42°, north latitude; south by the boundary line of the United States and California, and east by the summit of the Rocky Mountains." "Approved by the people, July 5th, 1843." ("Oregon Archives," page 26).

The name was changed to Marion by the Territorial Legislature, September 3, 1849, by an Act which provided: "The name of the County of Champoeg [Champooick] be and the same is hereby changed to Marion." (See Local Laws of 1850-1, page 53).

MORROW COUNTY.

"Beginning at a point in the middle of the channel of the Columbia river, directly opposite to and due north from the half township line running north and south through the center of township five north of range twenty-seven east of the Willamette meridian; thence running due south to and on said line to the north boundary line of township one north of said range; thence due east on the township line to its intersection with the range line between ranges twenty-eight and twenty-nine east of the Willamette meridian; thence due south on said range line to the base line; thence due east on the base line to its intersection with the range line between ranges twenty-nine and thirty east of the Willamette meridian; thence due south on said range line to the southeast corner of township six south of range twenty-nine east of the Willamette meridian; thence due west on the township line to its intersection with the range line between ranges twenty-four and twenty-five east of the Willamette meridian; thence due north on said range line to its intersection with the township line between townships four and five south; thence due west on said township line to its intersection with the range line between ranges twenty-three and twenty-four east of the Willamette meridian; thence due north on said range line to its intersection with the township line between townships three and four south; thence due west on said township line to its intersection with the range line between ranges twenty-two and twenty-three east of the Willamette meridian; thence due north on said range line and the projection thereof to the middle of the channel of the Columbia river; thence up

and along the center of the channel of said river to the place of beginning." (Special Laws of 1885, page 239).

MULTNOMAH COUNTY.

"Beginning in the middle of the main channel of the Columbia river, at the southeast corner of the county of Columbia; thence west, by the boundary line of Columbia county, to the middle of the second range of townships west of the Willamette Meridian; thence south, by the section line, to the centre of the second township north of the base line; thence one mile south and one mile east, alternately, by section lines, to the Willamette Meridian; thence south, by the said Meridian line, to the township line between townships one and two south of the base line; thence east, by the township line, to the middle of the Willamette river; thence down the middle of the Willamette river, to the section line between sections number twenty-three and twenty-six, in township one south, range one east; thence east, on section lines, to the summit of the Cascade mountains; thence northerly, on a right line, to the middle of the Columbia river at the foot of the Cascade Falls; thence down the middle of the main channel of said river to the place of beginning." (Special Laws of 1854-5, page 29).

POLK COUNTY.

"Commencing at the southeast corner of Yamhill district, thence along the south line of the same to the Pacific ocean; thence along the coast of the ocean to the line dividing California and Oregon; thence east along said line to the line dividing Champoege and Yamhill districts, before Polk district was stricken off; thence down the middle of the main channel of Willamette river to the place of commencement." (General and Special Laws of 1843-9, page 38).

SHERMAN COUNTY.

“Beginning at a point in the center of the main channel of the Columbia river, opposite the mouth of John Day river; thence up the middle of the main channel of said John Day river to the south line of township 2 south where it crosses the said John Day river; thence west along the said south line of township 2 south to the middle of the Deschutes river; thence down the center of the main channel of said river to a point in the center of the main channel of the Columbia river opposite to the mouth of the Deschutes river; thence up the middle of the main channel of said Columbia river to the place of beginning.” (General Laws of 1889, page 82).

TILLAMOOK COUNTY.

“All that portion of Yamhill and Clatsop counties, embraced within the following boundaries, to wit: commencing at a range of hills near the Pacific ocean, north of the Nehalem river, known as Saddle mountains, thence east, following the summit of said range of hills to the summit of the Coast range of mountains, thence south following the summit of the said Coast range of mountains, to the southern boundary of Polk county, thence due west to the Pacific ocean, thence along the sea shore to the place of beginning.” (Special Laws of 1853-4, page 6).

UMATILLA COUNTY.

“All that portion of Wasco county, beginning in the middle of the channel of the Columbia river opposite the mouth of Willow creek, thence up the middle of the channel of said river to the point where the 46th parallel of latitude crosses said river; thence east along said parallel to the summit of the Blue mountains; thence southwest along the summit of said mountain to the divide between the middle and south fork of John Day’s river; thence northwest along said divide to its intersection with the south fork of John Day’s river;

thence down the channel of said river to its junction with the north fork of said river; and from thence northerly along the ridge dividing the waters of John Day's and Willow creek to the place of beginning." (General Laws of 1862, page 91).

UNION COUNTY.

"All that portion of Baker county, commencing at a point where the 46th parallel of latitude crosses the summit of the Blue mountains; thence east along said line to its intersection with Snake river; thence up the middle of the channel of said river to the mouth of Powder river; thence up the middle of the channel of said river to the mouth of the North fork of the same; thence up the main channel of the said North Powder river to its source; thence west to a point intersecting the east boundary line of Umatilla county; thence northerly along said line to the place of beginning." (Special Laws of 1864, page 37).

WALLOWA COUNTY.

"Commencing at the northeast corner of the State of Oregon on Snake river and thence west on the State line to where it intersects the Grand Ronde river; thence in a southwesterly direction up the center of said Grand Ronde river to the mouth of the Wallowa river; thence in a southwesterly direction up the center of said Wallowa river to the mouth of the Minum river; thence in a southerly and easterly direction up the center of said Minum river to its source on the summit of the Powder river mountains; thence following said summit or divide of the Powder river mountains in an easterly direction to a point about twenty miles due west from Snake river; thence due east to what is known as Limestone Point on the east line of the State of Oregon; thence north following said east line of the State of Oregon to the place of beginning." (General Laws of 1887, page 142).

WASCO COUNTY.

"Commencing at the Cascades of the Columbia river, thence running up said river to the point where the southern shore of said river is intersected by the southern boundary of Washington territory, thence east along said boundary to the eastern boundary of Oregon territory, thence southerly along the eastern boundary of said territory to the southern boundary of the same, thence west along said southern boundary to the Cascade mountains, thence northerly along said range of mountains to the place of beginning." (Special Laws of 1853-4, page 26).

WASHINGTON COUNTY.

Originally named Twality, with the following description:

"First district, to be called the Twality District, comprising all the country south of the northern boundary line of the United States, west of the Willamette, or Multnomah River, north of the Yamhill River, and east of the Pacific Ocean." "Approved by the people, July 5th, 1843." ("Oregon Archives," page 26).

The name was changed to Washington by the Territorial Legislature, September 3, 1849, by an Act which provided:

"The name of the county commonly called 'Twality' or 'Falatine' be and the same is hereby changed to Washington." (See Local Laws of 1850-1, page 54).

WHEELER COUNTY.

"Beginning at the northwest corner of township thirteen south, of range twenty east, Willamette meridian, and running thence south on range line between ranges nineteen and twenty east, three miles, by the government survey; thence east on the section lines to the east boundary of range twenty-two east; thence south on said east boundary three miles to the southeast corner of township thirteen south, of range twenty-two east; thence east on the south boundary of town-

ship thirteen south to the east boundary of range twenty-three east; thence south on the said east boundary of range twenty-three east to the south boundary of township fourteen south; thence east on said south boundary to the east boundary of range twenty-five east; thence north on said range line between ranges twenty-five and twenty-six east to the north boundary of Grant county; thence west on the north boundary of Grant county to the east boundary of range twenty-four east; thence north on the said east boundary to a point which is one mile south of the first standard parallel south; thence west along the section lines one mile south of said first standard parallel south to the center of the main channel of the John Day's river; thence up the center of the main channel of the said John Day's river to a point where it is crossed by the west boundary of range twenty east; thence south on said west boundary of range twenty east to the place of beginning." (General Laws of 1899, page 51).

YAMHILL DISTRICT OR COUNTY.

"Second district, to be called the Yamhill District, embracing all the country west of the Willamette, or Multnomah, River and a supposed line running north and south from said river, south of the Yamhill River to the parallel of 42° north latitude, or the boundary line of the United States and California, and east of the Pacific Ocean." ("Oregon Archives", page 26).

OPINION OF WM. D. FENTON

ON THE POWER OF THE LEGISLATURE TO INCREASE THE NUMBER OF JUSTICES CONSTITUTING THE SUPREME COURT OF OREGON.¹

Prepared January 13, 1899, and furnished at that date to Hon. Charles A. Cogswell, Chairman of the Committee on Legislation of the Oregon Bar Association, and Note added by Mr. Fenton December 18, 1909.

Portland, Oregon, January 13, 1899.

Hon. Charles A. Cogswell, Chairman Committee on Legislation, Oregon Bar Association.

My Dear Sir: The following table may show somewhat roughly the existing need of some measure of relief of the Supreme Court:

States.	No. of Justices.	No. Vols. Reports.	Population.
Alabama	5	116	1,513,017
Arkansas	5	63	1,128,179
California, 5 commissioners appointed by Supreme Court.....	7	121	1,208,130
Delaware	5	17	168,493
Florida	5	35	391,422
Georgia	6	101	1,837,385
Idaho	8		84,385
Illinois	8	173	3,826,351

¹The views expressed by Mr. Fenton were sustained by the Supreme Court in an opinion rendered by Mr. Justice McBride on December 21, 1909, in the case of the State of Oregon v. Sam. Cochran. In this opinion Mr. Justice McBride, sitting with his associates, Chief Justice Moore and Mr. Justice Eakin (the other two members of the Court, Mr. Justice King and Mr. Justice Slater not sitting), fully sustained the validity of the legislation increasing the number of Justices from three to five.

Illinois Appellate Court composed of three circuit judges appointed by Supreme Court for three years; seventeen circuits divided into four districts, three judges for each district, besides branch Appellate Court for Chicago, 77 volumes.

Indiana	5	150	2,192,404
Indiana App.	5	16	
Iowa	6	103	1,911,896
Kansas	3	58	1,427,096
Kansas Court of Appeals, two de- partments, each	3	106	
Kentucky	7	99	1,858,635
Maine	8	91	661,088
Louisiana	5	49	1,118,587
Maryland	9	36	1,043,390
Massachusetts	7	170	2,238,943
Michigan	5	111	2,093,889
Minnesota	5	69	1,301,826
Mississippi	3	75	1,239,600
Missouri	7	144	679,184
Missouri App. Court, two divis- ions, each	3	75	
Montana	3	75	132,159
Nebraska, three judges; commis- sioners	3	52	1,058,910
Nevada	3	23	45,761
New Hampshire	7	66	376,530
New Jersey, five vice chancellors, one ordinary, one chancellor....		55*	1,444,933
(Law Court) justices.....	8	66†	
New York	7	156	5,997,353
Appellate Court, four depart- ments; judge each department..	5	121	

North Carolina	3	128	1,617,947
Ohio	6	73	3,772,316
Oregon	3	31	313,767
Pennsylvania	7	186	3,258,014
Rhode Island	7	19	345,506
South Carolina	4	31†	1,151,149
Tennessee	5	100	1,767,518
Chancellors	3	3¶	
Texas	3	91	
Texas Crim. App.	3	37	
Texas Civ. App.; justices each five divisions	3	19	2,235,523
Utah	3	15	207,905
Virginia	5	95	1,658,980
West Virginia	4	43	762,794
Vermont	7	69	332,622
Wisconsin	5	97	1,686,880
Washington	5	21	349,330
Wyoming	3	5	60,705

*N. J. Eq. †N. J. Law. ‡(New Series). ¶Chancery App.

The population given is according to the census of 1890, but it is well understood that the population of Oregon has increased from the figures of that year and may be said now to exceed 500,000. It is also to be considered that the state in area is as large as New England, and that if our expectations are to be realized we shall have in the next decade a population of at least 1,000,000 and consequent increase of business far beyond anything that has occurred in the past or that exists at this time. It is therefore reasonable to suppose that, although appeals may be limited, as they should be, yet the Appellate Court will have all that it can do in the disposition of cases that ought to be heard even though the increase of justices desired shall be made.

The salaries of the justices of the Supreme Court and court commissioners in all of the states so far as I have examined

them, are far in excess, and in most states from one-third to three times the salaries now paid the justices of the Supreme Court of this state. It is admitted that these are reasons that commend themselves to the policy and necessity of the passage of some measure for the relief of the court. And it is conceded that the only real objection is not to the measure itself, nor is it denied that there is necessity almost controlling, but it is claimed that the act is and ought to be declared unconstitutional. It is a primary rule of construction to govern courts and I assume also the legislative branch of the government, that a statute will not be and ought not to be declared unconstitutional unless upon a fair interpretation of the case in the light of the constitution it can be said to be unconstitutional beyond a reasonable doubt. The question, therefore, is not whether or not there is *some doubt* as to the constitutionality of the pending measure, but whether or not a member of the legislative assembly or the Supreme Court, in passing upon such question, can say that beyond a reasonable doubt the statute proposed is or will be unconstitutional. If it is a mere matter of doubt, that doubt must be resolved in favor of the validity of the law or of the measure that is proposed. See

Umatilla Irrigation Co. v. Barnhart, 22 Or. 389;

Crowley v. State, 11 Or. 513;

Cline v. Greenwood, 10 Or. 330;

Cook v. Port of Portland, 30 Or. 583;

Cresap v. Gray, 10 Or. 345;

David v. Portland Water Committee, 14 Or. 33;

Crawford v. Board, 12 Or. 447;

Deane v. Willamette Bridge Co., 22 Or. 167;

Simon v. Northrup, 27 Or. 437.

As said by Mr. Cooley in his work on Constitutional Limitations, 5th Ed., page 216, "It has been said by an eminent jurist that when courts are called upon to pronounce the invalidity of an act of legislation passed with all the forms and ceremonies requisite to give it the force of law, they will approach the question with great caution, examine it in every

possible aspect and ponder upon it as long as deliberation and patient attention can throw any new light upon the subject, and never declare a statute void unless the nullity and invalidity of the act are placed in their judgment beyond reasonable doubt." This is the language of Chief Justice Shaw, used in the case of *Wellington*, Petitioner, 16 Pick, 87:

"A reasonable doubt must be resolved in favor of the legislative action and the act be sustained. This is in part because it is presumed that the members of the legislature have first themselves determined that the act was constitutional and have exercised the legislative power in good faith, but it should be controlled by a like rule when construing a constitution and applying the same to pending legislation."

"The courts will never exercise the extraordinary power of declaring an act of the legislature unconstitutional unless there is a plain, palpable and clear conflict between the statute and the constitution." Mr. Chief Justice Bean in *Simon v. Northrup*, 27 Or. 495.

"It is also well settled that contemporaneous and practical construction of a constitutional provision will be given great weight by the courts in construing such provision." Cooley's *Constitutional Limitations*, 31.

"And it is also the rule that the proceedings of the convention which framed the constitution will be examined with a view to ascertain as near as may be the intention of that body." Cooley's *Constitutional Limitations*, 79.

And while these proceedings of such convention are less conclusive of the proper construction of the instrument framed than are legislative proceedings of the proper construction of a statute, in cases of doubt such proceedings afford light as to the intent and meaning of the language used.

Our Supreme Court in *Eddy v. Kincaid*, 28 Or. 556, has recognized the rule that while plain provisions of the constitution cannot be broken down by practical exposition but where for a series of years concurrent legislative exposition of the constitution has existed, the court would not be warranted in

disregarding the same unless satisfied that such practice is repugnant to the plain words of the constitution. Such an exposition is a very persuasive argument and often of controlling force, and it has always been regarded by the courts as equivalent to a positive law. It therefore becomes important to know what view the framers of the constitution held in respect to this provision and those of a kindred or like character, and also as to what has been the result of a practical exposition of the constitution by legislative and executive action.

Section 2, article 7, provides that:

"The Supreme Court shall consist of four justices to be chosen in districts by the 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 and districts may be increased, but shall not exceed five until the white population of the state shall amount to 100,000, and *shall never exceed seven.* * * *"

Section 3 provides:

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

Section 7 provides that, "Terms of the Supreme Court shall be appointed by law, but there shall be *one term* at the seat of government annually."

Section 10 provides:

"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 judges who

shall hold full terms without allotment and who shall take the same oaths as the supreme judges."

It is contended, and by those who favor a *strict construction* of the constitution and who regard the same as a *grant of*, and not as a *limitation* upon the powers of the people, that the use of the words in Section 10 before quoted, to wit: "One of which classes shall consist of three justices of the Supreme Court," is *by implication an inhibition against the legislative* increase of the number of justices of which the class so created shall consist. While those who contend that the legislative power exists to increase the number that shall constitute the class believe in the rule *that constitutions, being limitations upon sovereign power and not grants of power*, should be strictly and narrowly construed and ought not be held to deny the *sovereign right reserved to the people unless or by necessary implication that result must follow*. You will observe by reference to Section 2, *supra*, that the framers of the constitution created a Supreme Court consisting of four justices and made express provision that such number might be increased, but should not exceed five until the white population of the state amounted to 100,000, and *should never exceed seven*. It seems to me that if it was in the framers' mind *to limit the number* of justices that should compose the class authorized to be created by Section 10, there would have been a limitation in Section 2 expressly providing that the provision, "and shall never exceed seven" should be modified by adding thereto the words, "until the white population of the state shall amount to 200,000," when the supreme justices might be constituted a distinct class, but whose numbers should not exceed three thereafter.

It may be presumed that the provisions of section 2, article 7, were framed by the lawyers who were members of the constitutional convention, and that in a matter where the convention expressly authorized the *first Supreme Court* to consist of *four* justices and not exceed *five* until the population of the state should amount to 100,000, and that thereafter *it should*

never exceed seven, it would have occurred to any lawyer sitting in the convention that the provisions of Section 8 and Section 10 as to number of the justices of the Supreme Court when their duties were changed, ought not to be left in a state of doubt, and that if framers of the constitution *intended to make a limitation* upon the numbers composing the class *other than that contained in Section 2*, they would have written such limitation either in that section or in section 10. The mere fact that the justices, when the white population should amount to 200,000, and when the legislative assembly thereafter might authorize the election of the circuit and supreme justices in distinct classes, were only to perform appellate duties, does not, as it seems to me, imply that the constitutional convention intended to limit the number of justices in such class by the use of the words, "One of which classes shall consist of three justices of the Supreme Court;" and it seems to me clear that if they had intended to so limit the same, they would have used apt and appropriate words, such as, "Shall consist of three justices of the Supreme Court and *no more*, and shall never exceed three," in lieu of the expression in Section 2, "and shall never exceed seven," and in lieu of the words, "shall consist of three justices of the Supreme Court" used in Section 10.

Judge Cooley says in his Constitutional Limitations, page 207, 5th Ed.: "That there is a broad difference between the constitution of the United States and the constitutions of the states as regards the powers which may be exercised under them. The government of the United States is one of *enumerated* powers. The governments of the states are possessed of *all* the general powers of legislation. When a law of congress is assailed as void we look in the national constitution to see if the grant of specified powers is broad enough to embrace it; but when a state law is attacked on the same ground *it is presumably valid in any case*, and this presumption is a conclusive one, unless in the constitution of the United States or of the state we are *able to discover that it is pro-*

hibited. We look in the constitution of the United States for *grants* of legislative power, but in the constitution of the state to ascertain if any limitations have been imposed upon the complete power with which the legislative department of the state was vested in its creation. Congress can pass no laws but such as the constitution authorizes either expressly or by clear implication, while the state legislature has jurisdiction of all subjects on which its legislation is *not prohibited*."

A multitude of authorities sustains these propositions. In *Bushnell v. Beloit*, 10 Wis. 225, the court says:

"We suppose it to be a well settled political principle that the constitution of the state is to be regarded not as a grant of power but rather as a limitation upon the powers of the legislature, and that it is competent for the legislature to exercise all legislative power *not forbidden by the* constitution or delegated to the general government or prohibited by the constitution of the United States."

In *Smith v. Judge*, 17 Cal. 557, the rule is thus stated:

"The legislature has large powers but its authority is not unlimited. But as we said before, those who assert a limitation *must find it* in the constitution." Also, "It is also unquestionable that the mass of powers of government is vested in the representatives of the people, and that these representatives are no further restrained under our system than by *the express* language of the instrument imposing the restraint or by particular provisions which by a clear intendment have that effect. The constitution is not, as in the case of the federal government, a grant of power to the legislature which is its general head and representative."

In this opinion of Mr. Justice Baldwin, Chief Justice Field concurred.

In *Lycoming v. Union*, 15 Pa. St. 166-169, the Supreme Court of Pennsylvania says:

"We must remember that the legislative branch of our government, unlike the federal government, is limited in its remedial jurisdiction only by the express prohibition or impli-

cation equally imperative following from positive provision or deduced from the nature of our political structure."

And in *Commonwealth v. Maxwell*, 27 Pa. St. 453, it is said: "I doubt if any act of the assembly has ever been annulled for contravening an implied rule of the constitution." See also 6 Am. & Eng. Ency. of Law, 2d Ed., p. 934, notes.

It must, therefore, be conceded that the rule by which we are to be guided in construing this section of the constitution is that unless it can be said that these words quoted expressly limit the power of the legislature; or, as some of the authorities hold, unless such limitation appears by necessary implication, the power to increase exists. The opinions of the members of the constitutional convention and what took place in that body in respect to these and similar provisions would seem to be of persuasive force. I have not been able to examine the minutes of the constitutional convention, but I have read and considered the opinions of Matthew P. Deady, S. F. Chadwick, P. P. Prim, R. P. Boise, J. K. Kelly, E. D. Shattuck, and George H. Williams, which were given by them to the judiciary committee of the house in January, 1887, when the legislative assembly had under consideration a bill to increase the salaries of certain state officers, and when the question was mooted under Article 13, Section 1, whether it was within the power of the legislature to increase such salaries in whole or in part. Article 13, Section 1 reads as follows:

"The governor shall receive an annual salary of \$1,500; the secretary of state shall receive an annual salary of \$1,500; the treasurer of the state shall receive an annual salary of \$800; judges of the Supreme Court shall each receive an annual salary of \$2,000; 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."

All of these gentlemen were members of the constitutional

convention. Judge Deady was chosen as president and was a colleague of Ex-Governor Chadwick from Douglas County; Judge Prim was a delegate from Jackson County; Judge Kelly from Clackamas County; Judge E. D. Shattuck from Washington County. Besides these men who have achieved distinction in judicial life and in other high offices in the state, there was in the convention Ex-Governor and Ex-Senator Grover, David Logan, John H. Reed, Cyrus Olney, J. R. McBride, all men of ability, lawyers by profession and presumably familiar with the intent and purposes of the constitutional convention. Those who contend for a strict construction of the constitution and who say that the designation of a stated amount for a salary or of a designated number as a class, is a constitutional restriction upon the principle that an *expression of one is an exclusion of the other*, must rely, not upon express words or prohibition, but upon the rule of implied inhibition which some of the courts say is not applicable *to the construction of an instrument which is a limitation upon the power of the people and not a grant of power*. It seems to me that the designation of the stated amounts as salaries under section 1, article 13, can be regarded as impliedly a prohibition upon the legislative assembly to increase or diminish that amount, with more reason than that by section 10, article 7, the constitution has inhibited an increase of the number of justices of the Supreme Court beyond that stated. The concluding part of section 1, article 13, supra, which reads: "The compensation of officers *if not fixed by this constitution* shall be provided by law," implies with some force that the framers of the constitution meant *to fix by the designation of stated amounts such salaries* of such state officers as have been specified, and meant only to permit the legislature subsequently to fix salaries of other officers not so fixed. But I yield my impression to that of the men who participated in framing these provisions and who may be presumed to know what was the intention of the constitutional convention.

Judge Kelly in his opinion declares the rule of construction to be that the constitution of a state is a limitation upon and not a grant of power, and that "We are not to ascertain whether the power to do a certain act of legislation is given to a legislature in a state constitution, but whether it is prohibited, and if not prohibited it can be exercised by the legislative body." Speaking of article 13, section 1, *supra*, he says: "There is here no restriction upon the power of the legislative assembly to increase the salaries of the judges. If the words, 'and no more,' had been added to that clause of the constitution, then clearly there would have been no legislative power to increase the salary over \$2,000, or if the framers of the constitution had employed the restrictive words which they did in regard to the compensation to be paid to members of the legislative assembly, then it would be an unconstitutional act to increase the salary." He calls attention to the fact that under article 4, section 29, the compensation of the members of the legislative assembly is restricted by negative words to "Not exceed \$3.00 per day." Judge Kelly also quotes the minutes of the constitutional convention, pages 92-3, as follows: "Mr. Peebles, a member of that body, moved to amend Section 1 on salaries as follows: 'Provided, further, that the salaries of the judges shall not be subject to increase and the salaries of the governor and secretary of state shall never exceed \$2,000, nor the treasurer exceed \$1,200.'" On this proposed amendment the yeas and nays were called and resulted as follows: Yeas, fifteen; nays, thirty-five. So the proposed amendment was lost. Commenting upon the same he says: "This vote, it seems to me, would indicate that the constitutional convention did not intend to restrict legislative action in regard to increasing the salaries of the officers mentioned in article 13, and that the only limitation on the action of the legislative assembly was that such salaries should *not be less* than the amounts therein provided." In support of this contention he cites *Purcell v. Schmidt*, 21 Ia. 543, 544; *People v. Rogers*, 13 Cal. 159.

Judge Shattuck in his opinion, and more elaborately in his address delivered October 18, 1894, before the Oregon Bar Association (see page 48, "Proceedings of the Oregon Bar Association at the Fourth and Fifth Annual Meetings"), concurs in the view so well expressed by Judge Kelly, citing numerous authorities, and states his conclusions as follows:

"First: That the constitution of Oregon is to be deemed, not a grant of powers, but as a limitation or restriction upon powers already existing.

"Second: That the legislative assembly of Oregon has power to order and enact whatever it may deem proper and useful upon all subjects and other methods, except where its action is restricted by the constitution.

"Third: That the limitation or restriction upon legislative action rendering void an act of the legislative assembly, should be manifested by *express terms and allowed only of cases free from doubt or uncertainty.*

"Fourth: That there is no constitutional impediment to raising the salaries of state officers, directly by legislative action."

In his letter of date January 28, 1887, to the judiciary committee of the house, he says: "Contemporaneous opinion may be resorted to for aid in the construction of the constitution. (See Sedgwick, p. 593, on Construction of Statutory Law.) Looking into the journals of the convention published in 1882, and to be found in the office of secretary of state, pages 87-93 inclusive, some idea may be gathered concerning the opinion of the framers on this point. Efforts were made in the convention to cut off the power of legislation on this subject by an express provisions to be engrafted on the section and they failed. The debates on this subject in the committee of the whole and the discussions at other times and out of doors, all indicated a prevalent opinion that the article as it now stands did not cut off the power of the legislature to raise the salaries."

Ex-Governor Chadwick, in his letter of date January 24, 1887, says:

"It was my understanding that the prevailing opinion of that convention was that the legislature would have the power to increase the salaries of judges. From the action of the convention I was of that opinion myself. Every attempt to prevent the increase of salaries of judges by constitutional provision was promptly voted down. Such attempts were made, as the proceedings will show."

Judge Boise, in his letter of date January 26, 1887, says:

"All authorities on constitutional limitations hold that to deprive the legislative department of the state of the power to legislate concerning any matter touching the interests of the state, words of inhibition must be used." And referring to section 1 of article 13, *supra*, he says: "This cannot be construed to prohibit the assembly which represents the sovereign power of the state from increasing these salaries, if in its judgment it ought to be done. I have frequently heard this matter discussed and always entertained and often expressed the opinion that the assembly has this power."

Judge Prim, in his letter of January 24, 1887, says:

"The legislature clearly has the power to legislate on all rightful subjects of legislation, unless expressly prohibited from so doing, or where prohibition is necessarily implied from some express provision contained in the constitution; or, in other words, the legislature of a state possesses all legislative authority not delegated to the general government or *prohibited by its written constitution.*"

Referring to the section under consideration, he further says:

"The above provision is to the effect that each shall receive that amount without containing a necessary implication that they shall receive no more if the legislature in its wisdom shall so provide." And further:

"It is my understanding that a large majority of the members of the convention was opposed to inserting anything in

the constitution prohibiting the legislature from increasing the salary of the state officers at any time when such increase should become necessary."

He then refers to the action taken by Mr. Peebles and the vote of the convention thereon. He also says that Mr. Packwood also moved to amend said section by striking out all after the word "offices" in the fifth line and insert the words, "Nor shall the pay of any officer in this state be diminished or increased except as provided for in the first section for the making of amendments to this constitution," which was also disagreed to.

Judge Deady, in his letter of January 23, 1887, says:

"I have no doubt of the power of the legislature to increase the salaries of the judges of the Supreme Court. * * * The language of the constitution on its face is fairly susceptible of the construction that the judges shall have the sum therein mentioned *at least* and as much more as the legislature may provide. Certain it is that there is no *express limitation* on the power of the legislature to increase. In such a state of things, even if it can be said that the arguments for and against the constitutionality of the measure are evenly balanced, the doubt ought to be resolved in favor of the increase because it wrongs no one and is demanded by the public good."

He calls attention to the fact that when the article on salaries was on its passage, Mr. Fred. Waymire, from Polk County, moved to amend by adding the words, "and no more," which amendment was rejected by the convention. Concluding his letter he uses this language:

"This is equivalent to a declaration by the convention that framed the constitution that its was not intended thereby to prevent the legislature from increasing the salaries whenever in its judgment the population and business of the country justified and demanded it."

Judge Williams, in his letter of January 24, 1887, says:

"According to my recollection, an effort was made in the

constitutional convention to amend the existing provision as to the salaries of supreme judges by declaring that their salaries should be \$2,000 each per annum, and no more, and the amendment was voted down, leaving the implication that the object of the proposition in the constitution as it now stands was to fix the minimum and not the maximum amount of the salaries."

The opinions of these men are entitled to great weight. They have all been members of the Supreme Court except Ex-Governor Chadwick. Their views and their reasons are peculiarly applicable when we come to construe the words of the constitution contained in Section 10, Article 7. Section 10 has no words of express prohibition nor does it seem to me when read in the light of Section 2, Article 7, that there is any force in the suggestion that the *designation of the number three* is necessarily and certainly an exclusion and denial of power to *increase such number* by direct act of the legislative assembly. Those who take upon themselves the burden of this contention must run counter to the elementary rule by which state constitutions are to be construed. They do not point to words of prohibition, but to the implication that when a *number was designated it excluded by implication any greater or less number*. It may be that it is an implication that no less number should constitute the appellate tribunal, but the implication that a greater number might not be named is essentially at variance with the reasoning of these members of the constitutional convention and with all the authorities. A careful examination of the provisions of the constitution adds force to the contention that the *designation of the number* in section 10, article 7, was as it purports to be, *not a grant of power, not a restriction upon the legislative assembly, but the creation of a tribunal known as the judiciary*, and a co-ordinate branch of the state government, and *some number* had to be specified if there was to be more than one member constituting such court. The policy of the convention in using words of restriction where it was intended that such restric-

tion should exist necessarily implies that if a restriction had been intended here, apt and simple words would have been used therefor. Clear words of limitation are used in the following sections: Sections 3, 4, 5, 6, 8, 9, 12, 13, 16, 18, 19, 20, 21, 24, 25, 26, article I. In sections 28, 29, 30, 32, 34, 35, article I, all contain express words of negation or inhibition. The same observations may be made of sections 3, 4, 5, 6, 10, 11 of article II. Article IV., section 1 provides that "The legislative authority of the state shall be vested in the legislative assembly which shall *consist of a senate and house of representatives*," etc. And article IV., section 2: "The senate shall consist of sixteen and the house of representatives of thirty-four members; which number shall not be increased until the year 1860, provided that the senate shall *never exceed thirty and the house of representatives sixty members*." Here are terms of express prohibition used in connection with the words "shall consist of," or "the senate shall consist of." Words of like import are the words used in section 10, article VII. "One of which classes shall consist of three judges," etc. See also section 7, article IV.; sections 9, 11, 12, 16, 19, 22, 23, 24, 28, 29, 30, article IV.; sections 2 and 3, article V.; sections 8, article VI. Section 2, article VII. expressly limits the number of justices of the Supreme Court so that its number shall *never exceed seven* and that it should not exceed five until the white population of the state should amount to 100,000. *This is the same Supreme Court authorized by the constitution*, although its duties have been made appellate exclusively by law in obedience to the provisions of section 10, article VII. This evident purpose of the framers of the constitutional convention to use prohibitive words where it was the intention to prohibit the exercise of legislative power in a given case, appears in nearly every line and paragraph of the constitution. *In fact, it may be said to be the object of the state constitution not to grant power to the legislative assembly but to limit the power which exists in the people, and such limitation in the nature of things ought to be ex-*

pressly indicated and cover as narrow a field as possible. Any other view is to hold that the people entrusted with sovereign power are not to be trusted in the exercise thereof. These limitations in the organic law are self imposed and they ought not to be held to exist unless there is some express provision in which the inhibition can be sacredly and jealously guarded. This limitation upon the power of the legislative assembly as representing the people also expressly appears in sections 3 and 4, article IX.; sections 1, 2, 3, 4, 6, 7, 8, 9, 10, article XI.; sections 1, 2, 3, article IV.; sections 3, 6, 7, 8, article XV.

It is also important to note that at the time the constitution was framed the *Supreme Court consisted of four justices*, who performed circuit duty in the four judicial districts then recognized by section 11, article XVIII. The legislative assembly at various times, beginning with the state government, has recognized that the constitution is a limitation and not a grant of power, and unless legislative power is expressly inhibited, it exists. By section 7, article VII. it is expressly provided that the terms of the Supreme Court shall be appointed by law, but there shall be *one term* at the seat of government annually. It is well understood that there has been authorized by law two terms of the Supreme Court annually and in addition thereto, a term has been created to be held at Pendleton. Under the construction of section 7, article VII., as contended for by those who deny the constitutional power to increase the number of justices, there could be but *one term* of the Supreme Court at Salem annually, and the existing law creating a March term and an October term of the Supreme Court would be invalid. A like strict construction of section 3, article IV. as to public institutions of the State would require the State University, Agricultural College, State Normal School, the Pendleton term of the Supreme Court, and all other agencies of the state or institutions which receive its aid or support, to be located at the seat of government, and appropriations therefor would be invalid. Under a strict construction of section 2, article VII.,

that the number of districts shall never exceed seven, we have two (now four) judicial districts in this state that are entirely unauthorized and judges of the Circuit Court who are determining cases involving life and property whose tenure of office depends upon an unconstitutional statute. It is only because of the fundamental rule of construction that the power remains in the people unless taken by express limitation in the constitution that the creation of the eighth and ninth (now also the tenth and eleventh) circuits can be justified under sections 2 and 10, article VII. There are other illustrations of the exercise of legislative power which give force to the views we have suggested. This is not a case where *property rights* or the *personal rights* of any citizen are involved. It is admitted that the form of relief sought is desirable if it can be granted. The objection is founded upon a sentiment. It does not infringe upon any substantial right of any person whatever. The question is political and governmental, and legislative action on this subject is final and not reviewable, excepting possibly by direct attack upon the title to the office, by *quo warranto*. The court is composed of a number of justices. It is a branch of the state government. The constitution distinctly recognizes that it must consist of *more than one*. When the constitution was framed the Supreme Court at the time consisted of four, with provision for its increase, but it should never exceed seven at any time. There might be five when the population of the state reached 100,000. The justices of the Supreme Court might be placed in a separate class and circuit duty cast upon another class when the state had a white population of 200,000. In the judgment of the constitutional convention, it was thought that when the state had such a population and when the legislative assembly saw proper to confer upon circuit judges elected in separate class the sole duty of the trial of cases at nisi prius, and upon the Supreme Court appellate duty only, that then and *at that time three justices* would be sufficient to transact the business. It is not intimated in the section, nor does it anywhere appear

in the constitution that the separate Supreme Court thus authorized and thus to be created at a time far in the future was to be *limited in its membership and always confined to three justices*. If it had been so intended the invariable rule elsewhere observed in the constitution would have been, to have placed inhibitory and negative words clearly expressing this intention.

Yours very respectfully,

(Signed)

WM. D. FENTON.

NOTE.

Since this opinion was written the business of the Supreme Court of Oregon has vastly increased, and we now have fifty volumes of reports issued, and Volume 51 is about ready for publication, an increase of twenty volumes since January, 1899. We now have thirteen judicial districts instead of four, when the constitution was framed, and twenty circuit judges instead of four, at that time. These facts indicate the necessity justifying the wisdom of the act of the legislative assembly enacted February 12, 1909 (See Chapter 50, Laws of Oregon 1909, p. 99), but do not justify the enactment of the statute in question if such act be clearly in violation of the constitution of the state. The question has been raised upon a motion of the attorney general of the state and the deputy district attorney of the Fourth Judicial District, filed in the Supreme Court of the state in the case of *State of Oregon v. Sam Cochran*, to direct the clerk of the Supreme Court to issue its mandate in that case affirming a judgment of conviction in the court below in a local option case involving the validity of an ordinance of the town of St. Johns, under which Cochran held a license to sell intoxicating liquors at retail. Mr. Justice McBride, elected as the successor of Mr. Justice Bean, and Mr. Justices Slater and King, appointed by the governor as additional judges provided by Chapter 50, *supra*, concurred in

an opinion reversing the judgment of conviction, holding the ordinance valid, and that the town of St. Johns, under its charter, had authority to pass the same, notwithstanding the local option law under which Cochran was convicted. Mr. Justices Moore and Eakin, who are duly elected justices of the Supreme Court, dissented, holding for affirmance of the judgment. The motion is intended to present the contention that inasmuch as Justices Moore, Eakin and McBride are the duly elected and qualified justices of the Supreme Court, *three in number*, and Justices Slater and King are appointees under Chapter 50 aforesaid, that the opinion of Justices Moore and Eakin express the judgment of the court, instead of being a dissenting opinion, it in fact and in law controls, and the opinion written by Mr. Justice King, concurred in by Mr. Justices McBride and Slater, is the opinion of a minority of the court, thereby intending to present the claim and contention that the act (Chapter 50, *supra*) under which Justices Slater and King were appointed is unconstitutional and void, claiming that under Section 10, Article VII. of the constitution, the number of justices constituting the court cannot be constitutionally *increased beyond three*. Carefully prepared briefs have been submitted by Attorney General A. M. Crawford, District Attorney George J. Cameron, Deputy District Attorney J. H. Page and A. King Wilson, upholding this contention; and an able brief submitted by Judge Thomas O'Day, attorney for Cochran, concurred in by Martin L. Pipes as *amicus curiae*, strongly urges the constitutionality of the act in question. A like brief sustaining the act has been signed and submitted by many prominent attorneys who appear as *amici curiae*. The question has attracted great attention, and is of great interest to the public. It is more important that the constitution should be correctly interpreted than that the motion under consideration should be allowed or denied. Naturally the two justices whose right to sit as members of the court has been questioned find themselves greatly embarrassed, and will doubtless decline to pass upon or consider

the title to the office to which each has been appointed, or to participate in the hearing. This will place upon the other members of the court a grave responsibility, and unless they shall hold that the question cannot be raised in this manner, and can be presented and decided only in a case involving a direct attack, by *quo warranto*, to try the title to the office held by the appointed justices, this grave responsibility must be met. It is hoped that the controversy may be settled, and that the court will pass upon the constitutionality of the act in question, and put at rest, in the public interest, this important question.

A brief review of the proceedings of the constitutional convention which convened on August 17, 1857, and of the debates in the convention, may be of interest. The committee on judicial department created by the constitutional convention which assembled August 17, 1857, which framed and submitted the present constitution, was composed of Messrs. Williams, Olney, Boise, Kelly, Grover, Logan and Prim, each of whom afterwards became a justice of the Supreme Court, excepting Grover, who became governor and United States senator, and Logan, who was a great trial lawyer in Oregon for a generation. These seven lawyers drafted that portion of the constitution creating the judicial department, and, it must be assumed, gave to the sections involved in this discussion careful consideration. As lawyers, they must have appreciated the rules and canons of construction applied to state constitutions—and particularly that cardinal rule that such constitutions are limitations upon and not grants of power—and that all power not limited or restrained by such constitutions remains in the people in their sovereign, legislative capacity. This is fundamental and was well understood by these distinguished men. Why, then, if it was the intention to prevent further legislation increasing the number of justices constituting the Supreme Court, did they not in apt and appropriate words so express that intention? That the number and the increase of the number of the supreme justices was plainly in

the mind of the framers of the constitution, is evidenced by the journal of the constitutional convention. Judge Prim, on August 27, 1857, offered the following resolution:

"Resolved, That a Supreme Court, consisting of one judge, to be elected by the people at large, be incorporated into the judicial system. Provided, the number of judges may be increased when the population shall exceed one hundred thousand inhabitants."

This received the affirmative vote of nineteen members of the convention, but was defeated by a negative vote of thirty-eight. Kelly, Prim and Logan, of the committee on judicial department, voted for the resolution, while Boise, Grover, Olney and Williams voted against it. The president of the convention, Matthew P. Deady, also voted against the resolution. It will be noticed that the Prim resolution suggests no limit upon the number of justices when the population exceeded one hundred thousand. That the article on judicial department was very carefully considered by the committee having the matter primarily in charge, is evident from the meagre record found in the journal of the convention, and that the convention as a body scanned each section of article VII., as it came from the committee and as amended and attempted to be amended, in the committee of the whole, while the report of the committee on judicial department was under consideration, is clearly shown. On August 31, 1857, fourteen days after the convention was organized, the journal quaintly records that "The chairman (of the committee of the whole), Mr. Boise, reported that the committee of the whole having had under consideration the article on judicial department, report the same back with sundry amendments, and recommend its reference back to the committee on judicial department." On September 4, 1857, the journal reads: "The committee on judicial department reported the article on the same as directed by the convention. The article on judicial department was read a second time. On motion of Mr. Kelly, the article on judicial department was ordered to be printed. Mr.

Olney, of the committee on judicial department, submitted a separate proposition, which was read, and on motion of Mr. Olney, ordered to be *printed and attached to the article on judicial department.*" On September 14, 1857, the article on judicial department was taken up, on its second reading, and was read throughout, and Mr. Metzger moved to amend section 20 (now section 21) by striking out the words "term for which I have been elected," and inserting the words "time which I may serve," but the motion was lost. Mr. Kelly moved that the article on judicial department be referred to the committee of the whole, but the motion was withdrawn, and Mr. Chadwick moved to amend section 20 (now section 21) by striking out the words "and for one year thereafter," as they appeared originally in the oath required to be taken by the circuit and supreme judges. As originally framed by the committee, and I think drafted by Judge Boise, the oath read: "I, ———, do solemnly swear (or affirm) that I will support the constitution of the United States and the constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the Supreme Court of said state, according to the best of my ability, and that I will not accept any other office except judicial offices during the term for which I have been elected, and for one year thereafter," which motion was agreed to, and these last five words were stricken out. Mr. Metzger thereupon moved to amend section 20 (now section 21) by inserting after the word "supreme" the words "and circuit," which motion was "disagreed to," although logically it should have been agreed to in view of the adoption of the last amendment. Mr. Miller moved to amend section 20 (now section 21), line 3, by striking out all after the word "ability," and Mr. Shattuck demanded the previous question, but the convention voted in the negative, and the question recurred upon the adoption of the proposed amendment. The yeas and nays were demanded, and fifteen voted for the amendment, and twenty-five voted in the negative. Grover and Kelly, of the committee on judi-

cial department, voted in the affirmative, and Boise, Logan and Williams in the negative—Olney and Prim being absent. Mr. Bristow moved to amend section 20 (now section 21) by adding the letter "s" after the word "court" where it occurs, and the amendment was adopted. The form of this oath and the phraseology of the first three lines of section 21 as finally adopted is the basis of the suggestion sometimes made, that the circuit judges of the state are under the constitution, supreme judges, and could be called upon by the three designated by section 10, to perform the duties of supreme justices. The first three lines of that section read: "Every judge of the Supreme Court before entering upon the duties of his office, shall take and subscribe, and transmit to the secretary of state, the following oath:

"I, _____, do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the Supreme and Circuit Courts of said state, according to the best of my ability, and that I will not accept any other office, except judicial offices, during the term for which I have been elected.'"

As originally written by Judge Boise and reported by the committee on judicial department, the oath prescribed was intended to apply only to supreme judges, and as has been noticed, the form was changed in open convention by amendment, so as to apply to circuit judges, and the motion of Mr. McCormick to amend the first line by inserting the words "and circuit" after the word "supreme" having been voted down, left the inference that the judge of the Supreme Court "being required to take an oath that he would faithfully and impartially discharge the duties of a judge of the Supreme and Circuit Courts," was in fact a circuit judge—after the Supreme Court, was under the provisions of section 10, subsequently adopted by the convention, to be made distinct and not to perform Circuit Court duty. The argument suggested

that all circuit judges since the separation of the court into distinct classes under section 10, are also supreme judges, is based upon a misconception, as it seems to me, of the several sections of article VII. on this subject, and upon the peculiar language of section 21, as it now stands. But a study of these various sections and of section 20 (now section 21), as it was from time to time amended, and amendments refused by the convention, makes it clear that, since the act of the legislative assembly passed pursuant to section 10, providing "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 judges, who shall hold full terms without allotment, and who shall take the same oath as the supreme judges," circuit judges are no longer entitled to sit as supreme justices. *They never, in fact, did sit as supreme justices, but the supreme justices by virtue of their office, sat as circuit judges.* Originally, by section 2, the Supreme Court as created by the constitution, consisted of four justices chosen in districts by the electors of each separate district, and the number of justices could not be increased beyond five until the white population amounted to 100,000, and *should never exceed seven.* It thus appears that while the supreme justices were performing circuit court duty they were ex-officio circuit judges of the respective districts or circuits, and circuit judges *as such* were not authorized to be elected, and the office was not designated or created as a distinct office until the creation of the two classes under section 10, supra. At that time these circuit judges were required to take the same oath as the supreme justices, and section 20 (now section 21) did not need any of the amendments offered or adopted or rejected making the oath therein provided applicable to circuit judges. But when section 20 (now section 21) was finally adopted, section 10 had not been adopted either by the committee on judicial department or the convention. It had been drafted by Mr. Olney and ordered

"printed and attached to the article on judicial department." (See p. 49, journal.) This is shown by the fact that section 21 as now numbered, is referred to as section 20, and section 14 referred to in the journal, is section 15 as now adopted. (See journal, p. 72.) The record further shows that Mr. Marple moved to amend section 20 (now section 21), line 4, by striking out all after the word "offices" in line 4, to the end of the sentence, and inserting the words, "to which I may have been elected or appointed during my continuance in office;" and to amend the amendment by adding the words, "and one year after," but the amendments were not adopted. Mr. Boise moved to amend section 2, line 2, by inserting after the word "thereof" the words "who shall be citizens of the United States, and who shall have resided in the state at least three years next preceding their election," which, after its adoption, was upon motion of Mr. Kelly, sought to be reconsidered; but upon a call of the yeas and nays the convention refused to reconsider the vote or indefinitely postpone the motion, and the amendment as adopted stood and remains in the constitution. Mr. Chadwick moved to amend section 3, line 2, by inserting after the words "four years" the words "one in six years, and one in eight years, and thereafter, one shall be chosen every two years to serve for the term of eight years," but the amendment was not adopted.

Mr. Packwood moved to amend section 18, line 1, after the word "but" by adding the words "grand juries shall present the"; after the word "delinquency" strike out the word "in" and insert the word "of"; to the word "office" and the letters "rs"; strike out the word "may" where it first occurs in the second line, and insert the words "which shall." This motion was "disagreed to" as the record awkwardly is written. Thereupon, the article having been fully considered, as he supposed, Mr. Lovejoy moved that the article on judicial department be engrossed and read the third time tomorrow, but the motion being withdrawn, "Mr. Kelly moved to insert *between sections 9 and 10 the blank section reported by a mem-*

ber of the committee on judicial department in relation to a Supreme Court separate from Circuit Courts." (See page 74, journal.) The yeas and nays being ordered, the vote upon the adoption of this section (now section 10) resulted in thirty for and nine against its adoption. Boise, Grover, Kelly, Shattuck and Williams voted for the section, and Judge Deady, the president of the convention, against it. Logan, Olney and Prim were absent, as they are not recorded as voting. This section is the identical one submitted by Mr. Olney and, upon the order of the convention, "printed and attached to the article on judicial department." It is fair to assume that it was written by Judge Olney, who was, as is well known, a justice of the Supreme Court, appointed in 1853, re-appointed, and who resigned in 1858, and who sat with Williams as chief justice, and with Matthew P. Deady as associate justice. Judge Olney was succeeded by Reuben P. Boise as associate justice. Judge Olney was very conversant with the organization of the territorial Supreme Court and the judiciary and the public need at that time, and it may be presumed that he anticipated the future and had fully in mind the time when the Supreme Court would be chosen in a distinct class, and when the justices would not perform circuit duty.

Following the adoption of section 10, then unnumbered—Mr. Kelly moved to amend section 14 (now section 15) by adding the following: "But whenever the number of voters in any county shall exceed twelve hundred, the legislative assembly may authorize the election of one person as clerk of the Circuit Court, one person as clerk of the county court, and one person as recorder of conveyances," and this motion was adopted. Mr. Boise moved to amend section 19 by adding the following: "The judges of the Supreme Court shall not, during the term for which they are elected, be eligible to any office within the gift of this state or the United States, except judicial offices;" but the motion was not agreed to. Mr. Farrar moved to amend section 10 (now section 11), line 1, by striking out the word "four" and inserting the word "two"

—the object being to provide that county judges should be elected for two instead of four years. The motion failed. Mr. Olds moved to amend section 3, line 2, by striking out the word "six" and inserting the word "four"—intending to provide that the term of the supreme justices should be four years instead of six, as finally adopted.

After these numerous amendments and motions had been acted upon, and the convention having consumed the entire session from 8 a. m. to noon in its consideration, Mr. Grover moved that the article on judicial department be engrossed and read a third time tomorrow, and it was so ordered. On Tuesday, September 15, 1857, the article on judicial department was read a third time and was adopted by a vote of thirty-eight yeas to ten nays, Messrs. Anderson, Farrar, Kinney, Logan, Marple, Olds, Packwood, Scott, White and Watkins voting against it, and all the lawyers in the convention, including Judge Deady, the president, voting for the article as it now stands in the printed constitution, excepting David Logan, E. D. Shattuck, Cyrus Olney, J. R. McBride and John H. Reed. The lawyers who thus voted were: J. K. Kelly, Reuben P. Boise, P. P. Prim, John Kelsay, Matthew P. Deady, L. F. Grover, Geo. H. Williams, Stephen F. Chadwick. Cyrus Olney, J. R. McBride, E. D. Shattuck, and John H. Reed—the other lawyers in the convention were not present and did not vote upon the adoption of this article as a separate section of the constitution, but approved and signed the constitution as finally framed and passed by the convention. On Wednesday, September 16, the convention considered the amendments from the committee of the whole, in the schedule now article XVIII. of the constitution, and section 11 as it now appears, was added, which provides that: "Until otherwise provided by law the judicial districts of the state shall be constituted as follows: The counties of Jackson, Josephine and Douglas shall constitute the first district; the counties of Umpqua, Coos and Curry, Lane and Benton shall constitute the second district; the counties of Linn, Marion, Polk, Yam-

hill and Washington shall constitute the third district; the counties of Clackamas, Multnomah, Wasco, Columbia, Clatsop, and Tillamook shall constitute the fourth district; and the county of Tillamook shall be attached to the county of Clatsop for judicial purposes." The four justices of the Supreme Court, created by section 2 of article VII., held the Circuit Courts for these four districts, "until otherwise provided by law" pursuant to sections 2, 8 and 10, article VII., and section 11 of article XVIII. By section 8, article VII., it is expressly provided that "The Circuit Court shall be held twice at least in each year, in each county organized for judicial purposes, by *one of the justices of the Supreme Court*, at times to be appointed by law; and at such other times as may be appointed by the judges severally in pursuance of law." *There were no circuit judges, as such, until after the exercise of legislative authority under section 10, supra*, and then and thereupon for the first time, *circuit judges, as such*, were provided for and authorized to be elected as such. The *Supreme Court as a constitutional body* was first created by section 2, article VII., and the members were *primarily* supreme justices, and incidentally performed the duties of holding Circuit Courts. The *Circuit Court* was created at the same time, but *circuit judges, as such*, were unknown to the constitution other than in the person of supreme justices, until after the passage of the act of October 17, 1878 (Session Laws 1878, pp. 81-82) pursuant to section 10, article VII. *The court created in the beginning and composed of four justices, which should never exceed seven in number, as created and defined by section 2, is the same Supreme Court to be elected in a separate class consisting of three justices*, when they were relieved of circuit duty for the first time. The primary object of section 10 was to give authority by constitutional warrant for the election of the justices and circuit judges hitherto, one office and one officer, in separate classes as separate officers and separate offices, and relieving the supreme justices from performing circuit duty, and to permit not less than three nor

more than seven justices of the Supreme Court to be chosen, and to authorize as many circuit judges to be elected in the other class as might be deemed necessary. Section 2, article VII., originally creating the Supreme Court, defining its number to consist of four, but never to exceed seven, remains in full force excepting as modified by section 10, when legislation thereunder was enacted. The *class began with three justices* as a minimum, and shall never exceed seven; the court shall no longer perform circuit court work, and must be elected as a distinct class, and presumably each justice must be chosen by the electors of the entire state, and not by districts.

As proof that the convention deliberately declined to limit the legislative power upon this and kindred subjects, attention is called to its action on September 17, 1857, next to the last day of its session. On that day Mr. Peebles moved to amend section 1, article XIII., on salaries, by adding to the end of the section the following: "Provided further that the salaries of the judges shall not be subject to increase and the salaries of the governor and secretary of state shall never exceed \$2,000, nor the treasurer exceed \$1,200." The yeas and nays were ordered, and there were fifteen yeas and thirty-five nays—Grover being the only lawyer voting in the affirmative, and he was a colleague of Mr. Peebles, from Marion County. Mr. Farrar then moved to amend section 1, article XIII., on salaries, by inserting after the word "diminished" in the seventh line, the words "or increased," and the amendment was adopted by a vote of thirty-six yeas to nine nays. Mr. Williams moved to amend section 1, article XIII., on salaries, by adding at the end of the section as it then stood, the words, "But the compensation of officers, if not *fixed* by this constitution, shall be as prescribed by law," and this was adopted. Thereupon Mr. Packwood moved to amend this section by striking out all after the word "offices" in the fifth line and inserting the words: "Nor shall the pay of any officer in this state be diminished or increased except as provided for in the first section for the making of amendments to this constitu-

tion," and the motion was lost. Mr. Peebles thereupon moved to amend section 1, article XIII., on salaries, by striking out all after the word "offices" in the fifth line, to and including the word "constitution" in the seventh line; and Mr. Bristow moved to amend by striking out all from and including the word "provided," which was accepted by Mr. Peebles, and the amendment thus amended carried by a vote of twenty-two yeas to nineteen nays, leaving section 1, article XIII., as the same now appears in the constitution.

The record shows that the article on judicial department and on salaries received great consideration, and while the proceedings of the constitutional convention cannot be considered as conclusive of the true meaning of the section to be construed, they may be considered as placing the court in a position to interpret the constitution in the light of those who framed its provisions. 2 Lewis's Sutherland Statutory Construction, Sec. 470, 2d Ed. The record is silent upon the adoption of article XIII. as amended, and it is likely that the convention restored the amendment of Judge Williams, as apparently stricken out by the motion of Mr. Peebles, so that as adopted it now reads: "The compensation of officers if not *fixed* by the constitution shall be provided by law." The word "fixed" was evidently used in the sense of "limited," so that the salary could be neither increased or decreased. In cases of salaries not so fixed the legislature could provide what they should be, beyond the minimum specified.

In a spirited discussion between Mr. Logan and Mr. Grover as to the report of the committee on judicial department, under consideration on Wednesday, August 25, 1857, in committee of the whole, it appears that the committee originally agreed that the Supreme Court should consist of four justices, but that it was reported to the committee of the whole that the court should originally consist of three justices created by section 2. The Weekly Oregonian of Saturday, September 19, 1857, in reporting the proceedings of the constitutional convention, says:

"Mr. Deady called the attention of the committee to the amended condition of the bill, suggesting that it would be well to refer it back so as the amendments could be incorporated in their proper places, and suggesting also an amendment to it, 'Provided that until the number of inhabitants shall exceed 100,000, the number of justices *shall not exceed five in number.*' He supposed the population of this country would not exceed that number in twenty years. This proposition may not meet the approbation of the committee, but it may suggest to them that some restraint should be exercised upon the power of making judges by the legislature." The report proceeds further:

"Mr. Kelly favored the idea of *starting out with four justices at the start.* He thought it would be better than referring it to the legislature. It would also give three judges to sit upon the bench, and consequently a majority on division, while it would leave room for the judge who tried the case below to vacate the bench. Mr. Olney feared the country did not expect but three judges, and that the people would be unwilling to support more. He knew the evils arising from a court composed of three judges, and could appreciate it as well as any other gentleman here, but he feared the people would not view it in the same light. The prominent question with them was the expense. Mr. Williams said he would prefer to practice before a separate and independent Supreme Court if he had his choice. He would also prefer to have four justices instead of three, so as to obviate the objection made by the gentleman from Multnomah (Mr. Logan) to the present system. But lawyers and judges, it must be remembered, cannot have their own way. The present system may appear very oppressive and very objectionable to the gentlemen who have practiced in the courts, but it may not so appear to the people. The people do not look at these things as lawyers do. After some further discussion the motion to strike out 'three' and insert 'four' prevailed. Mr. Deady moved the adoption of an amendment *limiting the number of judges to five until the*

inhabitants of Oregon shall exceed 100,000, and provided further that the number of judges shall never exceed seven."

The proceedings as reported do not indicate any further discussion of article VII., creating the judicial department. It must be borne in mind that the debates in the convention were somewhat influenced by the bitterness of partisan controversy. Logan and Dryer, of Multnomah, were the leaders of that minority representing the Whig influence, while Williams, Kelly, Smith, Grover, Deady and Boise were the leaders of the Democratic party. Mr. Dryer was the editor of the Weekly Oregonian, then and now a great newspaper, and at that time published and owned by Thos. J. Dryer, Henry L. Pittock, and E. Treat Gunn. In the issue of the Weekly Oregonian of October 10, 1857, Mr. Dryer editorially says:

"The swaggering, self-conceited, consequential manner in which Lane, Williams, Kelly, Smith, Grover, Lovejoy, Deady, and their pliant followers, assume the adoption of the constitution as a fixed fact is enough, without reference to their past history, to satisfy any mind of their confidence in being able to gull the people with any measure they please. The people, by the adoption of this constitution, would completely tie up their own hands and shackle their right of self-government. They cannot change, amend or alter the constitution for years. The future legislatures are completely stultified and powerless by the provisions of this constitution. Some counties have been crucified, and others rewarded in consequence of their party complexion. * * * *The judiciary system is a complete monarchy, a one-man power, dangerous to the rights and liberties of the people.*"

It may be suggested that in the light of more than fifty years' experience under this constitution the objections urged by Mr. Dryer seem to have been inspired by the times in which he wrote. I have cited these quotations from the report of the proceedings of the constitutional convention, as accurately reported by Mr. Malone for the Oregonian, and from the journal of the constitutional convention as published by authority

of a resolution of the legislative assembly of September 23, 1882, to show that there was no thought in the minds of the framers of the judicial department, or in the mind of any member of the constitutional convention *that the number of justices of the Supreme Court should never exceed three*, after the exercise of legislative authority under section 10. It should be clear to the mind of any candid man, as it seems to me, that instead of there being a restriction upon the legislative power to increase the number of justices beyond the number three, that it is manifest from article VII., taken in its entirety, that the Supreme Court originally should consist of four justices, chosen in districts, who should perform circuit duty; that while they were performing circuit duty the number should not exceed five, and that the number could be increased to five when the white population of the state amounted to 100,000; *but that the number of justices constituting the Supreme Court should never exceed seven at any time or under any circumstances*; that when the white population should amount to 200,000, the legislative assembly could provide for the election of supreme and circuit judges in distinct classes, one of which classes should then consist of three justices of the Supreme Court, who should not perform circuit duty, and the other class should consist of the necessary number of circuit judges. To hold that the number of justices cannot be increased beyond three is to hold that when the legislative assembly exercised its authority under section 10, and provided for the election of the supreme and circuit judges in distinct classes, the provisions of section 2, which gave birth to the Supreme Court and are the only provisions under which it was originally authorized to exist or exists today—have been nullified, and that the inhibition that the number shall never exceed seven no longer has any meaning, effect or purpose.

It is confidently asserted that if consideration be given to the record as shown by the journal, and the debates, as reported at the time, the words used in section 10, article VII.,

designating the number of justices of the Supreme Court, when relieved of circuit duty, were intended to designate a minimum in the class, and in no sense were intended as a limitation upon legislative power.

The constitution was enrolled, and adopted as enrolled, by a vote of thirty-five yeas to ten nays. Mr. Olney, Mr. Meigs, Mr. Shattuck, Mr. Short, Mr. McBride, Mr. Reed, Mr. Prim, Mr. Nichols, Mr. Lewis, Mr. Applegate, Mr. Scott, Mr. Chadwick, Mr. Shrum, Mr. Campbell, of Lane, Mr. Bristow being absent and not voting at the time, afterwards signed the constitution pursuant to a resolution authorizing this to be done by all the members who were absent. The convention was composed of sixty delegates, and was a representative body of men from all the walks of life. The government created by the constitution was simple, economical and ideal, and the constitution as thus framed withstood all efforts to amend the same until the adoption of the initiative and referendum amendment on the 2d day of June, 1902.

Constitutions when adopted should not be quickly changed or set aside, and courts should uphold their provisions. In construing organic law self-imposed upon the people by their votes, courts should never fail to recognize that cardinal rule of construction that state constitutions are limitations upon and not grants of power, and that all power not expressly taken away from the people by the constitution, remains with them to be exercised by the whole people, or by their representatives in legislative assemblies when and as they may decide or desire. Courts will not and should not strive to overthrow an act of the legislative assembly, or an initiative measure adopted by popular vote—by any narrow or strained construction of the constitution. If the constitution plainly forbids the particular exercise of legislative power either by the people or the legislature, the courts will and should uphold the constitution, and deny the law-making power its exercise in the special and particular case. In doing so, the statute must appear to be unconstitutional beyond a reasonable doubt;

that is, a doubt which a reasonable man in the performance of a solemn duty in a matter of grave concern to himself, or to the commonwealth, might have, after a calm, full and dispassionate consideration of the entire matter. It is such a doubt as would cause such a man as a judge, to hesitate to overthrow a statute duly enacted, either by the people by direct legislation, or by their representatives, and would not declare such statute unconstitutional unless compelled so to do by the rules and canons of construction, and by his oath of fidelity and obedience to the constitution. In deciding whether an act of the legislature is unconstitutional, the court cannot so find, unless the conclusion is reached "to a reasonable and moral certainty; a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it."

Commonwealth v. Webster, 5 Cush. 295; approved in
Hopt v. Utah, 120 U. S. 430-440.

If the opinion written more than ten years ago, when no pungent criticism was made, may in some degree assist the court to a just and correct determination, I shall feel that I have performed a duty that I owe to the court, and that I have discharged in part an obligation to the public as well. For this reason I have asked leave to submit this opinion, with this note, for the consideration of the court.

WM. D. FENTON.

Dated December 18, 1909.

NOTES

The sixth annual meeting of the Pacific Coast Branch of the American Historical Association was held in the History Building, Stanford University, Cal., November 19 and 20, 1909. In the absence of President Benjamin Ide Wheeler, who was in Europe, the Vice-President, George H. Himes, Assistant Secretary of the Oregon Historical Society, Portland, presided.

The General Session began at 2:30 P. M. on the 19th. The papers presented were as follows:

1. The Self-Government of the Elizabethan Period, by Prof. S. L. Ware, of Stanford University.
2. Colonial Opposition to Imperial Authority During the French and Indian War, by Prof. E. I. McCormac, of the University of California.
3. The Mennonite Immigration of 1874, by Prof. E. B. Krehbiel, of Stanford University.
4. Notes on Roman Imperialism, by Prof. R. F. Scholz, of the University of California.

The annual dinner occurred at 6:30 P. M., with Prof. E. D. Adams, of the Department of History, Stanford University, presiding. At the close of this function Mr. Himes gave the Presidential Address, his subject being "The Historical Unity of the States West of the Rocky Mountains." Brief addresses followed by Prof. J. C. Branner, of Stanford University; Prof. Bernard Moses, of the University of California; George E. Crothers, San Francisco; Prof. Edmond S. Meany, of the University of Washington; Prof. Jeanne E. Wier, of the University of Nevada; Prof. T. C. Knowles, of the University of Southern California; Prof. J. N. Bowman and Prof. F. J. Teggart, of the University of California.

The Pacific Coast History Session began at 11 o'clock the second day. The papers presented were as follows:

1. Captain Arthur Phillip, First Governor of New South Wales, by Prof. P. J. Treat, of Stanford University.

2. The Intendant System in New Spain, by Prof. Don E. Smith, of the University of California.

3. The Discovery of the Lost History by Father Kino, by Prof. H. E. Bolton, of Stanford University.

4. The Towns of the Pacific Northwest Were Not Founded on the Fur Trade, by Prof. Edmond S. Meany, of the University of Washington.

5. The Early Missouri Fur Trade, by Prof. F. J. Teggart, of the University of California.

The Teachers' Session began at 2:30 o'clock P. M. The general subject was "Ancient History in the First Year of the High School," and the following papers were presented:

1. Methods of Teaching Ancient History to Beginners, by Prof. H. W. Edwards, Berkeley High School.

2. Points of Contact Between Ancient History and the Present, by Prof. W. C. Westergaard, Alameda High School.

General discussion followed.

The business session was held at 4:00 o'clock P. M., and officers for the ensuing year were elected, as follows: President, E. D. Adams, Stanford; Vice-President, Edmond S. Meany, University of Washington; Secretary-Treasurer, J. N. Bowman, Berkeley; Council, the foregoing officers, and H. E. Bolton, Stanford; Miss Jeanne E. Wier, University of Nevada, Reno; Miss Agnes E. Howe, San Jose State Normal School; E. I. McCormac, University of California.

The Secretary was instructed to gather the material for a report on the State and Local Historical Societies on the Coast, to be presented at the next meeting.

The Council was authorized to appoint a committee of two to meet with other similar committees to discuss the feasibility of annual meetings of scientists, learned and technical societies of the Pacific Coast, at the same time and place.

The next meeting of the Pacific Coast Branch will be held in Berkeley on November 18-19, 1910.

THE OREGON HISTORICAL SOCIETY

ORGANIZED DECEMBER 17, 1898

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[The Quarterly disavows responsibility for the positions taken by contributors to its pages.]

FINANCIAL HISTORY OF THE STATE OF
OREGON—III

OREGON'S PUBLIC DOMAIN

THE SALE OF OREGON'S LANDS

CHAPTER II—Continued.

Selection of Indemnity Lands Merged With Sale of Them.

So far in this sketch of Oregon's experience with its public lands attention has been directed to the steps taken by successive Oregon legislative assemblies and state administrations to secure complete titles to the lands inuring to the state under the different grants by the national government. This initial effort of fully acquiring its public domain, though not necessary in connection with the fundamental portion of the common school grant, was with the other grants quite a distinct phase of the state's management of its landed estate. There was selecting to do, too, of school lands when it came to making up for losses suffered out of the original grant of one-eighteenth of the whole territory of the state.

But the selection of lieu or indemnity lands in compensation to the state for any whole or part of sections sixteen and thirty-six that it failed to get was regularly slurred by the state. The

burden of it was shifted as we shall see upon the would-be purchasers. Since the procedure for the selection of these lands was more commonly merged with that of the sale of them the matter will be so handled in this account. It will aid greatly to keep the distinction in mind that the original common school grant, sections 16 and 36 in each surveyed township, and the tide lands, became the property of the state automatically upon the completion of the surveys; but with any of the other grants, the act of Congress granting the lands had to be followed up by steps on the part of the state through which specifically described tracts were designated in accordance with the regulations of the department of the Interior. In the cases of the swamp land grant and the salt springs grant the state was under the necessity merely of identifying definitely the areas claimed.

Comprehensive View of State's Domain as a Whole.—The dilatory and devious proceedings of the state in accomplishing this appropriation to itself of its possessions have been outlined. The query naturally rises now what was done with this social heritage? What have the people realized from it? What has this endowment of theirs come to? It will, I believe, make our thought about these Oregon lands much more satisfactory to have a mental picture as distinct as possible of their salient features as a whole. By far the most extensive and valuable of the state's acquisitions was the common school grant. Two square-mile plats in every township division of six miles square that the surveys blocked out belonged to the people of Oregon as a permanent endowment of their common schools. Evenly distributed as these lands were throughout the length and breadth of the state the value of this grant was proportionate to its extent. It had come to the people of this state for this purpose without any initiative or effort on their part. Their having secured it was not indicative of anything as to the commonwealth's spirit and efficiency.

But while under the sweeping provisions of the original grant to the state all of sections 16 and 36 were set aside for

the state, its claim to these parcels of land was made subject to certain prior rights. These preferred claims included those (1) of the United States, if the lands were more valuable for mineral than for agricultural purposes; (2) of settlers who had begun the improvement of them prior to the time of the survey; (3) of the United States if disposed to use them for parts of Indian or forest reservations.

These preferred rights to sections 16 and 36 and to legal subdivisions of them, to which the claims of the state were subject, made great holes in that continuous checkerboard of school land plats tentatively promised the state in the terms of the original grant. Under the working of these several limitations of the rights of the state larger patches were taken out of this endowment for its schools, as originally defined, than was suffered in any other state excepting its sister commonwealths in the Pacific Northwest.

Loss to the state of sections 16 and 36 because of settlement prior to the government survey was greater by far in Oregon than in any other state of the Union as the settlement of the valleys of western Oregon was in progress some ten years before government survey in Oregon began. Furthermore, conditions that caused Uncle Sam to take occasion to retain his hold on the areas covered by these sections 16 and 36 have prevailed to a peculiar degree in Oregon. Indications of mineral wealth are widely scattered throughout the state, numerous Indian tribes have had to be provided for and the many and widely expanded mountainous regions of the state invited extensive reservations for forest and water conservation.

The gaps in the state-wide platting of school lands thus occasioned necessarily took from the state some of the choicest portions of the grant as originally constituted. On the other hand, however, it was open to the state to secure restitution for these losses from its school land grant by selecting the very best of the federal lands available as indemnity or lieu lands.

As already intimated this right of the state to recoup itself in its school land grant through making the best lieu land selections was exercised but not with the spirit and through procedures that indicated a keen appreciation of a public opportunity of such vast proportions as this involved. The records of Oregon's school land policy as we shall see furnish little if any evidence that the mind and heart of the state were stirred by a vision of what might be for all coming generations of Oregon youth if the fullest use was made of the opportunity of securing such large stretches of the best lands of Oregon to be held to yield the richest returns for this sacred public purpose.

An account of the management of the Oregon lands collectively is proposed. So not only the school lands but the state's entire legacy should be brought into the field of view as it were. Through acts of Congress of different dates it was open to the state to secure the following lands¹:—

- (1) 46,080 acres of University lands,
- (2) 500,000 acres of Internal Improvement lands,
- (3) 6,400 acres of Capitol Building lands,
- (4) Salt Springs lands to the limit of 46,080 acres,
- (5) 90,000 acres of Agricultural College lands,
- (6) Swamp lands for reclamation,
- (7) Tide lands by virtue of jurisdiction.

The locations of the swamp and tide lands were determined by natural conditions. In availing itself of the other grants as well as in the case of the indemnity school lands it had recourse to choicest portions of the public domain. Such was the opportunity the people of Oregon had to secure a magnificent collective possession in lands from the proceeds or returns from which to accumulate large funds for purposes of common school and higher education and for public works.

The outcome realized from this heritage of land depended mainly upon (1) promptness and efficiency in getting the

¹ See Quarterly of Oregon Historical Society, Vol. X, pp. 367-371.

best portions of the state in making its selections; (2) upon adhering to a policy calculated to secure highest returns consistent with the best general development of the resources of the state.

How difficult a task was made of the first phase of this problem in connection with the university, agricultural college and internal improvement grants has already been outlined. In locating none of these lands did the state get tracts of as good a quality as more effective promptness and care would have secured. The salt springs grant was allowed to lapse altogether; the swamp land selection was attended with a protracted state of loggerheads with the national authorities and prodigious scandal with no returns whatever for the people.¹ It remained for the selection of the indemnity school lands, as will be brought out, to lead to a situation involving losses of great magnitude and dire disgrace to the state. So far as any one matter could, it tended to render the name Oregon a byword and a hissing.

This Oregon commonwealth thus acquired a patrimony of some 4,000,000 acres of land. About 3,000,000 acres of it were pretty evenly distributed throughout the length and breadth of the state; the remaining portions were located in more or less segregated patches here and there in the western, the south central and the northeastern sections of the state. What controlling ideas determined the policy applied in the disposition of this public estate of the Oregon people?

Controlling Idea in State's Policy—There is no evidence that these lands were ever made a subject of thought as a commonwealth resource. They were of course regarded as a possession having a money value; but there was no discernment of possibilities in them that adapted policies of management might be made to realize. The early governors charged with responsibilities regarding them as the agents of state for securing these grants were not derelict to this duty. At least

¹ Oregon Historical Quarterly, Vol. X, pp. 371-394.

the successive legislative assemblies were fully notified of the status of the state's grants. The first governor, John Whiteaker, was particularly persistent in his attempts to get the requisite legislative action for selecting the lands¹. The second during the distracting years of the civil war was faithful but not pushing in this matter²; the third was careless; but the fourth, Lafayette Grover, made it the mission of his administration, which began in 1870, that the state should get all the lands coming to it under grants by Congress or by virtue of any other right³. Yet the controlling idea in the handling of these lands from the beginning down to the present has been to turn them over for a return to individualistic exploitation. This was wholly natural and normal during the earlier decades, say down to the middle of the eighties. The conditions until then were, as will be pointed out, such that any suggestion of a state policy of leasing or direct public use for any purpose was not deserving of any consideration. Tentative experimentation along these lines was never broached. It would have been too visionary to deserve any attention whatever. But beginning with swamp lands in 1870, and with indemnity school lands in the later eighties, the accumulation of vast holdings out of state lands by individuals and corporations was a most conspicuous proceeding. These were simply to be held idle for speculation. Yet no scheme was ever presented for realizing to the people in their collective capacity this social increment of wealth represented in the enhancing values of these former state holdings. What gains in value there actually were under these circumstances must have been of collective creation and yet the idea of conserving this wealth to the producer of it, and particularly when it was

¹ Governor's Message to Legislative Assembly, first sess., 1859, House Journal p. 27. Governor's Message to Legislative Assembly, first regular sess., 1860; Senate Journal pp. 26-7. Governor's Message to Legislative Assembly, second regular sess., 1862, app. to House Journal p. 5.

² Governor's Message to Legislative Assembly, third sess., 1864, app. to House Journal p. 5. Report of Board of Commissioners for the Sale of School Lands, 1868, Messages and Documents pp. 3-4; 21-48.

³ Governor's Message to Legislative Assembly, seventh sess., 1872, Messages and Documents pp. 10-21. Governor's Message to Legislative Assembly, eighth sess., 1874, Messages and Documents pp. 10-26.

dedicated to the purpose of making a perpetual fund for the education of the youth, had no champion. The concept of an Oregon public as the owner of the wealth represented by these lands, and as having the largest realization of highest social aims dependent upon the best handling of it, was never actively advanced.—if ever entertained. The absence of all traces of what would, in the more recent decades at least, have been a promising and practical idea for the promotion of the common good surely argues the existence hitherto of a fateful warping of the common consciousness of this commonwealth, or simply that it had not arrived in the development of an essential commonwealth faculty. Such obliviousness to a great public interest under conditions giving that interest strongest emphasis and most concrete illustration, betrays a fearful ignorance of what community discernment, purpose and effort may yield for strength and common welfare. The sweeping change wrought in social relations, which change is still going forward at an ever accelerating pace, to which all lines of invention have contributed, make such a lack of the social, community or public point of view an increasingly costly if not now a fatal handicap. This is not saying that Oregon should have gone with headlong precipitancy into the farming or landlord business. It claims only to be a pertinent suggestion provoked by the incessant, uninterrupted and almost rabid intent to sell, to sell immediately and as rapidly as possible, and until this last decade for a nominal price, all its varied holdings of land.

No Conception of a Community Interest in These Lands— No spectre of land or other natural monopoly seems to have troubled the thought of the Oregon people in the past and no vision of a good for themselves or their posterity seems to have inspired them. This observation—so far from flattering—is made in introducing this narrative of the state's land policy for the reason that the state's management of its common interests embodied in its land suggests the likelihood, if not certainty, of a similar commonwealth failing with regard to even greater

common resources that are being evolved day by day. A state that has exhibited almost up to the present such bald obliviousness to common interests will be all too prone to retain laws and institutions that will let slip other and even grander commonwealth opportunities.

The story of the public lands of Oregon is largely a "spilt-milk episode," but it must be realized that wealth and welfare are every day more and more of a social and collective creation, and that laws and institutions fitted for more primitive conditions will cause these new commonwealth resources, less tangible than land yet if possible more vitally important to the public welfare, to be sacrificed. The presentation of a public "spilt-milk episode" of the character of Oregon's public land history while that public is being swept into a new era and is being constituted more and more largely an organic unity should be worth while. With the whole trend of change towards bringing the organizations under the state into combinations with monopoly powers it behooves the public as such to assert itself. This role is inevitable. The task of preparation for it is stupendous beyond comparison. The Oregon public land story affords most elementary yet striking suggestions.

Conditions Peculiar to Early Oregon Affecting Its Land Policy—But enough as to the social significance inhering in a state's policy with a collective possession like that of public lands. Turning now to the special conditions that constrained Oregon to develop the characteristic features of its policy. A glance at a map representing the nature of the surface of the different sections of this country quickly reveals a striking contrast between that of the Mississippi valley and that of the Pacific slope. Yet the actual measure of difference between the two sections in the lay of their lands is hardly suggested by a map. In the Mississippi valley states land is pretty much all-of-a-piece. In the mountainous regions of the West diversity is the rule. To say nothing of the possible value of mineral lands, agricultural lands under the conditions of soil and

climate of sections of this western region are susceptible of development making them in localities worth hundreds of dollars an acre. Yet other tracts in close proximity are not and probably never will be worth a hundredth part of such values. Then, too, lands still retaining the natural growth of giant forests are in this age of approaching timber famine becoming of astounding value. The experience of the early Oregonians, however, had been with the lands of the Mississippi valley. The level and rolling valley lands of Oregon, productive with ordinary cultivation and the natural rainfall, they could appreciate. These lands had largely passed into private ownership before effective steps were taken to secure state lands under the different grants¹. Small scattered tracts that had been overlooked by the individual settlers were selected by agents of the state as indemnity school lands. Little expectation was there that the smaller isolated valleys, the timbered mountain slopes and the vast stretches of the semi-arid country east of the Cascade range would yield wealth and be brought into intensive cultivation². Successful farming at the Whitman mission station might have assured them of the productivity of this eastern section of the state, yet there was the isolation with the lack of transportation facilities that nullified the other element of value.

Not until the later sixties and the early seventies when there were considerable accessions of settlers from the devastated regions of the South, and the settlements were extended into the northeastern and south central portions of the state, was the value of the lands of these sections demonstrated so that

¹ Governor Whiteaker in his message to the Legislative Assembly in its first session, July 8, 1859, after enumerating the grants to the state, said: "Although this grant appears liberal and generous, yet, it may be difficult to find lands in any of the valleys west of the Cascade range of mountains of a desirable quality, unoccupied, subject to be located. . . ." H. J. p. 27.

² Governor Gibbs in his message to the Legislative Assembly in its third regular session, September 15, 1864, in commenting on the condition of the Agricultural College grant, said: "As will more fully appear hereafter, there is great difficulty in finding lands subject to location in this state. I have considered it of paramount importance to first select lands for the benefit of common schools. Enough of that class has not yet been found to make up the amount to which the state is entitled, therefore no lands have yet been selected for the benefit of the agricultural college." Appendix to H. J., p. 5.

it occurred to the state administrations that it was worth while to make up the unfilled quota of its University grant, its lapsing Agricultural College grant, its neglected internal improvement and capitol building grants and to identify its swamp and tide lands.

The dilatoriness of the state in getting its lands and the moderate values it put upon those it did get are thus to be accounted for. Lands of any value in the eyes of the early Oregonians were occupied before the government got around to survey them. The worth of lands of types different from those to which they were accustomed had to be demonstrated through actual use. This did not come about until nearly a decade after the admission of the state.

It is unreasonable to pass judgment against a generation whose public officials failed to anticipate the wealth that would have accrued to the state had well-forested areas been appropriated by the state, or areas easily susceptible of irrigation, or those preeminently adapted to fruit culture. The possibilities in such Oregon lands are just now being disclosed. No such tests were required for an equally successful administration of state lands by a Mississippi valley state. Nor did the Oregon community have any example to emulate in the conserving of the public interest in such resources.

Vacant lands have only a prospective or speculative value, based upon anticipated demand and utility. Until the middle of the eighties there lay the unspanned wilderness of a thousand miles and more between the frontier of the Mississippi valley and the Oregon settlement. A shorter but almost equally difficult stretch of wilderness separated the settled portions of Oregon and California. Under these conditions the stream of incoming settlers was naturally thin, not enough to cause a speculative value to be placed upon any considerable body of vacant land. Lands, even if proven productive, especially if there are almost unlimited unoccupied areas of them, have but a nominal value.

Thus the peculiar conditions obtaining in Oregon that necessarily controlled the policy of the state with its lands during the first half of the period of statehood were:

(1) The lands available for selection could not be appreciated by the early settlers, their experience had given them no basis from which to anticipate the values they were to have in the future. The lands whose values were seen had been pretty much all appropriated as the beginning of settlement with the right of each family to 640 acres antedated the beginning of the surveys by nearly a decade and a half.

(2) During these early decades the inflow of settlers to then remote and isolated Oregon was slow, affording no basis for a speculative demand for the almost unlimited areas of unoccupied lands.

(3) Furthermore, the separation of the different sections of the state by high and steep mountain ranges, and deep river canyons vetoed such a spreading out of the settlements as took place in the Mississippi valley. Extension of settlement even under these conditions there was into eastern and southern Oregon for the sheep and cattle business on the ranges. But for these purposes the lands for a long time were virtually treated as commons and no sale values created for them.

Princely sums are being received almost every day now by its sister states, Washington and Idaho, in the sales of their lands—timber, fruit and alfalfa lands similar to those Oregon might have selected and retained. To have anticipated such a future for the Oregon state lands, however, under the conditions of this earlier period would have called for more than a prophet's vision. The wonderful possibilities in these lands have all been revealed,—and we might even say,—created, since then. For, the development of transportation facilities, exhaustion of the timber supply of the East, organization of the fruit industry, and progress and prosecution of the work of reclamation of desert lands have all contributed.

Dominant Influence of the National Land Policy Upon the State Policy—There has been yet another condition affecting

Oregon's land policy throughout the whole period of statehood. This would probably alone have sufficed to hold the Oregon lands low and have created the belief that they would continue low in value indefinitely in the future. The state with what was comparatively a mere moiety of lands was from the beginning in competition with the national government in the land business within its borders. The national government held nine-tenths of the vacant lands and the state's holdings altogether comprised less than one-tenth. The national government was on the ground with well-organized agencies for carrying out its policy of disposing of all its lands. Reservations out of them for Indian tribes there were throughout this earlier period. But no suggestion had thus far been given the state by the national government of a policy of conservation through reservations of timber lands or of water sheds. Steps with this in view were first taken in the nineties, though the idea had been developing for some years before.

Several conditions surrounding the state's holdings would have held the state back from initiating any salutary commonwealth policy had it seriously conceived the idea and cherished any purpose of making the most of its resources in land. The reserved rights of the national government in the lands of the state, the limited extent of the state's holdings and more especially the widely scattered locations of its lands—all these absolutely handicapped the state. The state not only could not have taken the initiative in any far-reaching policy but also was not in position to emulate, without special aid from Congress, any example set by the national government. Under these conditions the verdict to be rendered upon the legislative and administrative features of Oregon's land policy down to the middle of the eighties, to be fair, must concede that they compare favorably with the corresponding features of the policy of the national government with which Oregon was in competition. More than this, the national government was in a tutelar position to the states.

Reservation of State Lands Impracticable—Furthermore, any policy applied in Oregon looking towards the holding out of the market its school lands in place, sections 16 and 36, would have involved some results clearly pernicious. It must be remembered that because of the beginnings of settlement more than a decade before the starting of the surveys lands near the population centers were lost to the state. So such a proposed policy would have meant the holding of the outlying lands it did get nearly half of a century to have secured any substantial increments of value. In the meantime such vacant lands—the chances would have been all against improvement of them—intervening between cultivated farms would have caused greater isolation and greater burdens in the building and maintenance of roads and schools. A general blighting influence upon the conditions of country life would have resulted. Further, the interest on a fund accumulated from the sale at a nominal price would have in the course of the decades aggregated an amount probably nearly equal to the enhanced value that could later have been realized.

The Two Periods in Oregon's Land Policy—A Wise Earlier and a Foolish Later Period—The conclusion of the whole matter as to the earlier history of Oregon's lands is that there was little if any basis for a state policy higher than that followed. It is what was done with the Oregon lands in the later period that brings the blush of shame and anger and causes apprehension as to the possibilities of a commonwealth spirit competent for attainment of highest destiny. Though the national government began to give evidence in its policy of nobler ideas and though conditions had so changed in Oregon that the Oregon land laws which before, excepting in connection with the swamp lands, yielded salutary results now bred speculation, fraud and monopoly; yet instead of amending them in the direction of a cure of these evils they were in 1887 in vital points changed in exactly the wrong direction. Then it was that the state began to play its pitiable role.

There have been thus two distinct and contrasted periods

in the history of Oregon's land policy. 1887 marks the turning point from the earlier to the later. Again, we find as a subdivision in the earlier a decided balk in legislation and administration that was a fit precursor of the great slump that the second on the whole exhibits. In the later, if it is taken to come down to the present, there has come a decidedly reassuring turn of events, first a temporary recovery and then a lasting one of a much higher plane. In the earlier it was the swamp land act of 1870 with the pusillanimous recognition of claims under it by administrations in the eighties that makes a dark blot upon an otherwise fairly creditable handling of the states resources down to 1887. In the later the state's retrieval of itself was temporary from 1895 to 1899, mainly the work of a worthy state land agent, and permanently since 1903.

As already intimated, it has been Oregon's unwavering aim to get its state lands as rapidly as possible into private hands and under cultivation. Every acre as soon as the state had title, and quite too frequently even when it had only slight basis for expecting to secure it, was on the market. During the earlier decades the price on all except the swamp lands was quite commonly determined by appraisal; later the rule was to sell at a nominal figure (1887 to 1895); and more recently, from 1903 on, at a fixed price approximating actual value.

Features of the early laws that indicated an aim to keep the holdings of the individual restricted to areas he could actually cultivate and to bar purchase of lands for speculation were as follows:—

(1) Preference was given to the "actual settler" in reserving lands for his purchase alone for six months, and in giving him the privilege of securing 320 acres while other purchasers could get only 160 acres.

(2) Purchase indirectly by the speculator through a "dummy" was weakly discouraged in the requirement of an affidavit that the purchase was made only for the benefit of

purchaser and that no agreement, express or implied, for the sale of it existed. A pious fraud this was and stimulator to wholesale perjury, for in 1878 it was followed up by the right granted to assign the certificates of sale. The assignee could have land deeded to him by the state without limit on paying the amounts due on the certificates he presented.

Oregon began her land business while still a territory. Congress, in providing for the organization of the territory, August 14, 1848, had made the grant for the common schools; in the first act providing for the survey of lands in Oregon and for making donations to its settlers, known as the "donation land law", the university grant had been made. The first sale of lands by the territory was at a public auction, August 1st, 1854, of some university lands.¹ The sale of common school lands was begun two years later, also to "highest bidder".

The minimum price of the university lands after the first sales in 1854 was fixed at four dollars an acre and retained at that figure during the remainder of the territorial period.² This prohibited sales and was part of the tactics for laying the whole matter of establishing a university on the table. The minimum price of the common school lands was placed at two dollars except that lands which had been twice offered at public sale might then be sold at \$1.25 an acre.³ The amount of the university fund accumulated during the territorial period was \$5,793.60. An act of the territorial legislature of 1857 provided for the distribution of the common school fund among the several counties. No reports of county officials are extant giving the condition of the fund at the time of the admission of the state.⁴

¹ Report of University Land Commissioner, pp. 45-8 App. to H. J.

² Statutes of Oregon Territory, fifth and sixth regular sessions, pp. 566-7.

³ Laws of Oregon Territory, seventh regular sess., pp. 69-71.

⁴ Laws of Oregon Territory, ninth regular sess., pp. 43-5.

During the first half-dozen years under the state government the public interest in the state's lands received scant attention. Private individuals were able to get an extension of time in the payment of sums due on school lands bought and others secured confirmation of titles to school land tracts.¹ Not until 1864 was there any law prescribing the powers and duties of the constitutional "board of commissioners for the sale of school and university lands and for the investment of the funds arising therefrom". It required another act two years later before this board seemed to be able to take hold of its task.²

The territorial method of sale to highest bidder, while not wholly discarded when selling was renewed, rarely brought sale prices above the statutory minimum. It was, however, impracticable to fix a uniform price for the lands of the different grants. For the swamp and the tide lands not only were special terms of valuations necessary, but also other special conditions of sale. As the lands of the internal improvement grant and those of the agricultural college grant were located in solid blocks in widely separated portions of the state with conditions as to altitude, climate and accessibility quite distinct the terms and conditions fixed for the disposing of them would advisedly be different from those governing the sale of common school and university lands that lay scattered and close in around the settlements. But as sales and settlement progressed and only scattered remnants of the several grants remained, all becoming about equally accessible, the adoption of fixed and uniform terms for all lands in a free and easy state policy would be quite likely.

Dual Line of Officials and Irresponsibility in Oregon's Land Department—The administrative agency upon which the people of Oregon have relied for the handling of their heritage of public lands is now known as the "state land board". The makers of the state constitution selected the governor, secretary of state and state treasurer to constitute this board. They

¹ Laws of Oregon Territory, first regular sess., p. 82; pp. 105-6.

² Acts and Resolutions of Leg. Assem., fourth regular sess., pp. 27-30.

also had in mind that the proceeds from all state lands should be devoted only to purposes of education. The internal improvement grant was, subject to the approval by Congress of this step, to be diverted to this purpose. Accordingly this board was in the state constitution designated as "a board of commissioners for the sale of school and university lands and for the investment of funds arising therefrom". This board was subsequently given charge of the work of disposing of the agricultural college lands and of the non-educational grants later accruing to the state. How unfortunate this arrangement proved will appear presently. The volume of land business increased about as the own proper functions of each one of these state officials expanded to engross his attention. Their responsibilities as members of the state land board were shifted to an irresponsible "clerk". Either the land laws and the conditions under which the successive clerks served paralyzed the powers and virtues of these clerks or the state had a long run of exceedingly ill-luck in that line of officials.

While on the subject of the administrative corps for the care of the people's interest in state's public lands, the relation to the state land board and its clerk to the work of another state land official should be mentioned. The governor has from 1862 on been the "land commissioner for the state of Oregon and empowered and directed to locate all the lands to which the state is entitled". He was authorized to employ at first temporarily an agent acquainted with the section of the state in which it was proposed to make selections¹. From 1878 on there has been a permanent locating agent who in 1895 became known as the "state land agent"². But it has not been the practice of the state to rely upon this official exclusively for the work of selecting state lands. At first county super-

¹ The "General Laws" of the first regular session, 1860, contain a statute signed by the Speaker of the House and the President of the Senate but not approved by the Governor. This authorizes the Governor to select lands and to employ a suitable person or persons to assist him but makes no provision for their compensation. General Laws, 1862, pp. 105-7.

² Laws of Oregon, tenth regular sess., 1878, pp. 41-55.

intendents were called upon to select indemnity school lands. As early as 1866 intending purchasers, too, were granted the privilege of securing lands at the minimum price for reporting to the governor lands that were approved as indemnity selections¹. From 1887 to 1895, though the governor was authorized to employ a locating agent, the selection of lieu lands as well as the designating of "base" devolved almost if not quite entirely upon the intending purchaser². This arrangement was fraught with fraud and trouble to the state. Though fully exposed by the state land agent Davenport, of 1895-1899, there was a reversion to the old practices from 1899 to 1903. This dual line of state land officials, with their respective functions, the state land agent representing the governor in selecting and caring for the lands of the state and the state land board for selling them and caring for the proceeds, needs to be clearly kept in mind if the tangled skein of the state's land transactions is to be straightened out.

Sale of Oregon School and University Lands—The sale of Oregon lands by the state land board began in 1867. It was acting under the law of 1866 providing for the sale of school lands. Soon after the passage of this law, the board reports, "numerous applications for the purchase of school lands came in" and, in many instances, from several parties for the same tracts, and it soon became evident the only method to adopt, in justice to the school fund and to the parties desirous of purchasing, would be to offer all the school lands at public sale . . . the minimum price was fixed at \$2.00 per acre; terms one-third down for farming and grazing land, and one-half down for land chiefly valuable for timber, with interest on deferred payments at the rate of ten per cent payable semi-annually. . . " It is noticeable, however, that notwithstanding the method of sale to highest bidder the abstracts of

¹ General Laws, fourth regular sess., 1866, pp. 27-30.

² "Base" or "basis" used in connection with accounts of procedures and transactions pertaining to lieu or indemnity lands designates "those parts of the sixteenth and thirty-sixth sections in each township which have been otherwise appropriated under the laws of the United States, and for which the state is permitted by the general government to take land in lieu."

sales that specify the prices received give only comparatively a very few instances in which prices higher than the minimum were secured.¹

It will be remembered that considerable school land and some university land had been sold during the territorial period. Furthermore, the territorial law in force at the time of admission as a state had placed the protection and sale of these lands in the hands of the county superintendents of schools. The same law provided that the funds that had accumulated with the territorial treasurer should be distributed among the several counties in proportion to the number of children in each county. As the county superintendents were to deposit the proceeds of the sales made by them with their respective county treasurers¹ all the school moneys were when sales began by state board held in the county treasuries.²

Accordingly the first duty of the state board had been to ascertain definitely what lands had been sold and what tracts still belonged to the state; also the condition of the funds in the several counties had to be inquired into. Though the law had charged the board with the full care of these moneys the board decided to apply to the county treasurers to become their local agents.

The law of 1866 had the following specifications governing the sales:

(1) Those with rights of pre-emption to any school lands could secure them at \$1.25 per acre, in any lawful money of the United States.³

(2) Those who furnished approved lieu land could purchase at \$1.25 per acre in gold coin.

(3) Those who had been applicants under the previous law (of 1864) could complete their purchase under the terms of that law.

(4) All other purchasers must pay the prices appraised

¹ Messages and Documents, 1868, Rept. of Board of Commissioners, etc., pp. 4-37.

² As there were some notes out, given in part payment on sales made before the passage of this territorial law, and as these were payable to the territorial treasurer, a small sum was in his hands.

³ Gold coin continued to be the current money in Oregon throughout the period of depreciated greenbacks so this provision and others like it necessitated the carrying of two sets of accounts in these land funds.

by the county school superintendent, though the board might place a higher value on the land applied for. This class were limited to 320 acres.

In 1868 the law was changed so as to include university lands on the same terms with the common school lands; actual settlers had exclusive right to purchase during first six months and could secure 320 acres. Other purchasers could get 160 acres each if he had not other lands exceeding 320 acres in the aggregate. Small isolated tracts of eighty acres or less were not reserved. All lands should be sold at the price appraised by the county superintendent. The minimum price was made \$1.25 in gold coin. From \$2.00 per acre, the minimum the board had established, to this lower figure the terms of nearly all the sales fell.

These continued to be the salient features of the law for the sale of school and university lands for the decade from 1868 to 1878. In 1878 the minimum price of these lands was raised again to \$2.00. The "actual settler" retained his privilege of being able to get 320 acres when the limit for others was 160. The board was free in determining the value of the lands to use whatever method it chose.¹ An affidavit was required of the purchaser that he was a citizen of the United States, or had declared his intention to become such; that he was a citizen of the state; that with his proposed purchase he would not directly or indirectly have secured from the state more than 320 acres if a settler, or more than 160 if a "non-settler"; that the proposed purchase was for the actual use of the applicant, and not for the purposes of speculation; that no contract agreement, "express or implied," had been made for the sale or other disposition of such lands.

These solemn pledges required in the act of 1878 were followed by a "joker". "Certificates of sale" for the lands could be secured from the state on payment of one-third of purchase price, except in case of timbered lands on which a payment of one-half was required. These certificates of sale could

¹ The board interpreted this as still requiring an appraisal, which it deprecated. See Report of Board of Commissioners, 1882, p. 4.

be freely assigned and the assignee on payment of the amounts due on the purchase price of the lands represented by each certificate would receive a deed and there was no limit whatever to the number of acres the state would thus deed to him.

The securing of all the lands coming to the state under the different congressional grants had been the zealous aim of the administrations in the early seventies. All the lands acquired were put in charge of the state board. Its task became increasingly heavier. The volume of land sales expanded rapidly at the close of this decade. The opening for the speculator in the arrangement for the assignment of the certificates of sales no doubt was a prime factor in securing this result. The minimum price had been raised and the state census gives but a slight increase in population for the first half of the eighties, yet the steady and rapid increase in the sales of its lands was unprecedented for Oregon.

The legislature in the act of 1878 seemed to take cognizance of this undue burden upon the members of the state land board and transferred the actual work to the "clerk of the board," putting him in charge of the records, and giving authority to his acts. What would be more natural than that the routine of this department of the state's affairs should then be neglected by the members of the board? Its dry and tangled statistics repelled. Under these circumstances if the state had any values in its lands to tempt cupidity, the reign of a high carnival of graft in connection with the sales of these lands may be anticipated.

During the nine years following 1878 the land law was retained unchanged, though the economic conditions affecting land values were being revolutionized. The long-continued isolation from the main part of the country now disappeared through the completion of two transcontinental railway lines reaching Oregon. During these nine years, too, the railway mileage of the state was extended from 300 to nearly 1200 miles. The approaching exhaustion of the lumber supply from the states of the Middle West was anticipated and

Oregon's grand forest areas were brought into the market. These then lay largely as national domain available to the state for lieu land selections. These conditions were increasing rapidly the stream of immigration into Oregon. In fact, everything tended to create a strong upward trend in the values of vacant lands in Oregon. In the face of these conditions, the legislature of 1887 reduced the price of state lands, excepting agricultural college lands, the minimum price of which had been fixed by Congress, to \$1.25 per acre. It also increased to 320 acres the amount of land that the non-settler could purchase from the state.

The Infamous Act of 1887.—The brazen plea upon which this robbery of the public interest was perpetrated is betrayed in the title of this act of 1887. "For the Selection and Sale of the State Lands *Remaining Unsold*" (the italics are mine) was its declared purpose. The act not only authorized the state land board to sell all state lands, the price of which it controlled, at \$1.25 per acre, but "required" that the board sell them "at *the uniform price of \$1.25*" (the italics are again mine). The strong implication in the language of the act "requiring" the board "to sell the remaining unsold" lands was that the state had but a few remnants of culled and comparatively worthless tracts left to dispose of. These had better be sold at any old price and the people relieved of the burden of supporting this useless branch of the state government.

That this made a specious plea was due to the ingrained state prejudice in favor of individualistic exploitation as the only source of wealth, prosperity and happiness. A public interest at stake in these lands was hardly thought of, and a public agency competent to conserve it was not dreamed of.

The other main provision in the law of 1887 was a fit companion to that reducing the price and increasing the amount sold to the individual purchaser. Intending purchasers of lieu lands,—and these were now the principal remaining lands of the state,—must name the base—or lands lost to the state out of some section 16 or 36—in compensa-

tion for which the state should select the tract desired. What did this imply but that the individual could do this more expeditiously and skillfully than any agent of the state, though the state alone had secured the data absolutely essential for making such selection, and the possession of which data, with abundant national domain at this time available, made the work of selection exceedingly easy. Here, too, the authors of the plot embodied in the law relied upon the blind prejudice which held that zeal and efficiency in public service in Oregon was unthinkable.

This law caused the loss to the people of Oregon from their school fund millions of dollars; it encouraged perjury, forgery and malfeasance in office. Yet not one vote is recorded against it in either house of the legislature. Its false implication as to the facts pertaining to the unsold state lands remained unchallenged. The legislators seem to have swallowed the hint given in the words, "remaining unsold," as implying that the state had only a remnant of comparatively worthless lands left. The school fund accumulated in 1887 was \$1,060,000; it is now but little less than \$6,000,000. It has been increased almost five-fold through the sale of lands then "remaining unsold," even though most of those lands were given away for but a small fraction of their real value.

Now who could have been interested in leading the legislature into such a blunder and how would these conspirators profit through their scheme? The lobbying of intending purchasers of state lands would have killed such a measure instantly. Those who had experience in the state's land office were possessed of the necessary knowledge for concocting a scheme; a stupid practice of the state in securing lieu land selections opened an opportunity for graft, and a remorseless cupidity impelled to the devising of the scheme.

That we may see at a glance, and from the inside, as it were, the operations of Oregon's "lieu land ring," let us in imagination take a position in the state's office at Salem with the conditions as they were in 1887. Applications pouring

in show the rising demand for Oregon timber lands. The records and maps of the office reveal large areas of them as national domain available for selection as the state's indemnity or lieu lands. It is true, inroads are being made upon these through purchase directly from the national government; but the purchaser is limited to 160 acres and the price is \$2.50 an acre. Long lines of greedy speculators coming from afar are thus balked in their desire to accumulate rapidly limitless holdings. What a rush there would be for the state land office on the part of these still unsatisfied purchasers should the state secure these much-desired lands as indemnity lands and offer them for sale on terms more liberal than those of the national government. One should suppose that with this vision of things developing in the state land office it would have occurred to the clerk, or even to members of the board, though they seem not at this time to have an inside view of things taking place in the state's land business, that here was a fine opportunity to be seized in the interest of the school fund. Activity on the part of the state in selecting the lands of wonderful promise and holding them to realize for the public good their full worth would be real public service. Such a suggestion, however, would have been absolutely alien to the thought of a land office official, or for that matter, any other state official of that time. Instead of the idea of the state's getting these lands and of making them yield largest returns for all coming generations of youths of the state, these land office officials did note that it had been more or less the practice of the state to make the intending purchaser of lieu lands furnish the base. And behold, they of the land office—or favorites having access to its records—alone could supply the base which these eager would-be purchasers must have. It is true, citizens of the state with honorable intentions should have been given the necessary information from the records of the office with at most but a nominal charge for the time of the official consumed in the task. If the government should be used for the general welfare and development

here was an opportunity. Why did not the law, or the state land board, direct the clerk to furnish the necessary information as to available base to those purchasers whom it would be an advantage for the people of the state to have as land owners? But there was the old obsession that government was but a necessary evil. The less it had in hand the better. The state government had fallen heir to land. It must get rid of it. In selling it to do more than receive the money would have been pernicious activity. It would be usurping an opportunity belonging to an individual. But remember in this land office base the intending purchaser must have. The records disclosed it, and the clerk was in charge of them. The law forbade his taking a fee and did not compel him to give the information. A private individual, however, expert with the records had here a rich opportunity for traffic. For this base he could charge a price at least equal to the margin between the national and the state terms for the land. As the state law put the price per acre at half of that of the national government, this trafficker in base could get as much for the base as the state received as its share for the lands.¹ The law of 1887 was simply the scheme to create a good business opportunity for this seller of base. The scheme was simple and neat. Not one conscientious lawmaker in the ninety of the Oregon legislative assembly suspected anything wrong as the bill was read three times in each House. Were they all blind or was it their point of view?

The Trafficker in Base at the State Land Office.—This law of 1887 thus set up in the state land office one or more dispensers of base who preyed upon the innocent purchasers

¹ "He (the clerk of the board) can not 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 with 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 per acre were paid; \$1.25 went to the state and the remainder to those in deal". Report of State Land Agent, T. W. Davenport, 1895-1896.

and despoiled the children of future generations of their heritage. A scheme that worked so admirably for this purpose must have been devised with this in view. It happened in the years immediately following—and probably foreseen by the conspirators—that the national government created several Indian reservations in Oregon. Sections 16 and 36 would then not be secured by the state as school lands, but become base for lieu land selections. These reservations with the amount of base made available in each were as follows:

1887—Umatilla Reservation	16,980.03	acres
1888—Klamath Reservation	63,011.94	"
1889—Grand Ronde Reservation	6,014.14	"
1889—Siletz Reservation	10,864.14	"
1891—Warm Springs Reservation	36,643.66	"
Total.....	133,564.91	"

Surely the task of supplying this amount of base to intending purchasers was not an arduous one. The records at the state land office should have shown at a glance also all other base available. Yet "the applicant was compelled to pay from \$160 upwards for the very arduous service of designating a like basis from one of the Indian reserves."

Sources of base other than the Indian reservations there were. The state was entitled to sections of full measure. So the deficits in fractional sections became base. The sum of these deficits during the years from 1887 to 1895 amounted to 10,000 acres. But to ascertain the amount of base available in each instance required, instead of a glance at a map, some painstaking calculation. The performance of these computations meant land for the people, but their official at the state land office confined himself strictly to taking in money. This work of computing deficits was left to the trafficker in base. He then had the amounts to disclose for a price. But what would be inevitable under such conditions with such transactions? It would have been more than miraculous if there had not been several thousand acres of baseless base—baseless

because of irregularities in computation—sold. Again, the national government retained all school sections mineral in character. There was a procedure for proving the mineral character of them even when not so reported by the surveyors. With this, too, the trafficker in base was busy. It so happened that this procedure for determining the mineral character of school lands was especially susceptible to admitting the freest play in lieu land dickering of the kind for which the Oregon land office was prepared. The national government required only evidence of a *prima facie* character before authorizing the state to proceed to make selections in lieu of these lands it was likely to lose because of their mineral character. But remember, it was the essence of the Oregon system that all such tasks as securing evidence of the mineral character of school sections should be delegated to private enterprise. Add to this Oregon's precipitancy to sell and the impelling motive for selling that the trafficker in base had, and the commonwealth must necessarily soon find itself in a bedraggled condition for having sold land its original claims upon which having proved baseless. In the first place, the eagerness to prove the mineral character of the lands by an irresponsible go-between in an unworthy relation led to a stretching of the evidence of mineral character. Then the slipshod organization of the state's agencies for handling its land affairs,—its dual officials, the state land agent and the clerk of the state land board, working without concert,—had under the strong pressure for land and the tempted and tempting influence of the mineral base manipulator resulted in the state's selling nearly two-thirds of such lands twice over and some of it thrice over. In the period from 1887 to 1895 of more than sixty thousand acres of mineral basis upon which lieu lands were sold, only about twenty-six thousand were confirmed to the state; the remaining thousands were cancelled by the general government. The state came to the rescue of these luckless purchasers by furnishing them valid base from the then newly created Cascade forest reservation. Thirty-eight thousand acres were so used.

T. W. Davenport, the state land agent, during the period of respite from 1895 to 1899, in his two biennial reports explained how the chicanery of fraud carried on under the auspices of the state had traduced its fair name; nevertheless, there was a lapse again, and to an even lower condition of debauchery, in the state land transactions during the four years from 1899 to 1903. There was the same old lack of co-operation between the state land agent and the clerk of the land board. The former used the same sections in the lists sent to Washington as mineral lands, in lieu of which indemnity lands were applied for, that the latter had sold as accepted state lands. There was about the same proportion of this reselling as had occurred in the preceding period. Experience costly to the state left no impression with them.¹ But more than that, villainies of a deeper dye were being consummated in connection with the state land office. The state officials were not accomplices exactly. They were simply content to ply their old customary task of receiving the moneys. The fact that the sums represented but a small fraction of the value of the lands for which they were being exchanged and the fact that those who were getting these lands in lots of thousands of acres had bought the names on the applications and assignments they used—to these conditions those state officials were hardened. What a travesty of public service was theirs!²

A fine "culture fluid" this Oregon land law, and the confirmed policy of the state with its lands, proved for the breed-

¹ "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". Governor Geo. E. Chamberlain's Message to the 23rd Legislative Assembly, 1905, p. 28.

² The following is from testimony given at the recent Binger Hermann trial at Portland, Oregon, January 19, 1910, by one of the leading lieu land operators: "Everybody understood that I was to get the lands (school sections unsold in what was expected to be included in the Blue Mountain Forest Reservation when created) in the usual way. I was to go down in the slums of the North End and pay men to sign applications, then deposit them at the land office and

ing of all sorts of frauds and conspiracies. It offered prizes that attracted the arch-land speculators from all parts of the country. National law and national administration governing the disposition of public lands in Oregon were but a shade better at this time than the state's. Frauds of gigantic proportions were possible only because national and state laws were equally ill-adapted to conserve the common weal and because officials of both governments were equally pliable. Conspiracies were formed to induce the national authorities to create forest reservations, the conspirators having in view only the inclusion of school sections which they had bought solely for the purpose of being thus included and later exchanged for carefully selected timber lands. Such a scheme could be consummated only through the use of the state and the national laws, so to speak, dove-tailed together. The ridiculously easy terms on which the lands could be gotten from the state made feasible the first step and the equally absurd provision of the national law under which land utterly worthless could be exchanged for the best of the public domain, in virtually unlimited quantities, was the means of completing the steal. Nothing that Oregon ever did, however, was quite so rank or the means of so large inroads upon the public domain for private advantage as the railway lieu land act of Congress in 1897.

But returning to Oregon's delinquencies. The supineness of its land office officials encouraged the most bare-faced forms of fraud. In 1898 an armful of applications, covering 40,000

pay 25 cents an acre on the lands. ——— had been interested with me more than once on that sort of thing. I had made deals with ——— and ——— also.

"The way I did it was to hunt up fellows who were well acquainted. They would bring in a lot of men and I would ask them if they had ever bought school lands. If they had not bought lands, I would ask them if they wanted to earn a dollar by signing their names to an application and an assignment. They always did. Usually I would not have applications to go around. At one time I got about 50 applications in this way for ——— and at another time furnished ——— a batch for his use. It cost them \$1 for each application, besides expenses of drinks". A former under-clerk of the state land office when asked whether he had entertained suspicion that fraud was connected with the filing of such bunches of applications, admitted that he had; but as he was only a clerk in the office he thought it not his business to confide his fears to the land board. He was instructed by the clerk at the head of the board, he said "to receive and file all applications presented so long as they were filled out properly and acknowledged". When pressed to say whether or not the land board knew of the frauds practiced in the state and whether it winked at the evasions of the law, he could answer only, "I can't say".

acres of school lands in the Cascade forest reservation, were one day presented at the state land office by the agents of the most notorious firm of land thieves. These applications for lands, if accepted, would take from the state at \$1.25 per acre all the lands which it was about to secure the right to exchange for others to be sold at \$2.50 per acre. These applications, too, were without doubt nearly all obtained through fraud, the signers of the applications, and of the assignments of the corresponding certificates of sale to be obtained from the state, having been given a dollar or two for their names. This constituted, of course, the grossest violation of the spirit of the law. Of all these things, which would seem revolting to any one, the officials were cognizant, and yet these applications were accepted; certificates of sale were issued which were later exchanged for deeds. And these lands thus secured in a job lot from the state were exchanged for some of the best timber lands in Oregon and neighboring states.¹ Land thieves who found that they could palm off on the Oregon land office officials names that cost them a dollar apiece would naturally try forgery next, and had forged signatures accepted on applications covering more than 100,000 acres before detected.² This Oregon school lieu land situation bred yet another species of fraud. The certificates of sale issued by the state on the

¹ "In 1898 Hon. T. W. Davenport, who was then State Land Agent, took up the matter (of securing to the state the right to exchange its unsold surveyed school sections in the Cascade Reservation as base for indemnity selections) with the Oregon delegation in Congress and was succeeding in having a bill passed allowing selections to be made in lieu of these surveyed lands. One day, while in the State Land Office, he found the agents of Benson and Hyde with an armful of applications covering the 40,000 acres of surveyed lands. He protested against the sale and explained to the Board that these lands which were to be sold for \$1.25 per acre could in a short time be used as base for selections which were selling for \$2.50 per acre, but his protest was of no avail and the lands were sold.

"These applications were nearly all bogus but they were accepted by the Board and certificates issued. The lands were later deeded to Benson and Hyde and exchanged by them for some of the best timber lands in this and adjoining States". Report of State Land Agent, 1905-1906, p. 16.

² Marion County, Oregon, Grand Jury in its counsel to the state land board, April 28, 1905, said: "After an examination of the applications to purchase land (then on file in the state land office) we are of the opinion that those covered by the attached list and amounting to about 500,000 acres are nearly all fraudulent and should be fully investigated by your body before deeds are issued." (This matter had been brought to the attention of the grand jury at the instigation of Governor Chamberlain.) Report of State Land Agent, 1905-1906, pp. 4-7.

acceptance of an application for land, and the making of a small fractional payment, had from an early day been made transferable. This was not in accordance with the spirit of the affidavit required of the purchaser to the effect that "purchase is for actual use of applicant" and that "no contract . . . has been made for the sale or other disposition" of it. So generally, however, were these certificates of sale of Oregon lieu land selections huckstered about the country that other lieu land operators conceived the idea that it would be a lucrative business to counterfeit them. This was done and they were sold to an extent that some 50,000 acres were covered by them.¹

At the opening of 1903, George E. Chamberlain assumed the governor's chair. With him as president of the state land board and Oswald West, his appointee, as state land agent, the administration of the state's land affairs was characterized by a sense of responsibility for the public welfare rather than that of deference to private greed. With the unity and co-operation of the two branches of the state's land department order and system was for the first time realized in its records. Frauds were exposed and reparation made as far as possible for former duplicate sales. The legislature responded and the price of the remaining state lands was raised and the land board used its discretion so that the state has since received full market value for all lands sold. As there were only scattered fragments left, nothing more could be done.

Had there been any lively purpose cherished to be fulfilled by means of these public resources, things would have been different. Had they figured in any vision of the future to be realized by the commonwealth, the land laws would have had point and the administrative officials would have been inspired with zeal for the common good. On the contrary, there were not even the conditions of fair play maintained. Instead of making such opportunities as there were in lands offered cheaply, public and manifest, to the toiler, who was producing the wealth of the state, these prizes were so held out of sight that only the professional social parasite could avail himself of them.

¹ Ibid, pp. 7-12.

To sum up the course of the state's policy with its school and university lands: They were at first sold to the highest bidder with a minimum price of \$2.00 per acre, except for the pre-emptor, the actual settler and the purchaser of lieu lands that he himself had selected. These secured their lands for \$1.25 per acre. Later the method of appraisal, usually by the county superintendent, was used with a minimum price of \$1.25 per acre. This held during the decade from 1868 to 1878. Then the minimum was again raised to \$2.00. Though the method of appraisal was adhered to down to 1887, it seems to have been a perfunctory proceeding, as only a very few small lots were sold at a figure higher than the minimum price. In 1887, just when vacant lands in Oregon were coming into demand, the price for all lands, that could be lowered by the legislature, was fixed at \$1.25 per acre. The state board was "required" to sell at that price. Up to this time the actual settler had the preference. Throughout the whole period the intent expressed in the law was for the limitation of holdings to 320 acres. However, the facility of assignment of the certificates provided for in 1878 and the provision for deeding without limit to an assignee made the preceding limitation of the amount that could be purchased by any citizen only a hollow mockery. And more than that, it stimulated perjury so that it prevailed to a frightful degree, and subornation to this perjury became a vocation in the state.

The special features that characterized the policy of the state with its lands other than those of the common school and university grants will now be noticed.

Agricultural College Lands. Though Congress had made this grant in 1862, not until 1868 did a special commission in Oregon take steps to locate them.¹ By 1872 the prospects of the final approval of their selections in the Klamath lake country were such that the sale of the lands was placed in the hands of the Board of Commissioners for the Sale of School and University Lands. Congress had fixed the minimum price at

¹ General Laws, 1868, pp. 40-41.

\$2.50 per acre and the state provided that "no person owning more than 320 acres of land in this state, by any other right, shall be entitled to purchase under the provisions of this Act." The sale of the Agricultural College lands was conducted under these provisions, except that in 1887 the 320-acre limit was made to apply only to the amount that might be purchased from the state.¹ The disbursement of the interest income of the fund accumulated from the sales of these lands began in 1879.

The Internal Improvement Grant. As the proceeds of this grant, and not merely the interest income from the funds accumulated, were at the disposal of the state, this grant seemed to appeal to the Oregon legislative assemblies. Instead of dilatory neglect, action too precipitant was taken in connection with it. The legislature of 1860 anticipated rights to specific lands under this grant before claims to any had been sanctioned through ratification by the national authorities of selections made by the state. An act was passed entitled "to provide for the possessory and pre-emptory rights of 500,000 acres of land donated to the state." The purpose of the enactment was to secure to any applicant, a citizen or one who had declared his intention, the right to pre-empt a tract of from 40 to 320 acres of unsurveyed land, not saline or mineral in character, with the view of having the state select such pre-empted claim as part of its 500,000-acre grant. In return for the state's intervention to secure the pre-emption it was to be paid annually an amount equal to ten per cent on a \$1.25 per acre valuation as interest. When the United States survey of it was made the pre-emptor was to pay the state for the land as part of its selected 500,000 acres. However, the state authorities were soon apprised that the national government would not recognize the rights of such claimant under state law against claims to the same tracts that might be established under the national land laws. But aside from this little jolt the state had no trouble in getting possession of lands to fill this grant.

¹ In 1899 these lands that had been subject to sale for a period of twenty-five years were ordered to be sold at a uniform price of \$1.25 per acre.

The selections were mainly in Union, Baker and Umatilla counties. In 1868 the price of all state lands in eastern Oregon was fixed at \$1.25 in currency to pre-emptors and \$1.25 in coin to other purchasers. No person was to get more than would make his purchases from the state exceed 320 acres. The purchase, too, must inure only to his own benefit.

These eastern Oregon state lands had ready sale at these nominal figures and easy terms; in ten years all but about ten per cent had been disposed of. The application of the proceeds from the sale of the lands of the internal improvement grant will be referred to in a special discussion later of the application of the funds derived from the different grants.

The Swamp Land Grant. The state's headlong hurry—once conscious of having a swamp land grant—in opening its sale of swamp lands before it had established its right to any specific tracts caused it no end of trouble. The legislative assembly of 1860, when requested by the Department of the Interior to indicate whether it would abide by the field notes of the surveys for designating the swamp lands to which the state was entitled or whether it preferred to furnish evidence through its own agents as to the swampy character of lands it claimed, did not deign to give a reply,—at least no response was forthcoming. After the lapse of just a decade an Oregon legislature did wake up on this matter. It became apprehensive that lands which the state might claim as swamp lands were being disposed of by the United States under homestead and pre-emption laws. Accordingly an act was passed at this session “providing for the selection and sale of the swamp and overflowed lands belonging to the state of Oregon.” By the terms of this law the governor, as commissioner of lands, or his deputies, were “to proceed as soon as practicable to select in the field all the lands rendered unfit for cultivation by inundation or overflow.” Such selected lands were then to be advertised in a newspaper in each county and sold “at a price not less than one dollar per acre in gold coin.”¹

¹ General Laws, 1870, pp. 54-57.

The procedure for selection and appropriation by the state provided for in this act amounted to the seizure of such lands as the agent of the state designated as swampy in character without so much as saying "by your leave" to the national authorities. It must be said, however, to the credit of this legislature that it did recognize the obligation, carried in the grant, of reclamation through drainage of the lands selected. There was a measure of justification also for this summary procedure for the seizure of lands that might be considered swampy in character. The surveys in Oregon were being carried on without any note being made of swamp lands; and further, the courts, national as well as state, had decided in effect that the title of the state to the swamp lands within the state became vested on the 12th day of March, 1860, when the grant was extended by law of Congress to Oregon. And, moreover, the determination immediately of the prior right of the state to certain lands was one of considerable practical importance, as railroads with their grants of alternate sections along their lines were appropriating them. Settlers claiming under national law were occupying others out of which the state felt it was deprived of some revenue.

Not until 1874 did the legislature elect a mode of identification of the swamp lands satisfactory to the authorities of the national government. Then for the first time proper officers of the state "were instructed to furnish the Department of the Interior such evidence, and in such manner, of the swampy character of these lands as the said Department shall prescribe."¹ Meanwhile the selection and sale of these lands had been in progress under the law of 1870. The procedure under this law, it will be remembered, ignored the national authorities. In selling the lands under the law of 1870 it was provided that a payment of 20 per cent of the price should accompany the application and the purchaser was to have ten years in which to reclaim by drainage.

¹ General Laws, 1874, House Joint Resolution II, p. 241.

There was no specification as to what should constitute reclamation except that "successful cultivation in either grass, the cereals or vegetables for three years" shall be considered as full reclamation. This was no doubt intended to be construed as satisfied through pasturing it or cutting the wild grass on it during the dry season. The land grabbers under it were most likely the authors of the measure.

This law of 1870 was by state administrations viewed as in force for nineteen years. Though in 1878 the terms upon which swamp lands could be bought were radically changed, the claims of those who had taken the first step toward purchase under the law of 1870 were recognized until 1887. A tangled and most disreputable state of things was developed. I will note first the progress of the depredations of the swamp land brigands (though "swamp angel" was the actual appellation) up to 1878. Up to this date some \$43,000 had been paid in as the 20 per cent installment by purchasers of swamp lands. A little more than half of this sum had been expended as expenses of selecting swamp lands and in reimbursing purchasers to whom titles could not be given. Five hundred sixty-two thousand acres had been selected by state agents as swamp lands. There were on file in the office of the state board applications for purchase as swamp lands "a large lot of lands" that had not then been selected; there were also on file applications for "about one million acres" that had not even been surveyed. On the other hand, there had actually been approved to the state as swamp lands 2000 acres in all.¹ At the same time the governor was counselling in his message to the legislature that the state stand by its guns, so to speak. He held that there could be no question as to the right of the state to sell these lands (all selected by the state officials) at once and unconditionally. For the state to require reclamation was, from his point of view, imposing "upon the purchaser an entirely useless expense," and the state need not require reclamation unless it

¹ Report of School Land Commissioners, 1878, p. 80.

chose to do so. The fact that in the terms of the grant by Congress only "swamp and overflowed lands, made unfit thereby for cultivation" were turned over to the state; and the further fact that "the proceeds of said lands, whether by sale or direct appropriation in kind, shall be applied exclusively as far as necessary to the end of the reclaiming of said lands"—these conditions in the grant cut no figure in the policy advised by the Oregon governor. Why should they? Oregon's "swamp lands" would be spoiled by drainage—that selected by her agents "was of such a character that drainage would destroy its value entirely."¹ Then, too, the courts seem to have held that the state could not be compelled to apply the proceeds from its grant to reclamation. A state official in charge of the matter of selection taking such a position would naturally not make much progress with the national government towards perfecting the title of the state to its swamp lands.

Passing on now to a glimpse of the swamp land situation in the eighties. During Governor Thayer's administration (1878-1882) the state and national authorities got together for the first time in the making of swamp land selections. With agents working in harmony on the field and in the examination of the lists of earlier selections, the approval of nearly a quarter of a million acres was secured by the end of 1882—some twenty-two years after the extension of the grant to Oregon. There are strange things to relate in the swamp land history during the eighties. Under the law of 1870 there was no limit to the number of acres that would be sold to any purchaser. The law of 1878 did limit the number to 320 acres, but did not take effect, in the opinion of the state land boards, to hinder the consummation of previous sales if there had been so much as an application of the most indefinite character made prior to 1879. At any rate, the reports of the state land board for the early eighties show that it was honoring applications made under the law of 1870, issuing certificates of sales and receiving payments on such sales—even the initial 20 per cent install-

¹ Governor's Message, 1878, pp. 35-40.

ment. The report of the state board of its sale of swamp lands during the biennial period, 1880-2, is certainly unique: "But one certificate of sale for swamp lands has been issued by the present Board, to wit: Certificate of Sale No. 123, bearing date July 26, 1880, issued to H. C. Owens for certain tracts of swamp lands, amounting in the aggregate to 55,185.36 acres." The board goes on to assert that the applications of Mr. Owens were regularly made prior to the passage of the act of 1878 and in accordance with the requirements of the act of 1870. These applications of Mr. Owens must therefore have been among that "large lot" of unselected, or more probably among the "million acres of the unsurveyed." Mr. Owens then could hold his initial payment in reserve until his selections of swamp lands were surveyed and later selected by the agent of the state as swamp lands. The records show that up to 1887, without having paid a cent, he stood as recognized prior claimant for nearly half a million acres of land as soon as they might be ready to be sold. On that 55,000-acre lot received in 1880 he paid the required 20 per cent of the purchase price in warrants, issued under an act of 1876, which made warrants against a wagon road appropriation—principal and interest—receivable in payment of swamp lands. The state, as will be explained in connection with the discussion of the disposition of the proceeds from its different grants, indulged in some "frenzied" financing with anticipated swamp land funds.

Before proceeding further with the "Mr. Owens" transactions with the state in swamp land purchases, he should be identified as merely the tool of a foreign syndicate that was up to this date and for a few years longer succeeding admirably towards accumulating for a song from the State of Oregon a domain of royal proportions. During the next two years, from 1880 to 1882, Mr. Owens did not have quite a monopoly of swamp land purchases in Oregon. Still he was not interfered with to any considerable extent. During this period additional certificates of sale, for amounts exceeding 1,000 acres to an individual, were issued as follows:

H. C. Owens, 67,326.32 acres.

W. B. Todhunter, 34,859.42 acres.

J. N. Vance, 6,400 acres.

During the next biennial period—1882-1884—Mr. Owens' hunger for swamp lands was particularly ravenous. It took an additional 362,267.77 acres to appease it.¹ Others were developing considerable capacity in this line, taking from 20,000 to 30,000 acres each.

But there was a limit to the line of Oregon's official consciences that would brook such a state of things. It was an evil day for the swamp land grabber when Governor Penney assumed the duties of his office. The state land board under him for the first time took the position that all certificates of sale for larger amounts than 320 acres, issued subsequently to 1878 were void. In the interpretation of laws those conserving public interests should have an equally liberal construction with those formulated wholly for the advantage of private interests. The legislature of 1887 supported the land board in its position, enacting that all certificates of sale for swamp lands "on which the twenty per centum of the purchase price was not paid prior to January 17, 1879," were to be held void. The money paid on the void certificates was ordered repaid. Large tracts, however, amounting to tens of thousands of acres, had been secured through payment made prior to 1879. The interest of the small holder and actual settler were regularly protected. Thus the legislature of 1887, that was so remiss in its lieu land legislation, exhibited conspicuous virtue in the swamp land matter. And this same Penney administration that so virtuously came to the rescue of the public interests in swamp lands, countenanced most shameless chicanery in lieu land transactions.

The Tide Lands. In its policy with its tide lands the state has exhibited the same ultra-individualistic attitude as with

¹ The Report of the state land board list only 228,867.59 acres, but Governor Penney's list contains items that sum up the figures given. House Journal, 1887, pp. 242-4.

its other holdings. No trace of any appreciation of future monopolies to grow out of the possession of them is to be found. Nothing to show an inkling of how abhorrent to public interest such private monopoly may be. Governor Grover in the early seventies, with his characteristic alertness in pressing for the realization by the state of all its rights in the public domain, first called attention to its valid right to all lands lying between the limits of ebb and flood tides. He estimated that there were half-a-million acres of such land in Oregon. The public surveys up to that time had been extended over the salt marshes and had been approved by the general government land office, so that the tide lands were being disposed of to homestead and pre-emption claimants. In response to the governor's suggestion the legislature asserted its right to these lands and provided for the disposal of them on terms similar to those governing the sale of school lands, excepting that persons owning abutting lands were given the exclusive right to purchase for a period at first one and then three years. The lands were to be sold upon appraisal. The minimum price at first was \$1.25 per acre; six years later, 1878, it was raised to \$2.00. In 1907 the minimum was raised to \$5.00 per acre. The land board was at this time first given the discretion to lease.

A final word of comment upon Oregon's land policy as a whole. Sale to highest bidder, on easy terms, in small lots and to the actual user of all lands in connection with which no oppressive monopoly can arise, is always justifiable. These conditions characterized Oregon's land policy, excepting its swamp land sales, down to 1887. In three connections, however, did peculiarly iniquitous practices develop in the administration by Oregon of its public domain.

(1) The first had to do with the selection and sale of swamp lands. Four hundred eighty-five thousand seven hundred seventy-nine and eighty-five one-hundredth acres of these were sold to one man, at least, certificates of sale covering this amount were issued to one party by the successive land boards.

Fortunately these sales were repudiated before patents were given by the state. Even now holdings belonging to large tracts that were deeded by the state are in litigation on the ground of having been obtained fraudulently. They were not swamp lands.

(2) The same legislature that responded to Governor Pen-
noyer's appeal to stop the swamp land disgrace was guilty of
the second great debacle in Oregon's land policy. Its act

GENERAL STATE OF OREGON, 1890	
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nant of its resources came too late to be easily emulated by
Oregon. It must now be a climb up a rugged and steep ascent
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STATE LAND SALES—PROCEEDS FOR THE SEVERAL FUNDS BY BIENNIAL PERIODS

Period	1861-1863	1863-1870	1870-1872	1872-1874	1874-1876	1876-1878	1878-1880	1880-1882	1882-1884	1884-1886	1886-1888	1888-1890	1890-1892	1892-1894	1894-1896	1896-1898	1898-1900	1900-1902	1902-1904	1904-1906	1906-1908	Total
General Fund	\$17,408.65	\$12,032.94	\$42,113.34	\$14,971.68	\$10,840.63	\$8,973.52	\$48,500.98	\$98,338.84	\$191,114.16	\$100,738.09	\$280,631.10	\$378,908.13	\$218,191.40	\$118,805.12	\$60,939.68	\$278,067.90	\$367,111.07	\$134,813.53	\$574,812.19	\$393,819.27	\$663,148.38	\$4,626,169.69(?)
Trans. to			25,364.41	6,034.82	1,210.30	7,722.59	3,333.98	13,367.53	8,439.60	2,692.08	1,177.03	16,962.47	1,667.35	768.01	664.42	976.19	2,788.96	636.43	1,687.94	612.85	520.00	110,662.60
Com. Sch'l Fd.		15,002.30	103,270.88	43,330.54	19,710.26	21,017.44	38,173.92	117,492.15	124,225.72	45,554.30	(?) Trans. to											527,776.90
Trans. to				705.00		2,602.98	3,122.51	2,447.05	1,714.08													10,681.42
Trans. to				964.50	7,906.65	20,237.50	18,949.31	11,334.50	11,570.29	8,694.84	21,393.67	11,761.32	4,612.51	3,092.92	1,215.64	4,829.03	11,865.71	4,805.30	17,830.32	12,904.34	13,288.96	187,671.47
Trans. to					275.00	14,230.80	9,209.59	34,318.09	64,153.36	82,917.61	21,899.18	66,333.18	28,577.17	8,451.60	2,749.63	9,825.12	5,618.78	474.73	23,610.45	12,801.14	4,758.65	390,184.08
Trans. to				3,025.75	1,759.70	1,261.27	382.25	1,342.28	5,318.91	1,283.50	1,206.96	1,786.29	11,216.63	470.83	1,181.36	3,936.99	(?) Trans. to					32,633.68
Trans. to																	Com. Sch'l Fd.					
Trans. to																	1900					
Trans. to																	1905					
Trans. to																	413,536					

(2) The amount of the fund was at this time distributed among the counties. The figures for 1866-1868 include not only sales, but also sums reported by different county treasurers as accumulated with them up to that time.

(1) A non-employee director who was elected or re-elected to office during the year ended December 31, 2017, which included current sales

(1) decreasing the overall turnover, which included current sales

④ 凡属本行资产，其所有权亦随之转移至该行。

its other holdings. No trace of any appreciation of future monopolies to grow out of the possession of them is to be found. Nothing to show an inkling of how abhorrent to public interest such private monopoly may be. Governor Grover in the early seventies, with his characteristic alertness in pressing for the realization by the state of all its rights in the public domain, first called attention to its valid right to all lands ~~within the limits of ebb and flood tides~~. He estimated

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(2) The same legislature that responded to Governor Penoyer's appeal to stop the swamp land disgrace was guilty of the second great debacle in Oregon's land policy. Its act requiring that all lands the price of which was subject to its control should be sold at \$1.25 per acre and providing that all selection of lieu lands should be by the intending purchaser, brought the transactions of Oregon's land office down into the lowest depths of iniquity—not once only, but a second period worse than the first was countenanced.

(3) Though regularly there was a solemn affidavit required of each purchaser that his purchase was for his own use and benefit and not for speculation, yet through easy assignment provided for of his certificate of sale, and through the fact that an assignee could have a million acres deeded directly to him by the state, land monopoly was made easy.

There is no excuse for these several delinquencies in the state's policy. The primitive practices of the earlier decades are easily condoned. The absence of any constructive policy on the part of the state is, down to the beginning of the nineties, no fault of Oregon's, for the general government with holdings nine or ten times those of the state, and therefore dominating the situation, exhibited a like lack of any discernment of its duty and opportunity with its domain. The new and higher purposes exhibited by the national government with the remnant of its resources came too late to be easily emulated by Oregon. It must now be a climb up a rugged and steep ascent to secure control of the resources absolutely essential to a commonwealth's life and strength and to the happiness of its people.

RECOLLECTIONS OF A PIONEER OF 1859 LAWSON STOCKMAN

By B. F. Manring.

It is a far cry from the year 1910 to that of 1859. The man who today looks back over the trail blazed by civilization while making the history of the Inland Empire views the wonderful development of the interim, exhibiting as it does the progress of the world, with far greater credulity than would have been exercised by the man who gazed into the dubious vista of the future from the untamed days of 1859 had a prophet pictured to him the things that have transpired. Men who as adults linked their lives with the West in that year are today scarce; yet a few there are whose experience spans the two score and eleven years and who have in memory the whole bewildering vision.

Mr. Lawson Stockman, of Garfield, Washington, is one of these few men. His experience in the West during those long-ago years was replete with activity and a great deal of the life of the country as it was then lived came under his observation. Much of it elicited his own energies.

In the winter of 1858-9 Mr. Stockman formed a partnership with a man named Adams at Iowa City and on the 1st of March, 1859, the two men headed for the plains with a wagon and four yoke of oxen. At that time the West was a long, long way from the East, and the road which threaded its way across the great American plains was strewn with the wreckage of caravans and the graves of ambitious men.

In preparing for this journey there were two things which figured very prominently in the travelers' calculations: A supply of provisions sufficient to last the entire trip, and the hostile Indians more or less thickly scattered along the entire route.

Seventy people, the greater part of whom were bachelors, composed Mr. Stockman's company when it put out from the Missouri river. The men bound themselves into a sort of military organization, elected a captain and other officers and established a guard system which was strictly adhered to throughout the journey. To this system of guarding may be accredited the fact that they were not openly molested by Indians at any time. One sad incident, however, marred the trip. At one of the camps in the Black Hills, a little eleven-year-old girl, following the bent of her curiosity, wandered beyond the limits of the circle within the immediate view of the company. When her absence was noticed, search was at once made in the vicinity of the camp, but without success. Then searching parties scoured the country round about continuously for three days, discovering not the least sign or clue to her fate. Concluding that she had been carried off by Indians who lurked stealthily near the train, the company abandoned all hope of her recovery and proceeded on its way.

On nearing what is now the western boundary of Idaho, their provisions ran very low. Game was not very plentiful along the route and they were compelled to resort to wild berries and such fish as they were able to obtain. Wild rose buds constituted a large part of their bill of fare. One of the men shouldered his gun and, hurrying on afoot to Walla Walla, reported the condition of the company and a saloon keeper at that place sent out a wagon loaded with provisions to meet it. While encamped in the Grand Ronde valley the provisions reached the hungry emigrants. They arrived at Walla Walla on the first day of September, having been just six months en route.

From the Missouri river, settlement extended westward on the Platte about 20 miles and after passing these farms no others were seen until the Walla Walla valley was reached, the route followed lying to the north of Salt Lake.

The buffalo were in their heyday, especially in the region of the Platte river. So numerous and so tame were they that

they mingled at night with the oxen of the emigrants and often in the morning the herder would have to separate them with his dog. Ranging over the Walla Walla valley appeared to be thousands of ponies—ponies everywhere—and Indians swarming the town and encamped about the vicinity were apparently about as numerous as the ponies. A great majority of the white men there had married, or at least were living with, squaws. Yet the town was at that time orderly and decently regulated.

A few days after the party arrived at Walla Walla, a man, emaciated and worn, made his way to the fort and reported that an emigrant party of about seventy souls and of which he had been a member, had fallen into the hands of Indians on Snake river in the region of Boise. While the party was in camp on the river, the informant had gone out in search of game and, as he returned, from the top of a hill overlooking the grounds he beheld the Indians in charge of his people. Taking care that he should not be seen from the camp, he turned and hastened away. After enduring much privation, he reached the fort. One hundred soldiers set out from Walla Walla immediately and after several days of rapid marching arrived upon the scene of the encampment, where a most horrifying spectacle was presented to them. The Indians had first driven off the stock; then coming into camp, they carried away the entire supply of provisions and all the arms possessed by the emigrants. After that, for several days, they lingered in the vicinity in conspicuous view of the travelers impressing them with the assurance that they were besieged. Again coming into camp, they seized and stripped the men, women and children, to the last one, of their clothing, and adding to this all the bedding, the destitution of the party was made complete. When the soldiers arrived, fifty-six of the number had perished from starvation and exposure, and the survivors had eaten of the flesh of their dead. The remnant of the party, 14 in number, was brought on to Walla Walla.

In all the various fragmentary accounts of early days, Mr.

Stockman has failed to find any narration of this incident.

Walla Walla, then composed of some half dozen buildings, was becoming very much in need of a hostelry. Dr. LaDow, a member of the Stockman party, responsive to the opportunity, set about building one, and Mr. Stockman was given the job of hauling the logs and other materials for its construction from the mountains, there being at that time no saw mill in the country and all the lumber obtained was made by the whip-saw process. This first hotel, built in the fall of 1859, was quite imposing in appearance and for some time served the purpose well.

Mr. Stockman was offered a lot in the town, free, provided he would build a house thereon. Accepting the offer, he hauled all the material for the house from the mountains at one load.

Late in the fall of 1859 he traded two yoke of oxen for the Hudson Bay farm of 320 acres about ten miles from Walla Walla on a tributary of the Walla Walla river, in Oregon. He and his partner made this their headquarters during most of the winter. They had brought with them across the plains an old-fashioned coffee mill of rather large size, which proved to be quite a rare machine in this section of the wild West. They fastened the mill on the outside of the house and men came as far as eight miles to use it. Not only was it used for grinding coffee, but a great deal of wheat was ground for making bread.

Having a desire to acquire a fortune quickly so that he might return East to his aged mother, Mr. Stockman was strongly inclined to the occupation of mining. The farm was therefore disposed of for a trifle during the next year. It is now the nucleus of a ranch worth, perhaps, one hundred thousand dollars.

About that time reports of the placer mining on the Similkameen river, B. C., became rife and in February, 1860, Mr. Stockman with a party of ten went into that region to investigate the new diggings. The wealth of the camp failing to meet his expectations, he returned to Walla Walla.

In August of the same year, his old friend, Dr. LaDow, had become much interested in the reported strike on Rock Creek, B. C., and having resolved to make a trip into that country, importuned Stockman to accompany him, believing that on his former trip he had become familiar with the route and could therefore guide him through without difficulty. Each strode a cayuse¹ with provisions to last them through only, struck out. Reaching the Columbia near the mouth of the Okanogan, they found the canoes by which they had expected to negotiate the river on the opposite side and were unable to raise the proprietor. For two days they lingered here and their provisions became entirely exhausted. They built a raft of logs and attempted to cross the river by that means, but failed. In the hope of finding some means of crossing, they started up the river, subsisting on choke cherries, which were then in some abundance, though lacking much of being a choice article of diet. While pursuing their journey they were one day surprised to find themselves surrounded by fifteen Indians, who, hanging horizontally upon the opposite sides of their cayuses, with bow and arrow ready, and yelling like all-possessed, rode rapidly around them. Mr. Stockman bethought himself of a bit of information he had once received from an old mountaineer, which was, that if ever captured by Indians to ask to be taken before the chief, for by that course one might secure a more favorable sentence and would likewise prolong his captivity, thereby adding to the time he might have for considering his chances of escape. Calling to the Indians, he told them in Chinook that he wished to see the "hyas tyee" and was very glad to note the favorable effect of the communication. The camp of the Indians was not far distant and contained only a small party. On being conducted into the camp, a short talk was had with the chief, after which the older Indians of the party seemed to bestow but little attention upon them and the two white men assumed to act as though they had merely stopped for the coming night, instead of being detained as captives.

1 A small Indian pony.

Regardless of a certain uneasy feeling as to how they might at the proper time be disposed of, the captives were much interested, if not amused, at the camp life about them. The Indians had just bagged a lot of wild ducks and during the afternoon proceeded to prepare a sort of Mulligan. The recipe used was very simple. A large kettle which had been procured from a post of the Hudson Bay Company, containing the proper quantity of water, was placed upon the fire; then the ducks, picked none too clean and without being drawn, were sliced crosswise with the body and the whole mass consigned to the kettle. When "ready to serve," the broth presented a greenish hue not unlike that of the stagnant water in a rush pool in midsummer. A peculiarly fresh and able-bodied aroma arose from the boiling mass. When done, the kettle was removed from the fire and the Indians seated themselves in a circle around it. With a large wooden ladle the chief first partook of the broth, then fished out a slice of duck, after which he passed the ladle to the one next to him, who performed a similar feat, and so on around the entire circle. The captives also dined on duck, which they bought from their captors, but it was served more after the manner of the civilized.

The Indians made no open show of guarding their prisoners during the night, yet both the men felt quite sure that any attempt to leave the camp would bring their captors upon them. On the following morning, with a great deal of apprehension, the two men were preparing to depart when the Indians gathered around and the chief very gravely ordered them to deliver to him the overshirts which they wore. These garments were made of heavy woolen material and were strong and very durable. Without hesitation they removed the shirts and handed them over to his excellency, wondering, meanwhile, what piece he would next require, when to their great relief he bade them depart.

After several days' travel a crossing was finally effected, and they struck into the dense forest toward the Okanogan river, along which their route lay, and soon lost their way.

Hunger pressing upon them, they were seized with anxiety to reach their destination and made many sallies into the forest, only to retrace their steps and try again. Reaching a place where a dim trail skirted the foot of a mountain, Stockman proposed that LaDow should follow the trail while he would go over the mountain and from the high ground survey the country beyond and trace out their route. They were unable to get together again, and Stockman, after searching in vain for his partner, undertook, after several days of wandering, to find his way out. In his famished condition he became so weak that he could make but very slow progress. While moving over a mountain side from which he expected to right his bearings, a white man down on the Columbia at the mouth of the Okanogan, spied him with a glass, and suspecting from his actions that something was wrong, sent an Indian up to bring him in. Under the care of this man he was enabled in a few days to regain his usual vigor, and departed again for the mines. On reaching Rock Creek, he was surprised to find Dr. LaDow, whom he had supposed to be dead, already there, and the doctor was no less surprised at the appearance of Stockman.

In the fall of 1860 Mr. Stockman again returned to Walla Walla, and found the conditions of the town being rapidly transformed. Many new buildings had been erected and the population had increased amazingly. A reckless element of citizenship dominated. Gamblers and desperate characters from the various mining camps came to winter there. A large dance house was running full blast. A "restricted district," inhabited by a mottled nationality, flourished, and the town was indeed run upon a wide-open basis.

During this sojourn in Walla Walla, he came to know many of the characters who afterward, in Montana and other parts of the Northwest, became notorious. Among these gentry were "Cherokee" Bob, an avowed desperado; Boone Helm, otherwise known as "Old Tex"; "Red" Yager, "California" Jim, and many others whose careers were finally ended by

decree of the vigilantes, or to satisfy the righteous vengeance of some one whom they had wronged.

For several years during the early sixties Mr. Stockman alternated between Walla Walla and the mining camps of Idaho, Montana and British Columbia, spending the winters in Walla Walla. In the summer of '61 he was at Pierce City, or Orofino. On his way to that region he camped on the site of Lewiston, there being no building of any description on the ground at that time. On reaching the mines, he found that provisions of all kinds were exorbitantly high. Flour reached \$80.00 per hundred pounds and potatoes were 30 cents a pound. In comparison with such prices the present ado about the cost of living would seem to be mere burlesque. He conceived the idea that the growing of potatoes at the camp would be a profitable business and accordingly procured seed and planted about four acres. Stimulated by assiduous cultivation, the crop was coming on in the most promising manner when a heavy midsummer frost fell upon it, withering the tops to the ground. Feeling sure that there would be no outcome to his effort at farming, he abandoned his field, but learned afterward that the potatoes ripened sufficiently to volunteer and for several years after his experiment the miners were wont to repair there to dig them as the successive crops came on.

Social conditions in Walla Walla had grown even worse during the winter of 1861-2 than they had been during the previous winter, and the following year saw no improvement. Robberies and murders were of frequent occurrence. A man suddenly faced another on the principal street at midday, shot him and took what money he found upon him. One day a man stepped to the door of a barber shop and said to the occupant of the chair: "I'm going to kill you for murdering my father in California." The barber who was treating the man in the chair stepped aside for safety and his patron was shot to death before he could rise.

At another time a character of the town entered a saloon and standing near the front, called with vile epithet to a man

in the rear that he was going to kill him, and proceeded to the execution of his dictum. The intended victim, however, refused to stand and be killed in his tracks, but, whipping out a big knife, he made toward the man of murderous intent, dodging in rapid zig-zag fashion to confuse his aim, and reached him unscathed through a shower of bullets. Plunging his knife into the gun man's body, he literally disemboweled him.

The constituted authority was powerless to check the outrages, and murderers walked the streets after their bloody work with as much freedom as though conscious of having performed the most legitimate acts.

Finally, a negro was found one morning hanging to a beam. No one knew how it came about and the circumstance was fruitful of much comment; but he was only a negro. A few days afterward a white man was found hanging in a similar manner. Here truly was matter calling for declarations of the most drastic vengeance. The "toughs" congregated in force and swore long and loud; but the most searching inquisition they were able to make throughout the town failed to reveal a single clew; no one could furnish even a lateral lead to the identification of the executioners.

A third man was found swinging by the neck from a limb and it was at once remembered that he had been of the same criminal tastes and habits in life that had distinguished each of the former victims. The demonstrations on this occasion were somewhat subdued. Those who had celebrated the preceding like event with great explosion of invective now gathered in small knots and conversed privily.

Still another, selected with discriminating care from the same social stratum out of which the three others were quarried, was found dangling at the end of a rope and to all appearance having reached his end through exactly the same channel.

There was not now the least doubt but that some body was doing the work, and after the fifth man was hanged, lawless men began to hide out and to steal away in the night. The

vigilantes were required to perform no further executions; law and order reigned, and the foundation was thus laid for the well-regulated and prosperous Walla Walla city of today.

During the summer of '63 Mr. Stockman was at Florence, Idaho, at that time the center of a new and rich mineral strike. Hither also flocked the thugs and desperados from their winter haunts and among them were many from Walla Walla. Like most of the mining camps of the time, the lawless element exacted deference to their sway. The men of upright character found it necessary to exercise constant care lest, inadvertently, they should seem to mix with the disreputables and thereby open the way for the cultivation of a too-close acquaintance.

In the town was maintained a large bunk house which was made to serve also as a gambling den, and was therefore the natural rendezvous of the vicious. Very early one morning a man stepped into the building and asked in a loud voice: "Is 'California Jim' here?" From one of the bunks in the long row stretching along the side of the building, that worthy arose on his elbow and allowed that he was the party for whom the enquiry was made. Without waste of ceremony, the morning visitor opened up a pistol fusilade which raked the bunk, and when he had done Jim had gone to his long home.

A dance hall which ran on full time was one of the popular resorts for those who infested the camp for the purpose of filching from the miners. At an hour of the night when honest men sleep, "Cherokee" Bob, the desperado known in Walla Walla, and a man by the name of Williams, both habitues of the dance hall, engaged in an altercation in which a dance hall girl figured as a cause. It was an interesting scrap from an abstract point of view. Each had acquired considerable renown in the accuracy and rapidity of his gunnery, and had the fight resulted in the counting out of both the depletion in the personnel of the town would have been generally pleasing. But "Cherokee" Bob made an irreparable error in the execution of his manual of arms, his sensitive trigger finger going

into action while his gun was yet describing a preliminary flourish, the bullet striking the ceiling over his opponent's head. He had not time for another trial, for Williams, using less formality, timed himself with greater economy and his bullet found its way straight to the heart of the desperado.

In the spring of 1865 Mr. Stockman went to Virginia City, Montana, which was then aquiver with excitement over rich gold strikes. There he engaged in hauling freight, his occupation taking him frequently to Bozeman and Helena, and he came to know well the greater part of the leading men of the country.

Like Florence, this new section was infested with "road agents" and all-around bad men. Their depredations grew in enormity until the peaceful miner, the quiet farmer, the merchant, or any one who might be suspected of having gold about him, was in danger of being robbed, and much the easiest method of committing the robbery seemed to be that of at once murdering the victim. The number of bodies of men found throughout the country, whose demise was due to the "road agents," reached way beyond a hundred.

Henry Plummer, the sheriff whose criminal history has been often told, had not yet reached his undoing. Stockman knew him at Florence. As sheriff his operations were unique. His official position was the key which opened up to him and his gang the secrets of the express companies, the miners and the business men alike.

A man by the name of Brown conducted a store, and by his honesty and close attention to business had attained fair success. He determined to go to San Francisco and buy new goods with which to replenish his stock and for that purpose planned to carry with him fifty pounds of gold. He had decided to leave Virginia City quietly at night, and as to his intentions had told no one. While at his store making preparations to depart in the evening of the night on which he was to leave, Sheriff Plummer entered. Having confidence in the sheriff, he thought it wise to apprise him of his intended trip,

which he did in confidential tones. Plummer, equally confidential, agreed that the plan was quite commendable. The second day out from Virginia City, Brown was overtaken by a posse of Plummer's gang and murdered and his gold carried back to be divided among the murderers.

One more incident, that happened while Stockman was living at Bozeman, deserves to be mentioned: A man named Davidson was ranching about two miles out from town. He was a man of excellent character whose circle of friendship was widely extended and who was well connected in a social and fraternal way. He had hailed from Wellsville, Ohio, near which place Stockman himself was born and grew to manhood, and at this time was making preparations to visit his old home. He had collected some valuable presents to carry to his sister and other relatives and kept them at his ranch.

One Saturday afternoon, while standing on a street of the town looking over the near-by landscape, he exclaimed, with reference to a beautiful stretch of table land: "Boys, what a beautiful spot for a burying ground that would be!"

That night, at his ranch, he was awakened from sleep by a knock upon his door. On demanding to know who was there, a voice replied: "We have just come from Virginia City and are very tired and would like to get a little coffee." A young man who was staying with Davidson arose and let the party, a half dozen men, in and proceeded to light a fire, taking a hatchet to cut the kindlings for the fireplace. Davidson did not arise, but sat up in his bed and conversed with his visitors. After lighting the fire, the young man stepped outside to get more wood, and while on the outside heard Davidson cry out. Hurrying back to the door, he was met by a man who snapped a revolver in his face, whereupon he ran for safety and making his way quickly to a neighbor's place, reported the occurrence. With the least possible delay a band of determined men were gotten together, who, armed for desperate work, repaired to Davidson's house, where they found abundant evidence of murder; but the dead had been removed. Search was insti-

tuted and on the following day the body of Davidson was found hidden in a gulch. The blade of the hatchet with which the young man had cut the kindling wood had been twice buried in his skull.

Davidson was buried on the spot which had appealed to him as being so beautifully located for a cemetery, and his was the first grave on the ground which has since become a repository for the remains of scores of people who, perhaps, knew not the story of its dedication.

The killing of Davidson proved to be the beginning of the end of the lawless regime in Montana.

Every period in the history of man which has seen him borne down in painful subjection, has also produced its giant characters for his deliverance, though they have at times appeared to be tardy in shouldering the task. Montana offered no exception in this respect. Colonel W. F. Sanders, closely connected with later history of Montana, had watched the progress of the reign of the lawless with deep concern and with outspoken protest. Absolutely fearless, highly educated and resourceful, he very naturally was conceded the leadership. Others there were who stood shoulder to shoulder with him, among whom was Mr. Stockman. The popular indignation aroused by the last-mentioned murder culminated in the organization of the most effective league for the suppression of crime ever known in all the history of the Western frontier.

The work of sifting out the undesirables was pursued with the most systematic and persistent thoroughness. The vigilantes were fortunate in overhauling at an early stage of their task, "Red" Yager, who, in a confession, supplied the committee with valuable details covering both the membership and the history of the Plummer gang. "Red" completely exonerated the vigilantes from any blame for his own execution, pleading that he richly deserved the fate and even assisting in the act of vengeance upon his worthless body by accommodating his neck to the noose.

When the moral atmosphere of Montana was finally clari-

fied, more than three score desperate characters had been hanged and twice as many more, seeing the handwriting on the wall, had flown to climes more congenial.

After leaving Walla Walla in the spring of '65, Mr. Stockman never saw the place again until 1906, when it had grown to be a beautiful city of nearly twenty thousand souls. Every vestige of the old town of the early sixties had perished, and it was with difficulty that he could even locate the spots where the principal buildings stood, and only two men could be found whom he knew there in that far-away time. The great, frowning penitentiary at the outskirts of the city held more people than could have been found of the white race, all told, in what is now eastern Washington, in 1859.

He is a devoted member of the Christian church and attends the functions of that society regularly. On the first Sunday in February of the present year he counted into the birthday offering box of the Sunday school eighty-one cents, each of which represented a year of his life, and his physical condition gives promise of several more years.

In the days of his youth, in Ohio, he had for a schoolmate, James A. Garfield, and also Lucretia R. Rudolph, who afterward became the wife of Garfield. Speaking of those school days, he says Garfield rarely took time to play the common games with other boys, being too closely devoted to his studies, and his discovery of a new analysis for the 47th problem of Euclid, in after years, almost rivaling the invention of Pythagoras himself, was not considered marvelous by those who were familiar with his studious disposition.

He pays a high tribute to the Masonic order, of which he has been a member since 1850, having joined the lodge at Minerva, Ohio, in that year. When a lodge was instituted in Walla Walla, in the first years of his sojourn there, he was, by reason of his experience, called upon to take an active part in its deliberations and assisted the lodge in conferring its initial degree.

The first formal meeting of Masons in Montana was held

on the summit of a high peak of the Rocky Mountain range near Helena. Soon after that lodges were organized in Helena, Bozeman and Virginia City. Among the men who met in council with Stockman in the lodge at the latter place were W. F. Sanders, John X. Biedler and Samuel T. Hauser. Than John X. Biedler, the "road agents" had no more daring man to contend with during the days of the overthrow of their reign.

He regards Masonry as having been the silver cord which connected the upright and order-loving citizenship of the West from the first days of wild scrambling for gold, through the building of the Northwestern Empire, whose destinies bear the imprint of the sober influence of its principles.

WHAT I KNOW OF DR. McLOUGHLIN AND HOW I KNOW IT

By John Minto.

*To the Trustees of the McLoughlin School at Oregon City,
Oregon:*

The writer crossed the plains and mountains from Missouri to Oregon in 1844, with Americans and as an American. I was under a verbal engagement to assist one of the leading family men to Oregon with his family and effects, but as we neared Ft. Hall on the Snake river, I realized that my labor could not expedite the movement of the train, and that the food I would consume might be seriously needed by the women and children before reaching western Oregon (as indeed it was), and obtained my employer's consent to join two other young men who were leaving their families for a similar reason, and push on ahead.

With 15 pounds of pemmican, a saddle horse and rifle each, we left our train at Ft. Hall, an estimated 800 miles from Oregon City, as the trail then was, and in a few hours were joined by three other young men who were leaving Col. N. Ford's train for the same reason we were leaving Gilliam's. They were without provisions and one of them on foot. This made six consumers of the little provisions we had, but before night we killed three young sage grouse—the only ones we saw on the trip.

On the third day, when we were out of anything to eat, we met an Hudson's Bay messenger acting as guide to a Catholic priest who was on his way to join another whom I had seen at Ft. Hall. This guide was a man in style and build closely resembling Kit Carson, whom I saw and observed closely at Ft. Bridger; a man easy to tell your wants to. At all events, we quickly let this cheerful Canadian Frenchman know our condition and he did not change his manner, as he said, "We

have only a few salmon skins left, but we'll divide with you, as I think we can make Ft. Hall in two days." And as he talked he was opening the pack and counting, and remarked, "Here is a dozen; we can do with six. I will give you six and that will stead you to Salmon Falls, where fish is abundant and cheap now." Then seeing our hesitancy about accepting provisions without making compensation, he added. "Say no more, gentlemen, I have been in your case many times—and we must travel." This, I was to learn, was a reflection of the spirit of Dr. McLoughlin's treatment of the immigrants to Oregon during 1843-4, the reproof for which caused him to resign a position of princely power and surrender a salary of \$12,000 per annum.

The writer was to advance 300 miles farther into the Oregon country before hearing the name of Dr. McLoughlin, and to wait sixty-five years to learn that the quiet priest whom he met at Goose Creek on the Oregon trail, in care of a messenger selected by Dr. McLoughlin, was Father DeSmet, the first, and so far as he knows, the only member of the Society of Jesus he has ever seen. He has learned, further, that Father DeSmet had just returned from Belgium, whither he had gone under the urgent advice and assistance of Dr. McLoughlin in 1842, to collect help and means.

An interesting sketch in the Oregon Historial Quarterly for September, 1909, entitled "Father DeSmet in the Oregon Country," by Rev. Edwin V. O'Hara, enables the writer to name the priest whom he met at Goose Creek as Father DeSmet, then on his way to strengthen the missions he had planted along the upper Columbia in 1840-42.

After parting with this illustration of the far-reaching wave of Dr. McLoughlin's influence, we soon came within sound of a cry, "Swap salmon, six?" (Trade for salmon, friend?). A large fresh fish held up taught us the meaning. Luckily I had bought a gross of fish hooks in St. Louis, little used till now, when we found them easy barter for fish from the natives

until we got to Grand Ronde. At Fort Boise, we mustered enough silver money to purchase 20 pounds of Oregon flour, but a duck at Willow Springs, a prairie chicken while descending the hill into the Grand Ronde valley and a ruffed grouse at the foot of it, a cotton tail rabbit on Burnt river and a few pounds of buffalo pemmican was all the meat we tasted between the 17th of September and the 11th of October, when we met General M. M. McCarver on the Umatilla, about a day's ride from where Pendleton now is.

We had met Major James Waters, Wm. C. Dement and ——— Rice, from Oregon City, in the Grand Ronde, and on their invitation stopped to camp with them. We had put our birds to cook with some rice given us by our Oregon friends when a cavalcade of Indian women returning from their camas flats with their horses loaded with the fresh-dug edibles, stopped to inspect us. We began by signs to ask if they had any food to barter and found they had several cakes of camas bread, not unlike the Scotch "bannock," made of barley meal. (This suggests that the name "Bannock" may have been given the Indians of the Boise valley from their custom of making camas and kouse roots and pounded choke cherry and haw seeds into sun-baked cakes like "bannocks.") They readily traded us all the bread they had for fish hooks.

Next morning where the trail took the Blue Mountains we found ourselves surrounded by a party of Indians, all men but one—a girl of 18, perhaps, mounted on as fine a steed as I have ever seen carry the name of Arabia. She kept beside an elderly man who seemed proud of her, and neither offered to trade. Indeed the men seemed only to make believe, one with a quart of peas, another with shelled corn. They were evidently inspecting us. The rest of the boys, seeing this, called to me to mount, but, still looking at the fine-looking father and daughter, I said: "There's the only Indian girl I have seen that approaches my idea of how Pocahontas looked, and she never was on such a splendid horse. I'm going to give her a salute before we take the hill," and drawing a pistol of the old style

dueling type, and looking at the father, who was intently watching me, I fired into the air, bowing to him and then to my comrades, who cheered. The Indians looked at me closely, the father quietly smiled, and we hurriedly waved good-bye and breasted the steep trail. My folly, and it certainly was folly, was soon paid for. Two of the Indians dashed up behind me and motioned me to stop, not stopping themselves until they were abreast me. Then one began to sign that he wanted to give me a better horse to cross the mountains on. He showed me that he knew by a mark I had not observed, that my horse was old and would die in crossing the mountains, and that he would give me a younger, stronger horse for the old one and the pistol to boot; he got his trade and I got the poorer horse by the full worth of the boot.

We camped about half way across the Blue Mountains, where the Grand Ronde forms a narrow but beautiful valley; there we found a party of our train who had left us at the Missouri River, and an Indian family whom I have learned to have been that of Esticus, Dr. Whitman's friend, who had piloted the trains of 1843 through that way. As the noises of evening ceased, the hymn with which they closed the day seemed to me the sweetest vocal music I had ever heard. Of course I understood that much of its charm and mellowness came from the mountains surrounding. The singing of that hymn had much the same effect on the emigrant camp as it had on me, apparently, for there was little noise there afterward. In the morning the captain showed that he had not forgotten the harmony of sweet sounds, and himself tried a yodel to waken his sleeping camp; as that ceased the morning hymn of the Indian family arose. It was different, probably from the cooler, less expansive air of the morning. Chief Esticus¹ showed that he was there for a purpose, for he led the way, marking the trail very plainly with the band of horses he had. We on horseback passed him and found no difficulty in following the wagon marks of 1843 to the west edge of the timber of the Blue Mountains where at last we gazed ap-

¹ Frequently spelled Sticeas.

parently across the grand valley of the "River of the West" to Mt. Hood and Mt. Baker. Ah, what a glorious sight it was.

In Oregon—That was what I felt as I looked across the upper valley of the Columbia. I passed my twenty-second birthday as one of a party of six, without a particle of food among us and our means of barter with the natives getting very low. We passed the trail to Whitman's and thereby missed seeing Whitman and his noble wife—the first home-builders of the conquering race in Oregon.

When we got to the Umatilla a single Indian came to us with about 20 pounds of potatoes, which he offered to us for a shirt. The proposition suited, but we had few spare shirts; one of the party had, however, a good, clean, checked shirt which he had not worn on the trip; the young man eagerly made the exchange and went with it toward the brush, out of which two young women emerged and examined his purchase. The one we supposed was his wife held it up and perceiving that it showed wear on the shoulders began to jeer at him for being a bad trader. We had mounted to ride on, but they rode in among us demanding the return of the potatoes; but we needed food and believing that the garment was ample pay, said no. The man who had made the trade attempted to take the sack but threw it on the ground and looked into the muzzle of a gun before he concluded that a trade was a trade. Next morning a couple of horses were missing and a party of Indians came to our camp offering to find them for a blanket; we made them understand that we were acquainted with their methods of getting clothing and did not pay for lost horses that way. We were delayed about an hour and met General M. M. McCarver near the mouth of the Umatilla. He was that far east with a liberal supply of provisions for his family whom he expected to meet on the way. Mr. Daniel Holman was with him and an old Indian from The Dalles, the owner of the six horses the party had. This man was evidently distrustful of the local Indians in regard to horses, and he had need to be, for the fishing villages were gathering points for

the hunting mountain tribes, so that the wail for the dead and the gambler's tom-tom were common and monotonous sounds. When he learned that our provisions were low the General said, that he left his grain in the shock for lack of sheds to store it, and that if on our arrival, we would assist him in building we were welcome to the supplies he had brought.

General McCarver was at this time speaker of the house of the American Provisional Government, and few men could tell us more about public affairs, especially in regard to the assistance Dr. McLoughlin freely gave the American emigrants. Three of us, S. B. Crockett, Daniel Clark and myself, had already determined to return to the Dalles to assist our friends to western Oregon, and finding the General so warm in his praise of the doctor's course in lending boats to help the families down the great river, we asked him if he could and would aid us in getting the use of a boat; he said he would gladly write to the Doctor, and did. In fact, McCarver and Burnett had laid off lots for sale on the west bank of the Willamette, calling the town Linnton, and had led the way in cutting a passable wagon road to the extreme northern point of Tualatin Plains. This was already being used by the Red River settlers who had been induced by Sir George Simpson, Governor of the H. B. Co., to leave the Selkirk settlement in 1841, and who, finding the open land about Nisqually gravelly and sterile, had already opened farms and were harvesting crops on the Tualatin plains nearest to Ft. Vancouver. Dr. McLoughlin was so much in sympathy with these people that he exchanged lots in Oregon City for lots in Linnton with Burnett and McCarver. If the papers of the H. B. Co. are ever opened to historical gleaners, I believe it will be found that the chief cause of the coolness between the Governor of the H. B. Co. and the Chief Factor was the latter's preference for the south side of the Columbia.

From the Dalles to Oregon City—Crossing the Cascade range was a different matter in 1844 from what it was after the Barlows finished their road in 1846. We just avoided

trouble in crossing the Des Chutes; Clark, Crockett and myself were in advance of the main party, and were taking the dangerous ford one at a time, which separated us by the distance of a long rifle shot, when we saw Indians on the west side; the third man narrowly escaped losing his gun, horse and clothing, but a quick movement which placed the muzzle of his rifle against the breast of an Indian who was trying to wrest it from him, caused it to be dropped as if it were hot, while a glance over his shoulder showed him a brown hand about to close on the horse's rope. The spring of horse and man to get away caused the Indians, seventeen in number, to scatter like a band of wolves defeated of their prey.

We reached the Dalles in safety, on the Sunday preceding October 20th, and guided by the Indians, stripped our horses close against a log building used for a chapel, not thinking of Sunday or preaching, and not understanding why we were passed and repassed without notice. I told Mr. Bancroft this many years ago¹, still stinging with the mortification I felt for the indecent intrusion we had so unintentionally committed. We ate a hasty meal outside this rude Mission church, and my comrades went to find out where the main portion of the party were. They found them near the camp of the man from whom they had hired the horses and where they had left the canoe in which they had come from Linnton and Fort Vancouver. It was quickly arranged that Clark, Murray and Ramsey should go down the river in the canoe, while Crockett, Ferguson and myself should cross the Cascades via the north base of Mt. Hood, to the McCarver farm on Tualatin Plains.

We started early, and travelled fast the first half of the day to the North arm of Hood River, crossing that into the grandest timber growth any of us had ever saw. We slept two nights in these groves of the Cascade forests, well described by the poet as God's first temples. I recognized the feeling of awe that used to impress me when as a child I attended churches designed,

¹ We felt no reason to complain of coldness of the Missionaries. We felt we were intruding.

both in building and situation, to produce that effect. Our sleep was sweet and sound, and the waking, in the earliest morning, to gaze up at the still brilliant stars, after a night's lodging on the bare ground during all that half-famished thirty days' trip from Ft. Hall, gave me a feeling of exultation in life, which I have not command of language to describe.

On the 18th of October we reached Oregon City with the first fall rains. At that time the only wagon road out of Oregon City was to Tualatin Plains, where there was already some surplus grain raised, which was hauled to Oregon City for grinding. Mr. Walter Pomeroy was the largest wheat grower, and also built the first hotel at Oregon City. The Willamette River, however, was as yet the main channel of commerce through its valley. .

We reached the McCarver farm on the 19th of October through a steady warm rain; and in pairing off for sleeping I joined my friend Daniel Clark again, and gave him an account of our crossing the Cascade mountains. Clark in return for my description of our trip across the mountains and our kind treatment at Oregon City, told of their trip down by canoe, and of his taking the canoe over the rapids constituting the "long portage" by himself, and related an adventure he had had on a newly arrived ship at Vancouver, the first he remembered having seen, having been brought from Ireland to Canada in his infancy. He asked if he might look over the ship, and obtaining permission, lost no time in going on deck. He looked at the braces and rigging, scaled the ratlines as far as he felt safe, and finally found himself face to face with the captain in his cabin, busy with his manifest of cargo. The latter looked up from his work, and beholding a florid-faced, homespun-clad youth looking at him, said: "Young man, where did you come from and what do you want here?" "I did not mean to intrude, sir," answered Clark; "I never saw a ship before since I can remember—We've come from Missouri, across the Rocky Mountains; we've come to make our homes in Oregon and rule this country". The captain looked a while

at his visitor before he replied: "Well, young man, I've sailed into every quarter of this globe and seen 'most all the kinds of people on it, but a more uncouth or bolder people than you who are descending this river I never saw anywhere." My comrade dropped off to sleep, and I lay by his side, quivering with the thought of our great journey completed; we had come an estimated two thousand miles across wild country, "Through roving tribes of savage men, to plant our Nation's banner on the far off lands of Oregon." Clark seemed not to have noticed he had had condensed all the fireside and camp fire talks he had heard into thirty words; I could not but reflect also how concisely his reply to the captain agreed with the camp-fire talks of the older men. Clark was two years my junior, read little, wrote a neat hand, and went to Vancouver as assessor under the Provisional Government of Oregon, in June, 1845.

On October twenty-first, the six of us who owed General McCarver for the provisions furnished us on the Umatilla in eastern Oregon, went into the woods to get out material with which to build a shelter for his crop of wheat, already soaked with the first rainfall of Autumn. I was set to work to saw a large tree into four-foot lengths for roofing; the first step was to take the bark off with an ax, and I had the ax, eager to begin. The first stroke glanced back and went to the bone of my left leg, midway between the knee and the foot; as I looked at my hurt my companion in front of me fainted, but we got some rags and bound it up in the blood as woodsmen commonly do, and was helped to the house and installed as cook with little loss of time or working force. There was an ample supply of flour, bacon, smoked salmon and vegetables, and I learned something of the quantity of food six men at hard labor would consume in a week after being six weeks on half rations. However, the week put General McCarver's crop in a reasonably safe shelter, and while three of our companions continued with him, Crockett, Clark and myself went to work with a contractor in log cabin building—a

man so small in stature that he was known as "Little" Osbourn. In a week we had built five cabins of legal size—16 feet square with eaves 6 feet above the ground, with doorway cut out and roof of four foot clapboards. This job finished, Clark took a rail-making contract and I went with Mr. Osbourn to seek a contract with Hon. P. H. Burnett, who led the emigrants from Missouri to Oregon in 1843-4. Within two minutes after our introduction Mr. B. was trying to learn from me how near Western Oregon resembled England in its natural growth of timber, brush and weeds. He wanted 1500 cedar rails made about two miles away, for which he would pay one dollar per hundred and furnish food for the maker while on the job. I took the contract, and my comrade, Crockett, joining me, we went at it without loss of time on a Monday morning, split out a few rail cuts into "puncheons" two inches thick and the width of the cut, rested one end of them on a large log, covering the spaces between, and with a dozen of these pieces had a roof to cook and sleep under. It began to rain and continued at short intervals during the week, but we did not lose much time. As we still had our *emigrant appetites* I went to his home on Friday for an additional supply of provisions and as I had to wait a few hours for Mr. Burnett, his wife put on the rude reading table some new books which Dr. McLoughlin had sent over from Ft. Vancouver with about half a bushel of ripe apples, five of which Mrs. Burnett presented to me, with the advice to save the seeds and plant them when I had selected a home for myself. While I enjoyed the apples the lady talked of her reasons for being glad of having come to Oregon, chief of which was the wonderful recreative effect it had had on herself; she had been sick for about two years before starting, unable to help herself for the most of that time, but by the time they had been on the road a month she was able to help with the cooking at the campfire, and soon was able to cook for her own family of eight and two hired men; and continued to do so until they reached Ft. Vancouver where she and her children with the exception of the eldest son had

remained for a time as guests of Dr. McLoughlin and where she had not been permitted to do anything. Referring again to the kindness of the Doctor and his officers to herself and husband, she invited me to amuse myself with the new books, which were evidence of that kindness, until her husband's return. One of the books was Pope's poetical works with Dr. Johnson's estimate of Pope as a poet, and the other a plea for the Roman Catholic Church as the only true Christian Church—so profound that I was unable to follow its author for the little time I bestowed on it, but I have never had any doubt that Dr. McLoughlin was the chief agency in making Mr. Burnett and his noble wife devout members of the Roman Catholic Church. I never saw the gentle lady but that once, but, I have never seen the day since that I would not have staked all I am on the honor of P. H. Burnett and his wife in choosing the Catholic church and being remarried under its ritual in 1845 or 1846. At this time the M. E. Church was apparently and prospectively the ruling religious power in Oregon, and Peter Henderson Burnett nearly if not quite the head of its jurisprudence, while as an individual he was away in advance of any member of the M. E. Church then in Oregon, unless we except George Abernethy, the least demonstrative of his sect in Oregon.

A few words of personal history may be written at this point. On the day before election in 1845, Judge Burnett, a young man named Mason, (who told me he was reading law) and myself were on the hotel porch at Oregon City. Mason, as new to the voting privilege as myself, said: "Judge, whom do you consider the best man to vote for, for Governor?" Mr. B. with short hesitation answered: "I consider George Abernethy the best read man in Oregon." I did not see young Mason again until December, 1847, but I cast the first vote of my life for George Abernethy—one of Nature's noblemen, I think, as was Mr. Burnett; a life long friend of Dr. McLoughlin after they met in Oregon. They were the two most conspicuous men to join the Catholic Church in Oregon during

the formative period unless we include General Jos. Lane.

To resume my narrative: we finished our job for Mr. Burnett on Saturday evening, and he paid me with a \$15.00 note for legal services rendered to a young settler of good repute, which I later gave for a suit of cotton clothing to an emigrant of our train, which, we learned on Sunday by a letter from Dr. McLoughlin to General McCarver, had reached the Dalles. The letter also stated that General Gilliam's family had been furnished with a boat and had come down without delay, and that the young men who had applied for the use of a boat, would find one tied up at Linnton for their use. Accordingly, we three, Clark, Crockett and Minto, met at the residence of Mr. Henry Buxton, an English farmer from Rupert's land with whom General McCarver boarded, and started on foot over the newly cut road to Linnton. There we found Jacob Hoover and his family, who had recently landed from the boat we had come to use. We were invited to partake of a swan dinner, which we could not well refuse, and then started on our twelve-mile row to Fort Vancouver—three of us in a seven man boat. We arrived at the fort gates between 8 and 9 P. M., and had trouble to gain admittance and then more trouble to get speech with Mr. Douglas, Dr. McLoughlin being absent at Oregon City. We were finally sent outside the gates to pass the night in a cabin occupied by two men; one, a Lowland Scotch blacksmith, a maker of the cheap axes, hatchets and knives used in the trade; the other, an honest, faithful herdsman from the Orkney Islands, whose three years' contract at 17 English pounds a year was nearly up, when he expected to return home and marry the lassie whose present of a pocket testament he carried near his heart. He could see no opportunity in a square mile of good land in Oregon. We learned this while sharing the contract breakfast of salt salmon and potatoes—cheap and wholesome food.

We were still eating when at the toll of the bell the gates opened. The grand figure of Dr. McLoughlin appeared on the stoop of his¹ residence as we entered the gates. He beckoned

¹ Having come from Oregon City by canoe in the night ready for duty on morning—a very common practice at this time we learned.

us to him and advanced to meet us in the oblong square, upon the south-east corner of which a new bastion seemed to be just completed. As we met him he said: "Are you the young men who applied for a boat to aid your friend from the Dalles?" "Yes, sir". "Well, young men, I advise—I advise you to take the boat above the Cascade Falls if you can get help to do so, and bring down to that point not your own friends only, but all who desire to come, and I'll see—I'll see that they are brought away from the Cascades". We promised to do as he suggested, and his hand was lifted to his hat, when our spokesman, Clark, said: "We need to do a little business before we start", and held out to him a bunch of small orders, the only American money then in Oregon. He took them in his hand and giving them a slight examination said: "Young men we are not doing business for a few days; a ship-load of goods is in from London, and we are taking stock of what we have on hand, as our custom is. *But I think you are going on an errand of mercy and you must have what you need*". He turned and beckoned to a servant and said to him: "Guide these men to the shop and tell Mr. Graham to meet their wants if he can." He was again turning away—had taken a few steps when he faced around toward us and said: "Young men, perhaps you would like to communicate with your friends in the East. If so, you have an opportunity; a messenger will leave the fort today at two o'clock. It's an opportunity you will not have again in six months or a year, perhaps". We thanked him and said we were not prepared to take advantage of his kindness, as we had neither pencils nor paper. The Doctor wheeled about toward his office and another servant came running, to whom he said: "Go to Mr. Graham and ask him to send pens, ink and paper to the stranger's room." Then the good man turned to us again and pointing to the open door of the strangers' room said: "Young men, go in there and write your letters, and I would advise you to do so

¹ Thus this grand man gave us an interest in his benefactions and what he did immediately after showed that he was acting under strong inward impulse.

before noon; you can get your goods afterward. But be sure to be in that room when the bell rings." This we understood to be an invitation to a good English dinner, which was the common usage to all business visitors. The Doctor, raising his hat, went to his office leaving the writer feeling that he had seen the best sample of the many North British noblemen he had read about in boyhood. He was a very impressive personality.

(Note 1) (The writer laboriously covered half a sheet of foolscap to his father at Pittsburg, Penn. This was on Dec. 5th, 1844; he received his father's answer via St. Louis, Mo., and across the plains to Astoria on the 15th of July, 1847. I learned on this 22nd day of March, 1910, that the package containing my letter from my father also contained a letter from the Postmaster General, creating my general on the journey to Oregon, Cornelius Gilliam, U. S. Postal Agent for Oregon. This first mail matter sent across the plains to Oregon was carried by J. M. Shively, part owner of the site of the city of Astoria—at that time known as Fort George, a Hudson Bay Co.'s trading post with James Birnie in charge.)

I saw him again in March, 1854, in his own hospital by the bed of the guide who with Father DeSmet had divided his food supply with us at Goose Creek on Sept. 20, 1844.

(Note 2) (There were but two cots occupied in the Vancouver Hospital when I saw McLoughlin there. In addition to the guide mentioned, whose eyes were glittering with the encouragement his doctor-chief was giving as to his condition, was another, an American gentleman, dying silently, without hope. He had taken as his claim the tract which is now East Portland and erected an uncommonly good log cabin. He left a young native woman as his widow, but I have never been able to learn any more about the man than is here stated.)

The next intimate notice I had of Dr. McLoughlin was after he had moved his family to Oregon City and seemed happily busy in finishing his mills there for business. A logging crew under Judge Nesmith had thrown in a lot of logs for the

Doctor at the pinery opposite what is now New Era. They had been floated down without rafting, and many of them had been rolled by the current across the shelving rocks of Abernethy Island, west of the Abernethy mills,—some of them very near the brink of the falls. Mr. James Welch, later of Astoria, had taken a contract to roll these logs over the falls so that they could be boomed below the sawmill. I learned that Mr. Welch wanted help and applied. Without mentioning terms he thrust a pikepole into my hands and said: "Go onto the boom below there and boom the logs we roll over; you will get your meals at my house and perhaps a bed." So I put in the first day catching Dr. McLoughlin's logs and booming them below his sawmill. After supper I decided to ask Mr. Welch about my wages as my work had been light and his own, with but one man to assist him, was both disagreeable and dangerous; the one man starting the log being often breast-deep in the water and requiring all his strength to stem the inflow after the log was started. Mr. Welch replied that he had offered \$1.25 for help in booming; I told him that I had understood that he had offered \$2.00 for help. "Yes," he said, "I would be glad to pay that for help above the falls". "Then count me with you," said I, "I am here to earn some clothing and I understand that your contract is with Dr. McLoughlin." He replied that it was; that he was glad to have my help, and that I might bed with Nate Buzard at his (Welch's) house, as the river was falling and time was very precious. While we three men were thus engaged in rolling logs over the brink of the falls, the Doctor was generally to be seen moving about from point to point of the race, or talking to Mr. Hedges, who seemed to have the supervision of widening and deepening the raceway over rocks and earth, while Judge Nesmith with his assistants was constructing the flumes to the respective mills. We had thrown some light logs toward the race and they had jammed in the frame of a gateway to the yet unfinished flume. One noon the Doctor and his grandson by marriage, William C. McKay, tackled this

jam in the gate way with levers. They both worked with a will, each at intervals suggesting where a lever would be effective. The last suggestion was "Billy's", as we called him; with their utmost efforts the frame was relieved and the grand old man dropped his pole and clasping the boy in his arms kissed him on the cheek.

When we had finished our job above the falls Mr. Welch paid me with a check on Dr. McLoughlin, which I presented, of course, to Billy McKay, as clerk of the store, telling him the kind of clothing I needed. "John," he said, "I believe Mr. Welch has fully drawn his account, but grandfather and all of us have seen how you have done your work; we have not the kind of goods you want, but if Mr. Pettygrove can furnish you I am sure grandfather will honor the order. I got the goods as far as my check would reach, but I got more, which I now feel constrained to relate.

The reader will easily understand that men working in the river all day as I have described would be too wet at bedtime to sleep comfortably; so at Mr. Welch's suggestion I went to the cooper shop of Uncle Jimmie Stephens, who liked company and conversation and had shavings to burn; on one of my drying nights Uncle Jimmie told me that William Overton, who drove staves and shingles on the future site of Portland and sold them at Oregon City, had offered him (Stephens) his claim for 300 new salmon barrels and would give him two years' time to make them in. "But," Mr. Stephens remarked, "Lovejoy and Pettygrove are talking of buying Overton out and starting a town on the land. Now I have no means to start a town with, but a man named Carter, who recently died in the hospital at Vancouver, had a claim on the east bank of the river opposite Overton's, which is to be sold by Nesmith as Probate Judge. I believe I can buy that for \$300.00; I know I can if Judge Nesmith doesn't want to bid on it. Do you think I had better bid on that claim, John?" (This was the first time any one had asked my opinion on a business venture.) "What do you want with land, Mr. Stephens," I asked, "You

have the best trade in Oregon just now". "Yes", he replied, "But from my boyhood I have wanted to own an orchard". "Well", I said, "You get your staves from Overton and some one else brings your hoop material of oak and hazel from the east bank; your market for barrels is mainly down the Columbia—why not buy the Carter claim if you can?" I do not remember on which of four nights I had this conversation with Mr. Stephens about the land which became East Portland.

When I went to Pettygrove's store as "Billy" McKay had suggested, I found there General A. L. Lovejoy, Captain John H. Couch and James Birnie who was even then contemplating taking the claim on the north bank of the Columbia, which he named Cathlamet. These men were so intently considering the question of the best point on the lower Willamette for shipping to lie, that I did not intrude into their talk. Captain Couch had the most to say. He said the best water on the lower Willamette was opposite the Overton claim for shipping, and said it very quietly for such a full-bodied sailor. Thus it was John H. Couch who located west Portland I believe, and the cooper, James Stevens, succeeded in his bid for the Carter claim which enriched him—with his ferry and orchard.

So far my rude narrative has touched the names of the first town-builders only, and quite naturally, town, city, state and National builders as they are. Of these, Dr. John McLoughlin planted the first on the waters of the "River of the West"—the old Oregon. Much has been said, and well said as to the nobility of McLoughlin's actions as chief factor or trader in the district of the Columbia for over twenty years of time, when Oregon was debatable land on both sides between Great Britain and the United States: held by joint treaty, free to occupancy by the subjects of the one and the citizens of the other. There was this difference between the joint occupants: the jealousy of the British Parliament as to land tenure, inhibited Canada from meddling with land titles in adjoining territory, and the original charter of the "Gentlemen Adventurers

doing business into Hudson Bay" gave them no license to cultivate the soil. When McLoughlin started his farm near his trading post and called it Fort Vancouver, it did not prove his contention that his license as fur trader implied a right to occupy all the land he wanted for live stock. The Williamson incident showed that the Hudson's Bay people were very helpless among free Americans on questions of law and called for much wise forbearance on both sides. There were few Americans in the settlement at the time of the incident; the worst had already shown his character; the other had betrayed himself by making threats, to Dr. McLoughlin's disgust, and to Dr. White's also. But whether strictly legal or not, the first few hundred thousand bushels of wheat produced from the soil of Oregon were produced under McLoughlin's generous plan.

It is a wild guess to say that the H. B. Co.'s trade in wheat and wheat flour from Vancouver aggregated 55,000 bushels for export during the last ten years of his rule at Vancouver, and there was no change in its business under Mr. Douglas except in the matter of extending credit to American immigrants as they passed Fort Vancouver; which they largely ceased doing; but even before this, wheat and flour could be obtained at farms created under McLoughlin's advice, at the Gervais mill in the French settlement, and on Tualatin Plains.

The first two years of Dr. McLoughlin's life at Oregon City were very nearly a full realization of his reasonable hopes. I say this, notwithstanding his uniform reticence as to what precisely was his hope. From all I ever heard of his opinion of what was to be the government of Oregon we have reason to believe that he thought that Oregon would ultimately be left to govern herself independently of either the United States or England; being, he always said, too far from either government to be successfully governed by either. This was also the view of President Jefferson. The writer had more than ordinary opportunities to learn Dr. McLoughlin's views on the subject of the future of Oregon's government between 1840 and 1845, although he never had personal conversation with

him, and all the evidence was as above stated. The posthumous letter left by him shows him to have been a prudent man up to the time that he resigned his position as Chief Factor rather than use that position in any other way than as a Christian gentleman. He was doubtless aware that he was to be made the scapegoat of prominent members of the British Navy who had left the Great River of the West without the protection of a warship, for which he had appealed, until there were enough American rifles near the mouth of the Willamette to render the deck of the ship safer than the shore, should possession of said shore be disputed.

The difference between Sir George Simpson, as Governor of the H. B. Co. and Dr. McLoughlin, as Chief Factor of the same Company over the valley of the Columbia, was one of Trade Interests vs. Humanity. There were four distinct interests in the fur trade west of the Rocky Mountains on the Pacific Slope; the "Gentlemen Adventurers of England Doing Business into Hudson Bay," a capitalistic company directed from London; the "Northwest Company," with headquarters at Montreal, Canada, a combined capitalistic and co-operative company; the "Russian Fur Co. of Alaska," never plainly defined outside of Russia; and the American Fur Traders, often a voluntary association, but sometimes individuals with capital; in other cases poor men, free from association with others. This latter class, down to 1844, were called free trappers in American parlance, or free men by the Hudson's Bay Company's servants. There grew so much rivalry for territory between the servants of the English Company—the Hudson Bay—and the British-Americans of the Montreal company that the British Government compelled them to unite for humane reasons. To the terms of the union, Dr. McLoughlin, a partner in the Northwest Company, refused his signature, deeming the conditions unjust to workers in the field.

As to the Doctor's intent in locating his claim at the falls of the Willamette and naming his townsite Oregon City, his actions and his long-suffering against the feeling of his pro-

English officers like John Dunn, and Americans who would have liked to share the ownership of the water-power with him, all lead me to the conviction that he chose it as the home of his age. I think myself safe in saying that here the Doctor saw the happiest days of his wonderful, useful and in every way noble life in Oregon. The eagerness and interest with which he went from point to point of the works he had under construction were evidences of this. There was no word of difference of shorage right between him and the milling company in 1845. While on this subject let me say that the ownership of a copy of Blackstone's Commentary on English Law by J. W. Nesmith, at this time chief workman on the flumes and king of Canemah's bachelor hall, satisfies me that McLoughlin's mind was at rest in regard to his riparian rights. I regret that I failed to make the personal acquaintance of Judge Nesmith at this time. He loaned the copy of Blackstone to J. S. Smith and I had perhaps a half-hour's lesson in it of great value to me subsequently.

The Americans then in Oregon were generally generous as well as just to McLoughlin. The missionaries were mostly wild about land matters, expecting townships to be given to the respective sects, where a rational view could see no service done. The writer succeeded the M. E. Mission as owner of the original chosen site, and on Sundays often spent the hour of the sermon leaning against the fence inclosing the fifteen or twenty graves within pistol shot of the original building. The lettering cut over Anna Pittman Lee and her babe was always sermon enough for me, an unregenerate:—"Behold, we have left all and followed thee. What shall we have therefore?" I never could and cannot yet condone the action of Mr. Lee in being away from his home when his wife and babe died.

From the summer of 1828 to that of 1845 we have the record that with Donald Manson, his construction officer, who built Fort Vancouver, Dr. McLoughlin made examination of the Willamette valley as a possible wheat field; they had three

crops on the Vancouver farm as a guide to their conclusions, which were favorable. At this same time he began giving small parcels of seed wheat to retiring engagees of the Company, and advising those in whom he had confidence who had married wives native to Oregon, to make homes on the land of Oregon instead of taking them back to the colder winter climate of Canada, where they would be socially aliens. To such of these men as were thrifty and orderly, he furnished seed grain and loaned two cows for milk and two steers for work. The cattle and the increase remained the property of the Company, and the care they received in return for the milk and butter was to some extent a protection against the wolves and panthers, for though the cows fought to defend their calves many were killed.

Some Americans complained because the Doctor would not sell the Company's cattle, but he denied himself and his officers, and even refused to supply the British exploring fleet and was complained of in its report for so doing. It is highly probable that the Doctor's loan of cattle to his former engagees turned farmers by his advice, while refusing to sell beef to the British Navy, was an under-lying cause of the dilatory action of Admiral Seymour, who delayed sending the warships *Modeste* and *Fisguard* to the Columbia River and Puget Sound until it was too late and both McLoughlin and James Douglas had deemed it wise to join the American Provisional Government for safety of the Company's property. We know now, though we did not then, that Captain Parks and Colonel Vavasour located four proposed fortifications in Oregon in 1845, and that one, at Cape Horn, was to block the Pass of the Columbia. That the latter favored the slaughter of all Americans he openly stated, but he was not alone to count contingencies of a fight for Oregon: the American settlers at Oregon City were not ignorant of what might be done to Fort Vancouver with a brush pile and a brisk wind on a dark night, and we now know that Father De Smet dropped a wise word of caution to the Capt. of H. B. M. sloop of war *Modeste*, which lay off Vancouver.

At all events, until 1847, the French-Canadian boatmen of the Columbia and Willamette rivers when approaching Oregon City from either above or below never failed to keep time to their oars with their refrain:

“Row, brothers, row, the stream runs fast;
The rapids are near and the daylight’s past”.

The song of Gaelic Canadian though sung by born Canadians on the St. Lawrence and taken down by Gaelic passenger the same year that Dr. McLoughlin located Oregon City,—and translated into English by John Wilson to keep Britons loyal and to brace soldiers to acquire India, Ireland and Australia and her unnumbered protectorates.

Here let us rest a while and call to mind another boat song, sung by the Hudson’s Bay boatmen under very different circumstances. In the same year that Dr. McLoughlin marked the claim at Oregon City as the home of his old age, another officer of the Company, having fulfilled his contract, was a passenger down the St. Lawrence in just such a “batteau” as the Company used on the Columbia. The crew were the same in number but were Gaelic Scots in descent. The passenger knew Gaelic and wrote the words of the song down and carried them to Scotland with him, where they were translated into English by John Wilson (Christopher North) as follows:

(The captain of the crew of seven recites)

“Listen to me, as when we heard our fathers
Sing, long ago, the songs of other shores;
Listen to me, and then in chorus gather
All your strong voices as ye pull the oars.
Fair these broad meads—these hoary woods are grand—
But we are exiles from our father land.

“From the lone shielin¹ on the misty island,
Mountains divide us, and a waste of seas;
But still, our hearts are true, our hearts are Highland,
And we in dreams behold the Hebrides.

¹ The word shielin means the cheapest kind of a human dwelling we cabin in Ireland and cot in England.

"Ne'er shall we see the fancy-haunted valley
Where twixt the dark hills, flows the pure, clear stream;
Nor ere around our Chieftain's banner rally;
Nor see the moon from loyal tombstones gleam.

"When our brave fathers, in the time long vanished,
Conquered and fortified the keep,
No seer foretold their children would be banished
That a degenerate lord might boast his sheep.

"Come foreign rage; let discord burst in slaughter!
Oh, then, for clansmen true, and broad claymores,
And hearts that would have given blood like water
That heavily beats along the Atlantic shore.
Fair these broad meads—these hoary woods are grand—
But we are exiles from our fathers' land."

Poor fools, blind to an opportunity for millions in the new country of their birth, they should have had a chief like John McLoughlin to advise them; as he did his Canadian brothers of French blood; whom as we know he both advised and assisted to take up land and settle on the south side of the Columbia, which advice and assistance made him, Dr. John McLoughlin, the nursing father of agriculture in Oregon.

Dr. McLoughlin, as time ripens the history of his life and labors in Oregon, appears in the highest sense the pioneer of its highest form of civilization. For reasons of morality he refrained from using intoxicants in trade. As manager of the trade of the Hudson's Bay Company he was compelled to wield the trade in his control so as to hold the field against rivals. But amongst them and amongst the missionaries, including all the various sects, he stands among men in the days without law in Oregon so much above the general level that the Doctor was like the Bald Eagle. This is what the Indians called him. Among wild fowl the physical image is apt; but an intimate study of his life as a man, his morals and business relations reveals him as rarely if ever descending to a lower plane. As a man I am glad to claim him as the first home builder in Oregon. With as much right to locate his home on the banks of the Willamette where and when he did and call it

a city, as I had to choose mine on the to me always beautiful hills five miles south of Salem; where I believed, when I located, there would be a village some day. His personal right to home in Oregon up to June 15, 1846, was equal to mine or any American and he resigned his place in the H. B. Co. and moved his family to Oregon City before the treaty of joint occupancy was abrogated. The Hudson's Bay Company as such had no right to land in Oregon under Oregon's laws and the Doctor erred in pulling down Williamson's cabin. The writer has been called four times to a seat in the Oregon Legislature and the vote cast most grateful to his feeling restored the McLoughlin estate.

THE PETER SKENE OGDEN JOURNALS

Editorial Notes by T. C. Elliott

Readers of the Oregon Historical Quarterly for December, 1909, in which the first of this series of Journals was published, will recall that Mr. Ogden reached Ft. Vancouver from his second expedition to the Snake Country on the 17th of July, 1826; that he had returned by way of the Willamette, having crossed Central Oregon from East to West and the Cascade Range of mountains by one of the middle passes, probably that at the head of the Santiam river. Having had but twelve days' vacation at Ft. Nez Perces the previous year Mr. Ogden had earned his two months of rest during this summer of 1826; and also probably enjoyed this his first visit to the new (and original) Ft. Vancouver which Dr. McLoughlin had built since the winter of 1824-5, the location of which was upon the high ground back of and about one-fourth mile East of the second stockade and buildings which were begun in 1828. His personal acquaintance with Dr. McLoughlin, who was eleven years his senior in years and with whom he was intimately associated all the remainder of his life, up to this time had been very slight.

We now find Mr. Ogden at The Dalles on September 19th, 1826, ready to start upon his third expedition of trapping and exploration, the indomitable Thos. McKay with him of course, and a party of thirty-five men which was a little later increased to forty-three, and the necessary horses over one hundred in number. The native families of these men and probably some native trappers also seem not to have been included in this enumeration.

Mr. Finan (also and more properly spelled Finnan) McDonald of the previous year's party has meantime departed with his family for the Red River country, as we learn from

a letter in the John McLeod Journal, and is not again heard of West of the Rocky Mts. To this Mr. McDonald, who was one of the very first engaged in fur trading on the waters of the Columbia, as early as 1807, evidently belongs the credit of having first reached the Klamath country in Oregon (See entry Dec. 6th, *infra*.) From him then must have come the first report of a name for the Indians of that quarter, either a French-Canadian rendition of the native name or a French name assigned by the trappers because of local conditions, French then being the common language of these trapping parties.

A suggestion, not yet a conclusion, as to this name Klamath may be made here. It is well established that many of the geographical and tribal names of the Oregon Country come from the trappers and traders of the various Fur Companies: some incident or some local condition would suggest the name, as "Nez Percés" or "Malheur." The conditions in the Klamath region suggest the name given in this journal, Clammitte, from the French CLAIR-METIS meaning a light mist or cloud. And it is quite as easy to suppose that the Indians in later years attempted to copy this name from the trappers as the reverse. Fremont adopted TLAMATH as the more correct rendition of the Indian pronunciation.

In February of the previous year a trapper named Antoine Sylvaile with others had been sent by Mr. Ogden to the sources of the Owyhee and Malheur rivers with instructions to rejoin the main party upon its return. Sylvaile however returned to Ft. Vancouver independently and reported finding a stream in that quarter very rich with beaver, to which the name Sylvaile River was at once given. This region and that of the Klamath Mr. Ogden was instructed to explore upon this third expedition. According to the series of maps published in London between 1830 to 1850 of "British North America, by permission dedicated to the Honourable Hudson's Bay Company, containing the latest information which their documents furnish, by their obedient servant, J. Arrow-

smith", Sylvaille's river is identical with the present Silver's or Silvie's river of the Malheur Lake region of Oregon.

That this original name still remains in abbreviated form is evidenced by a letter dated May 7th, 1910, from an early settler (1873) of Harney County, Mr. M. Fitzgerald, who says: "The river which flows through the valley from the North and empties into Malheur Lake was then called Sylvies River. The spelling has since been changed. It was said to have derived its name from a trapper who followed his calling there many years before; just when no one seemed to know."

The journal of this expedition does not cover the movements as closely as could be desired, and it is difficult to follow the party accurately at times. But speaking generally the course deviated from that of the previous year by crossing the Des Chutes at what is now Sherar's Bridge; thence following, probably, the trail which afterward became the Willamette Valley & Cascade Mt. Military Road toward the Malheur Lake country; thence in November returning northwestward across the dry country of Central Oregon to the head waters of the Des Chutes; thence crossing south to the waters of the Klamath and spending the entire winter months on the streams to the East and North of Mt. Shasta, which he named; and probably reaching the Rogue River valley also; thence in the Spring crossing Northeast to the Malheur country again and descending that stream to Snake river, and from there in July returning to Ft. Walla Walla by the usual route.

Although not traveling through much of what we know as the Snake River country, the expedition was designated by the Hudson's Bay Company as the Snake Expedition.

From this journal we learn many interesting things about conditions in Central and Southern Oregon before the coming of the white men; for instance the unusual number and extreme poverty of the Snake Indians near Harney Lake and the evidence that buffalo once ranged there; the dwellings of the Klamaths; the first mention of the Shastas and the giving of that name to the mountain; and negatively the complete silence as to any Indians living in pits.

We also are becoming more intimately acquainted with Mr. Ogden himself and his views of life; and with the vicissitudes of a fur trader's career.

The reader is referred to the Oregon Historical Quarterly for December, 1909 (Vol. 10, No. 4) for previous notes about Mr. Ogden and these journals.

JOURNAL OF PETER SKENE OGDEN: SNAKE EXPEDITION, 1826-7.

(As copied by Miss Agnes C. Laut in 1905 from Original in Hudson's Bay Company House, London, England.)

Monday, 12th Sept. (1826).

Took my departure (from Fort Vancouver) 2 boats 12 men bound for Snake Country and reached main Falls of Columbia 100 miles from Ft. Vancouver 4th day early. Found Mr. McKay and party with 100 odd horses waiting my arrival. The natives had already succeeded in stealing one prime horse. I sent back boats under La Framboise and 5 men and wrote Jno. McLoughlin. 17 and 18 employed giving horses to men with their loads. Sent off Mr. Black's¹ men with 1100 salmon as far as falls whence they will proceed in canoes to Nez Perces Ft.

19th.

Gave call to collect horses and raise camp. 35 men in all assisted by Mr. McKay, who discovered an Indian stealing 2 (horses) which he secured. Followed banks of Columbia for 2 miles and bade it adieu. God grant we reach it again in safety. Course from Columbia S. E. 6 miles.² Many horses are wild and throw their loads. Indians are moving in all directions. Strict watch is kept day and night. The natives are already starving.

¹ Mr. Samuel Black, still in charge of Ft. Nez Perces or Walla Walla.

² Along Fifteen Mile creek.

Tuesday, 20th.

Raised camp early to avoid the heat of the day. S. W. distance 8 miles.¹

Wednesday, 21st.

Left our old tracks of last year for a fork of River of the Falls.² A fall 40 ft. high, 20 yds. wide. 2 wild horses made their escape into mountains and an Iroquois lost his with its load. Mr. McKay and 6 men are to go in search. 5 Indians visited us and returned a blanket stolen last year. Their numbers are few or they would not deal so fairly: distance 15 m. S. S. E.

Thursday, 22nd.

The horse with his load was found neighing across the river last night; but not the two wild horses. Proceeded down River of the Falls to the Falls³ where we found an Indian camp of 20 families. Finding a canoe also a bridge⁴ made of slender wood we began crossing, 5 horses were lost thro' the bridge. I am informed the salmon do not ascend beyond these falls. Course N. W.

Friday 30.

Gervais⁵ and party of 8 men with horses and mules joins us.

Wednesday, 5th Oct.

We had certainly a most providential escape. Last night the Indians crossed the river⁶ and set fire to the grass within 10 yards of our camp. The watch perceived it and gave the alarm. Had there not been a bunch of willows to arrest it everything would have been lost; a gale blowing at the time. This morning every Indian had decamped. If ever Indians deserve to be punished these do. They were well treated and fed by us and in return attempted to destroy us. This is Indian gratitude.

¹ Camped near Dufur evidently.

² The year before they kept further to the West; this year direct to White river and the falls, where electric power plant now is.

³ Falls of Des Chutes River below White river.

⁴ First and original "Sherar's Bridge."

⁵ See p. 354, No. 4, Vol. X of Quarterly.

⁶ Somewhere on Crooked River or John Day River. (?)

Saturday, 8 Oct.

At an early hour Mr. McKay with 25 trappers 2 horses each well loaded with traps started for the river discovered last summer by Sylvaile, 3 days from here. The different streams here¹ I am of opinion discharge in Day's River.

Tuesday, 11th Oct.

Reached the river² and joined Mr. McKay. 18 beaver from the traps.

Sunday, 16 Oct.

Having dried our lodges we followed the banks of the river till 1 p. m. when reaching 12 of our trappers we encamped. From this point 7 horses were stolen yesterday and two men wounded. Mr. McKay related the particulars. The night before last 3 Snake Indians stole 7 horses and crossing over a point of land to their surprise met Payette and Baptiste the Iroquois visiting traps. The latter pursued. The Indians offered no resistance and delivered up the horses. This did not satisfy the two men who demanded payment. The Indians offered 2 boats. This did not satisfy Baptiste who said "let us beat them well but not kill them" began with his whip handle. The Indians endured but becoming vexed one seized Bap. the other Payette. A scuffle ensued. One Indian was killed, both our men severely wounded, only saved themselves by flight leaving arms and horses. The Indians killed 4 of the stolen horses, then seeing a man coming made off with 3 horses, and guns and rifles of wounded men. The whole thing is disgraceful to us;³ 65 beaver to-day; distance 10 miles.

Tuesday, 18 Oct.

134 beaver and 1 otter, a (Indian) woman missing from the camp. She is either lost or a victim to the Snakes—the men have gone in search of the missing woman, leaving their traps. Mr. McKay and party found the woman with her horses. Benighted, she had very prudently camped.

¹ Now between headwaters Crooked and John Day rivers.

² Sylvaile's or Silvies river, which they descended.

³ The usual policy of the H. B. Company traders; a "square deal" to the Indians as well as to their own men.

Saturday, 29 Oct.

In the afternoon Mr. McKay and party arrived¹ and reported—their Snake guide conducted them to a country of rivers and lakes, one of the latter the water is salt; its length they could not ascertain; it is a swampy country and the waters of this river as well as the other streams discharge into this lake. It must be low and deep to receive no less than 3 different streams without one discharging from it. Their traps they left from whence the party returned. As far as they could see, the country was level. The country is destitute of animals and we may prepare to starve altho' wild fowl seem to abound.

November, Tuesday 1st.

At sunset we reached the lakes. A small ridge of land an acre in width divides the fresh water from the salt lakes. These two lakes² have no intercourse. The fresh water has an unpleasant taste 1 mile wide 9 long. In this (salt) lake discharge Sylvaillies River and 2 small forks; but it has no discharge. Salt Lake at the south end is 3 miles wide. Its length at present unknown to us but appears to be a large body of saltish water. All hands gave it a trial but none could drink it. All the country is low and bare of wood except worm wood and brush. We had trouble finding wood to cook supper. The trappers did not see a vestige of beaver. Great stress was laid on the expedition visiting this quarter. Here we are now all ignorant of the country, traps in camp, provisions scarce prospects gloomy. Buffalo have been here and heads are to be seen. Fowl in abundance but very shy.

Wednesday 2nd.

At an early hour Mr. McKay with a party started well loaded with traps following Salt Lake³ west to ascertain its length; and if any rivers discharge into it. I await him here. The rest of the men hunting fowls.

¹ From advance trip to Malheur marshes and lake.

² Malheur and Harney lakes; some confusion follows in reference to salt and fresh water lakes, probably due to transposition.

³ Undoubtedly Harney lake, although not salt.

Thursday 3rd.

From 4 a. m. snow has fallen. This will make it difficult for my 2 express men from Ft. Vancouver to find our tracks though every precaution was taken making marks at different camps, if only the Indians do not destroy these marks. It is incredible the number of Indians in this quarter. We cannot go 10 yds. without finding them. Huts generally of grass of a size to hold 6 or 8 persons. No Indian nation so numerous as these in all North America. I include both Upper and Lower Snakes, the latter as wild as deer, fit subjects for the missionary who could twist them in any form they pleased. What a fine field for the society; one equal to it not to be found. They lead a most wandering life. An old woman camped with us the other night; and her information I have found most correct. From the severe weather last year, her people were reduced for want of food to subsist on the bodies of relations and children. She herself had not killed any one but had fed on two of her own children who died thro' weakness. Unfortunate creatures what privations you are doomed to endure; what an example for us at present reduced to one meal a day, how loudly and grievously we complain; when I consider the Snake sufferings compared to our own! Many a day they pass without food and without a murmur. Had they arms and ammunition they might resort to buffalo; but without this region the war tribes would soon destroy them. This country is bare of beaver to enable them to procure arms. Indian traders cannot afford to supply them free. Before this happens a wonderful change must happen. One of Mr. McKay's party was sent back to request us to raise camp and follow his tracks. A chain of lakes was all they had seen, no game. Truly, gloomy are our prospects.

Friday, 4th Nov.

Raised camp taking west course and soon reached the end of Salt Lake not near so long as I expected, in some parts nearly 5 miles wide and deep, its borders flat and sandy. At evening we camped near three small lakes. Swans numerous.

Tho' 100 shots fired, not one killed. Nothing but worm wood this day. Salt (?) Lake¹ may be 10 miles in length. Mr. McKay and party arrived with the following accounts—no beaver, same level country a chain of lakes of fresh water. This adds to the general gloom prevailing in camp, with all in a starving condition, so that plots are forming (among) the Freeman to separate. Should we not find animals our horses will fall to the kettle. I am at a loss how to act.

Saturday, 5th Nov.

Bad as prospects were yesterday they are worse to-day. It snowed all night and day. If this snow does not disappear our express men will never reach us. I hope they will not fall a prey to the Snakes. I intend to take the nearest route I can discover to the ²Clammitte Country. My provisions and are fast decreasing. The hunters are discouraged. Day after day from morning to night in quest of animals; but not one track do they see.

Saturday, 12 Nov.

2 herds of antelope seen but the hunters did not get a shot. They were fortunate with a small black bear. This with 9 beaver and 1 otter infused general joy among all. Tracks of Indians seen not of old date. This gives hope of finding a river. Snow scarce for water. Tho' repeated attempts have been made to melt snow in skins, they will not drink. Two Indians give a hunter to understand, the river is still 3 days' march distant. Within the last 10 days we have had only 6 meals. It was now 2 mos. since we set out, and we have only 500 beaver.

Wednesday, 16th Nov.

Ascended the divide³ descended and had the pleasure of finding 2 lakes⁴ one small the other large due west Salt Lake. These lakes are a God-send. It was a consolation to see our

¹ Still refers to Harney lake. They now proceed Northwestward across Central Oregon and do not enjoy the journey.

² Klamath. Note this spelling and use of the name before they reach that region.

³ Pauline Mountain (?)

⁴ Probably Pauline lake and East Lake.

poor horses quench their thirst. Pines and hemlocks are the only trees. Numbers of bear tracks seen. This is the season bears seek winter lodgings and are fat. Our hunters came in without success.

Thursday, 17 Nov.

Reached a river at sunset. It must discharge in the Clammitte Country or near the River of the Falls.

Friday, 18 Nov.

Reached the River of the Falls so desired by us all. Thank God! The road to the Clammitte we all know¹. 7 white tailed deer brought in.

November 25th, Friday.

We had a view of the Umqua Mts. to-day, no snow on them.

Sunday, 27th Nov.

We are to leave the River of the Falls and cross over to the waters of the Clammitte. One horse killed for food to-day. My provisions are nearly exhausted. The waters of the Clammitte do not discharge in the Columbia and must discharge in some river to the ocean. It is from this river I have hopes of beaver.

Wednesday, 30th Nov.

Course south to Clammitt River² 25 miles from River of the Falls. Mr. McKay proceeded ahead to an Indian village distant 3 miles. It was composed of 20 tents built on the water surrounded by water approachable only by canoes, the tents built of large logs shaped like block houses the foundation stone or gravel made solid by piles sunk 6 ft. deep. Their tents are constantly guarded. They regretted we had opened a communication from the mountains. They said "The Nez Percés have made different attempts to reach our village but could not succeed. Even last summer we discovered a war

¹ Route known to Mr. McKay who accompanied Mr. McDonald the previous year.

² Probably the present Williamson river. In December, 1843, John C. Fremont crossed from head of Des Chutes river to Klamath Lake in two days. Compare with his journals.

party of Cayouse and Nez Percés in search of us ; but they did not find us. Now they will have yr. road to follow. We have no fire arms. Still we fear them not.

They are well provided with bows and arrows. They have only one horse. Snow is so deep, horses perish for want of food. In winter, they live on roots. In summer on antelope and fish.

December 1st.

30 Clammite Indians paid us a visit ; fine men in good condition, but wretchedly clad. They say the river to the ocean is far distant and beaver they do not know. They say the Indians become more numerous as we advance to the ocean.

Friday 2nd.

Late last night I was overjoyed by the arrival of one of my express men. One of the men gone back in quest of horses discovered them, otherwise tho' the distance is only 4 miles, they would never have reached the camp. They could no longer walk or crawl. For 14 days they were without food ; for 9 days without quenching thirst. Their horses were stolen on the River of the Falls by the Snakes. One mule escaped. On entering the lodge the man fell from weakness and could not rise. I immediately sent for the other man and about midnight they brought him in, thank God, safe. ,

Saturday 3rd.

2 horses killed for food ; terrible storms of snow and sleet ! What will become of us ? Course S.

Tuesday 6th.

Reached Indian village of five huts, hut large size square made of earth flat on top the door at the top a defence against arrows but not balls. 200 of them collected about our camp and traded 4 days. The 2 chiefs delivered traps lost by Mr. McDonald last year with 8 beaver. This is much in favor of their honesty. On our march this day, we passed the camps from wh. Mr. McDonald turned back last year and are consequently strangers to the country in advance.

Thursday 8th.

About 300 Indians around our camp. We advanced 6 miles south following the river south. I estimate the Clammitte nation 250 men.

Monday 12th.

Reached the lake¹ 1½x15 miles well wooded with maple and hazel; course S.

Sunday 25th, Christmas.

I did not raise camp and we are reduced to one meal a day.

Saturday 31.

Mr. McKay started in advance. Our hunters have no success. Discontent prevails. I gave rations to all. This closes the year; and my stock of provisions also. They have been measured out with a sparing hand. We have yet 3 mos. of winter. God grant them well over, and our horses escape the kettle! I have been the most unfortunate man; but the Lord's will be done!

1827, Sunday 1st.

New Years commences with a mild day. The men paid me their respects. I gave each a dram and tobacco. Goat killed. Mr. McKay reports as far as he could see one chain of mountains and no water. Return we must to seek food.

Wednesday 18th.

I am wretched! No beaver! The country¹ trapped by Mr. Ross 3 years since² may yield a few beaver but will not give us big returns.

Sunday 22nd.

Late last night two of my Iroquois came in with 7 deer. This news caused joy in camp.

Sunday 29th.

We are indebted to the late American Fur Company for introducing rifles on the Columbia. From a gun of 10 shots,

¹ Probably the Lower Klamath Lake; their course from now until May 14th difficult to follow.

² The upper Snake river country trapped by Alex. Ross in spring and summer 1824.

I only kills. There is waste of ammunition; course now N. N. W.

Friday, 10th Feb.

The Indians here have a contemptible opinion of all traders. Of the numerous murders and thefts committed¹, not one example has been made. Indians in general give us no credit for humanity, but attribute our not revenging murders to cowardice. When ever an opportunity offers of murder or theft, they allow it not to pass. I am of opinion if on first discovery of a strange tribe a dozen of them were shot, it would be the means of preserving many lives. Had this plan been adopted with the Snakes, they would not have been so daring and murdered 40 men. The same is the case with all Indians. Scripture gives us the right to retaliate in kind on those who murder. If men have means of preventing, why not put the means in execution. Why allow ourselves to be butchered and property stolen by such vile wretches who are not deserving to be numbered among the living the sooner dead the better. Trappers would make hunts and traders become rich men. Here we are among the Sastise.² Course this day west. The stream³ we are on has no connection with the Clammitte River; it flows south then west to a large river. These Indians know nothing of the ocean.

Mr. McKay roused me last night to say the Indians were on the point of attacking our camp. Our numbers amounting only to 8 men.

Sunday, 12 of February.

The croaking of the frogs last night surprised me. This is certainly early. The weather has been cloudy. From appearances, we shall soon have rain. A number of Indians paid us a visit. There being 2 who understood the Clammitte language, that it⁴ takes a western course. These forks have be-

¹ This quite characteristic of the Modoc tribe; the party now probably in N. E. California.

² Shastas.

³ But this is a very good description of Pitt river, a source of the Sacramento.

⁴ The Klamath river or some branch of it, in all probability. A party has been sent ahead.

come a large river. The further we advance the more beaver will be found. These Indians eat beaver meat raw. Among the visitors was one who had only one arm. On questioning how he lost the other, he informed me he had been severely wounded in battle the wounds would not heal and were most painful, so he cut it off about 3 inches below the socket with his flint knife and an axe made of flint. It is 3 years since. He healed it with roots and is free from pain. He is about 30 years of age and of slender frame. 15 beaver to-day.

Monday 13.

Mr. McKay roused me from sleep to say an Indian had arrived with word the Indians had assembled in numbers and were on the eve of attacking our camp. We were soon on the alert our number being only 8 men, the rest of camp afield, as half of my men had never fired shots, resistance would not last long. The night was very dark and blowing a gale. This morning our scalps and horses are safe. I am inclined to believe it was a false report, given to receive a reward. He will be disappointed. We all know Indians are treacherous, blood-thirsty. The sooner the exterminating system be introduced among them, the better. The rear party of trappers arrived to-night with 29 beaver.

Tuesday 14th.

Wind blew a gale. If the ship destined for the Columbia be on the coast in this stormy weather, I should feel anxious for her. Having 40 beaver to skin and dress I did not raise camp. It is a pleasure to observe the ladys of the camp vieing who will produce on their return to Ft. Vancouver the cleanest and best dressed beaver. One of the trappers yesterday saw a domestic cat gone wild. It must have come from the coast. All the Indians persist in saying they know nothing of the sea. I have named this river Sastise¹ River. There is a mountain equal in height to Mount Hood or Vancouver, I have named Mt. Sastise¹. I have given these names from the tribes of Indians².

¹ First known mention of the name Shasta applied to mountain and river. Arrowsmith spells it SHASTY and places both to North of the Clamite, as he spells that name, and Mt. Pitt in California.

² Note Bancroft's explanation in comparison.

Tuesday, 21st Feb.

Late last night 7 of the 9 absent trappers made their appearance;¹ only 93 beaver and 9 otter. The Indians where they have been most numerous and friendly, villages built of planks, large enough for 30 families in each, fine large canoes resembling the Chinooks, have various trading articles from the American ships, they informed the men it was only 4 days to the sea. The two missing men remained in the rear to trap.

Wednesday 22nd.

We have this day 15 beaver, wh. completes our first 1000 and have 2 to begin our 2nd.

Thursday 23rd.

The two absent men made their appearance with 14 beaver.

Saturday 25.

Should we not find beaver soon, starvation will make its appearance. We have only 2 mos. more but they are the most to be dreaded in the mountains. I wish they were past and our horses escaped from the kettle. Some already complain of scarcity of food; but fortunately our camp contains many sick and while they remain so, will be the means of destroying less food. One woman is so ill she must be tied on a horse. Nor can we afford her any relief. A sick person in this country is not only a burden to himself but to all; and the Canadians are not overstocked with tender feelings.

Wednesday 29.

I propose sending Mr. McKay to cross the Clammitte River,² and I shall proceed down this stream as far as we can go.

Thursday 1st Mar.

Mr. McKay with 13 men separated from us. Payette, a steady man accompanied him. My party is 24. We left taking

¹ This advance party has been nearly to the Coast on some stream, probably the Klamath.

² Probably to the southward.

an east course to falls and cascades. Soon a village large enough to contain 100 families of Indians. On seeing us they ascended a hill with their women and children.

Friday 2nd.

All are more or less without food. Traps set gave but 2 beaver. On an average we require 15 a day for food.

Monday 5th.

Men killed 2 deer and report bears numerous. These gents will soon leave their winter quarters and ravage about in quest of food after 4 mos. of quiet.

Friday 9th.

At early hour with aid of 2 small canoes crossed over Sasty River, all safe over by 4 P. M. Huts no sooner made than rain came in torrents. Our leather tents are in a rotten state and I can swear our blankets have not been dry for 20 days. I am afraid this rain will be snow in the Mtns.—and I apprehend for Mr. McKay. Indians troublesome and numerous. It is almost a sin to see the number of small beaver we destroy. Some of the females have no less than 5 young. This is the effect of traps. They spare neither male or female.

Sunday 11th.

The trappers have come in with 72 beaver and 1 otter.

Tuesday, 13 Mar.

We left the Sasty Forks in our rear taking W. N. W. 8 miles encamped by a lofty range of mountains. Had trouble to persuade our guide to ride nor would he till he made me promise to lead his horse. He had many falls and I was obliged to tie him on by ropes, wh. caused my men great diversion. All obliged to sleep out in pouring rain and without blankets. Not one complaint. This life makes a young man sixty in a few years. Wading in cold water all day, they earn 10 shillings P. beaver. A convict at Botany Bay is a gentleman at ease compared to my trappers. Still they are

happy. A roving life suits them. They would regard it as a punishment to be sent to Canada. God grant some kind friend to succeed me, and I wd. steer my course from whence I came although I am a Canadian.

Thursday, 22 March.

Reached a fine large river having crossed the mtns.¹ where we had to throw our horses over banks—storm of wind and rain saturated us—course W. Our guide went to visit the Indians and returned with the information the Umpqua chief with the trappers from Williamette has visited this region and taken all the beaver. These waters have no communication with Umpqua but discharge in Clammitte. Gervais with 4 men will trap the forks of this river, and open a way to Ft. Vancouver.

Monday, 26 March.

The Indian guide saw a grizzly bear of large size, wh. the trappers fired at and wounded. The Indian requested the loan of a small axe with bow and arrows. Stripping himself naked, he rushed on the bear but paid dearly for his rashness. I do not suppose he will recover. He was injured in the head and lost one eye wh. was literally torn out. The bear remained in the bushes.

April 6.

Retraced our crossing the Sasty River.

Sat. 7th April.

We shall proceed slowly to Clammitte Lake and await Mr. McKay's party.

Sunday, 22nd April.

Late this afternoon I was surprised by Mr. McKay's arrival. He left his party crossing over their furs. His success amounts to 735 beaver and otter taken on 2 small streams that discharged in Clammitte River. My returns now amount to 2230 beaver and otter. McKay's party were obliged to kill their horses owing to their feet.

¹ Probably the Siskiyou divide to the waters of the Rogue river valley.

May 13th.

Have sent Mr. McKay to explore the sources of the Willamette¹, wh. to this day have not been discovered. This party with Gervais may collect some skins.

May 14.

Mr. McKay will not go as I intended. We shall cross the mountains eastward².

Wednesday, 23 May.

I did not raise camp, but sent 6 men in different directions. One of the men hunting fowl saw an Indian on horse back on the opposite side of the river. He made signs to him to cross but the fellow disappeared. How vexing! Within the last 10 days, 3 horses have been killed for food.

Thursday 24.

Two of the men report they found springs of fresh water ahead, south east. Of course I shall take that direction. Proceeded to the main stream of Salt Lake River. Crossed a stony point, reached the entrance of Salt Lake south of the lake level covered with worm wood. The men I sent in quest of Indians returned without success.

Friday, 25th May.

Two fine mares dead from lack of water, the carcasses purchased by men for food. Some of the men tried bathing in the lake but their limbs were as red as if pickled and I am without guides nor has a person in camp the slightest idea of where he is.

Sunday 27th.

Our horses found scattered—all the men on the alert. They returned reporting 56 stolen. This was a blow I did not anticipate in this barren country nor could I credit it, and I gave orders to make strict search. At 9 all but 7 were found, the

¹ Quite interesting as to an early spelling of the name, as well as otherwise.

² They are to cross the unexplored regions of Klamath, Lake and Harney counties, a hard journey of 24 days. Again compare Fremont. The Applegate "cut off" to the Willamette crossed the same country.

missing no doubt stolen as tracks have been discovered. Shd. the thieves be Snakes we may find a guide. Mr. McKay with 12 men pursued the tracks 5 of them were returned with word the thieves had gone east, then turned back on their tracks west taking stony ground to conceal their course. They followed to Upper Salt Lake River which they crossed tho' the water had risen 4 feet. Mr. McKay was the first to plunge in and 7 followed, the other 5 returned.

Monday, 28 May.

At 8 A. M. 2 of McKay's men arrived with 2 of the stolen horses. The thieves from some high hill had seen the pursuit, and these horses being fatigued abandoned them. At 1 P. M. another man arrived with another horse. He left Mr. McKay at dawn of day with full hope of rescue.

Tuesday 29th.

At 12 A. M. Mr. McKay and rest of his men arrived with 2 more of the horses. The thieves escaped with 2 only, and this owing to the cowardice of the 5 men who turned back, the thieves' camp consisted of 14 tents. I have done my duty examining this barren country, but our loss has been greater than our profit. The horses that pursued as well as those that were stolen can scarcely crawl.

Wednesday 30th.

Proceeded along the border of Salt Lake east, then S. E. over a hilly country to a small fresh lake. The country appears to be a level plain covered with worm wood. The lake is 15 miles long, the south bank high and rocky, the east low and stony which lamed our horses so they can scarcely crawl. An Ibex killed to-day, and a young one taken alive. I shall feed it with mare's milk till we reach Ft. Vancouver.

Friday, June 1st.

Rain all night ; our course southeast over a level plain ; I sent 3 men off in advance ; they report no appearance of water ; this is critical. I have no cause to complain of the conduct of the

men, altho' obliged to subsist on horseflesh and scanty at that. Still the country must be explored as long as we find water or the means of advancing. Unfortunately this country has been too long neglected. We cannot advance till we find water. On the borders of these muddy lakes we found huts of Snakes, I suppose.

Saturday, June 2nd.

At dawn of day I started 2 men to proceed S. E. to return tomorrow morning; as they have 2 meals, they will march all night and I wish them success. If we do not succeed in that direction, our starvation will be most distressing and in the extreme.

Sunday, 3rd of June.

8 A. M. The two men arrive and report so far as they have been, and the distance must be great, as they did not encamp, they only found water in a small lake at no distance from this, and the country they traveled over continued barren plains covered with worm wood; no appearance of mountains and unfortunately for us, no river. No hope in that quarter. On receiving these tidings, I ordered the men off again in a northeast course, one to return this night or tomorrow if they found water, the other to proceed. At 9 A. M. they started. One-fourth of the party sick owing to the muddy, stagnant water. If I escape this year, I will not be doomed to endure another.

Monday 4th.

At dawn of day the man arrived and reported he had found water and a high hill which he saw when we were here last fall.¹ On giving the call for our horses, two were found missing; their tracks seen; also Indians. At 9 A. M. we started northeast over a hilly and stony country; at 2 P. M. we reached a deep gully; finding water, encamped.

Tuesday, 5th June.

5 A. M. Advanced at a quick pace *sauve qui peut*. At 3 P. M. we overtook our 2 absent men and camped, altho' water

¹ Getting into Harney Lake region again.

was scarce and muddy—over a dreary, desolate country, soil sandy and stony. Horses suffer from thirst.

Wednesday, 6th June.

6 A. M. N. N. E. over stony road. At 3 P. M. reached camp of last November, to the great joy of all, and now that we know where we are, we must look for beaver. To return to Ft. Vancouver with our present returns will be most galling.

Friday, 8 June.

Did not camp until we reached the end of Salt Lake¹ seen last fall. The water is very high. The waters of Sylvailles river and lakes discharge into it. The stench of the lake is terrible.

Tuesday 12.

From illness unable to leave my bed and so continued to 22nd. During my illness the trappers have not been idle, collecting 74 beaver; but the Snakes are most numerous and daring, determined to steal horses. The natives have destroyed in this region upwards of 60,000 [?] beaver, not one of which reached our forts.

Sunday, 24 June.

Reached Sylvailles River and crossed; one horse stolen.

Tuesday, 26 June.

Reached the source of River Malheur. Took 81 beaver, all in prime state, which I cannot explain except on account of moist climate.² The trappers have not averaged 100 beavers each this year.

Tuesday, 3rd July.

Seven trappers left for upper part of Sandwich Island river.

Tuesday, July 10.

Three of Payette's men back—seven men about 100 beaver; others are at Snake river, having crossed Frazer's [?] river. We have taken 300 beaver in the same time. The heat is terrible and all are short of food.

¹ Malheur Lake: some of the stench still remains.

² Beaver fur usually poor in summer.

Monday, 16 July.

Started at 6 A. M. and reached the Snake river below River Malheur.

Wednesday, 18 July.

5 A. M. Not wishing to lose any time at Ft. Nez Perce, I take my departure¹ with 4 men to make necessary preparations, leaving Mr. McKay in charge of the party.

¹ For Fort Vancouver by way of Walla Walla.

AN ESTIMATE OF THE CHARACTER AND SERVICES OF JUDGE GEORGE H. WILLIAMS

George H. Williams, Oregon's most eminent citizen, died at his home in Portland on the morning of April 4. The following from the editorial page of the *Morning Oregonian* of April 5 is a record and estimate of him as a man and a citizen of this state and nation to which all will subscribe:

"The first citizen of Oregon, a man of great and simple nature, yet of intellectual powers the highest, has passed on into history. His services, throughout a long and eventful life, both to the State of Oregon and to our common country, the United States, have been of highest distinction and value. In him personal integrity, intellectual sincerity, intuitive perception of the leading facts of every important situation, quick discernment and faculty of separation of the important features of any subject from its incidental or accidental circumstances, with clearness of statement and power of argument unsurpassed, marked the outlines of his public character. He was a man who never lost his equipoise, nor even studied or posed to produce sensational or startling effects. In his private life and demeanor there was the same simplicity of character, evenness of judgment and temper and unaffectedness in action. His immense powers, of which he himself never seemed aware, were always at his command.

His public career began at the early age of twenty-four, when he was elected a judge in Iowa. This was in the year 1847. In 1852 he was chosen one of the presidential electors of Iowa, and in 1853 he was appointed chief justice of the Territory of Oregon. After four years of service in this position, in which he did much to lay down the principles of our early jurisprudence, he declined a reappointment and took up

the practice of law at Portland. Elected a member of the constitutional convention, he was made chairman of the judiciary committee of that body, and bore a leading part in bringing the constitution of the state into its digested and settled form. Approach of the Civil War drew his attention largely to politics. A man of national scope of vision, and an anti-slavery man from the beginning, he threw all his force in favor of the war for maintenance of the Union; and his ability and earnestness brought him the natural reward of election to the Senate of the United States. In this position he at once obtained national recognition. Besides his constant and great services to Oregon, he rose at once to a most important place in the direction of national affairs; he originated many of the measures employed in the reconstruction of the Union, including the Fourteenth Amendment, most important of all. But, owing to the advent into Oregon of great numbers of people, mostly from the South, following the Civil War, the Republican party in the state was for a time overborne; and of course a Democratic party majority in the legislature would not re-elect him. He was, however, immediately after the expiration of his term, appointed by President Grant a member of the commission to frame a treaty for settlement of the Alabama claims, in dispute with Great Britain. In this position his counsels were of high value. A little later President Grant made him Attorney-General of the United States; and in 1874 presented his name for the great office of chief justice of the Supreme Court. The miserable contention that arose over this nomination was due to sectional and social jealousies. Though the confirmation was delayed, it was known that it would carry; but Judge Williams, with a magnanimity that ever was one of his characteristics, caused President Grant to withdraw his name. In the electoral contest of 1876-77 the counsels of Judge Williams were of greatest value. He sent to the Washington Star an article which outlined the expedient and policy of an electoral commission, and which was adopted with but little variation from his tentative plan. After retiring from office at Wash-

ington, he returned to his home in Oregon, where, these past 30 years, he has been an active participant in all affairs of a public and semi-public nature, winning and holding the esteem and affection of all, by his qualities of mind and heart. He became mayor of Portland, not for the reason that it could add anything to his dignity or to his fame—for he thought as little of false dignity and mere fame as any man who ever lived.

His greatness, like all true greatness, was rooted in his unconsciousness of it. All the mistakes he ever made were due to the simplicity and trustfulness of his nature. Himself without guile, he never imagined it—even to his latest day—in others. If this was a limitation, it was a fault that leaned to virtue's side.

George H. Williams is beyond praise or blame of men. In him there was intellectual ability the rarest, on one side, and there was unselfishness the rarest on the other. The life of such a man is a heritage of the world and an inspiration to it. Every great career must be estimated by the conditions in which its work is done. They are carpers only—shallow carpers—who say, on review of events, that a great man has made mistakes, and should have done something else—this or that. The something else he should have done—to what would it have led? Great men, though, in a way, they direct events, yet must accommodate their efforts to the situations in which they find themselves. All are subdued, in a general way, to the element they work in. Upstarts now and again will pretend to say in what ways and for what reasons great men have failed. The fact is, if this narrow criticism is to get attention, every great man has failed. Yet his work remains. Great actions, in great crises, decide everything. For great actions, in great crises, great abilities are necessary, large comprehension of affairs, and powers of mind fit for the momentous occasion. Our first statesman of Oregon had abilities that rose to every one of these requirements. Yet he was the least self-assertive and most unselfish of men. Nothing he did had any reference to his own fortunes. This quality was a

hindrance to him, doubtless, on many occasions; yet in the long run it brought him respect and honor from all who knew him. The simplicity of his nature made him credulous and trustful on one side and unselfish on the other. But was it a real fault?

Only eight days before he passed away a dinner was given to Judge Williams, on his eighty-seventh birthday. It was attended by a large number of citizens of Portland, who were anxious and eager to pay this tribute to one whose life has honored us all, and has shed lustre on the State of Oregon. The speech he delivered on that occasion, for feeling, beauty, simplicity, grasp of our history and of the life of our state and common country, with addition of its appropriateness to such an occasion, was a marvel to all who heard it. A report of it was printed; but the reported copy fell infinitely below the impression it made on those who heard it. Such a speech, but a few days ago, from lips now forever silent! Whence are we, and what are we?

But a great man is a seed. His life, his character, his influence, cannot be erased from the sum and soul of the world's life and history. Though lost from the daily walks of men, the beneficence of such a life as that of Oregon's greatest man will be an expansive force forever; and its influence hereafter, even to those not brought directly within its recognizable sphere, will be a moving inspiration by its indirect and resultant power, forevermore!

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PETER SKENE OGDEN, FUR TRADER¹

By T. C. Elliott.

On November 29th, 1847, at Wai-i-lat-pu, six miles west of where the City of Walla Walla, Washington, is now located, that worthy missionary and Oregon pioneer, Marcus Whitman, was murdered, an event anticipated even earlier by others then residing in Oregon who knew the existing conditions. But unexpectedly and unfortunately the murder became a massacre; Mrs. Whitman was killed also, and with her twelve others, immigrants who were located at the Mission for the Winter. And the remainder, women and children, over fifty in number, what of them? Confined to the adobe buildings of the Mission and closely watched by sullen and vengeful Indians of both sexes, they were held as captives for a whole month, shut off from outside communication and uncertain of their fate,—one of them in fact carried away to the lodge of Chief Five Crows, forty miles distant.

But about December 20th a change was noticed in the demeanor of the Indians, and on December 29th the captives were released and escorted to the Fort of the Hudson's Bay Company, twenty-five miles westward on the Columbia river,

¹Read as the Annual Address before the Oregon Historical Society at Portland, Dec. 18th, 1909.

arriving there at evening. The man who had accomplished their ransom and who stood anxiously at the gate of the Fort to receive them was Peter Skene Ogden, then the ranking Chief Factor of the Hudson's Bay Company at the Columbia river headquarters, Vancouver, who, immediately upon hearing of the massacre, had hurried up the Columbia over two hundred miles to the rescue. What wonder that the name of Mr. Ogden has been held in kind remembrance by the survivors of this massacre and their descendants, and the pioneers of Oregon! The story of his life must be somewhat incomplete, but such facts as have been gathered together reveal a man of unusual force and character who was intimately connected with many stirring events of the early history of "Old Oregon" and British Columbia; and a leader whose responsibilities were often great because he was the field officer chosen to execute the most difficult tasks and command the most perilous expeditions. The telling of that story will fix definitely the dates of extensive explorations in the "Old Oregon" country, and the origin of some of its names, and will include mention of many people prominent during the period of the Hudson's Bay Company's supremacy on the Columbia.

The name Ogden is an honored one in both England and America. It is of Saxon origin, derived from the words Ock and Dean, meaning Oak Vale or Valley, and suggestive of length of years, sturdiness of frame and strength of character. There are in America two prominent branches of the family: the Fairfield Branch of Connecticut, and the Elizabethtown Branch of New Jersey; and it is to the seventh generation of the latter Branch that Peter Skene Ogden belonged. He was descended from John Ogden, known as The Pilgrim John Ogden, who came from England about the year 1642 and settled first at the easterly end of Long Island, where he founded the present city of Southampton, but about 1668 removed to New Jersey, and there he and his descendants acquired estates where the cities of Elizabethtown and

Newark now stand. The family was one of the most prominent in the latter community at the time of the breaking out of the War of the Revolution.

Peter Skene Ogden was born in the city of Quebec, Lower Canada, in the year 1794, the more exact date not yet having been traced. His father was then judge in the Admiralty Court at Quebec and a leading citizen among the Union Empire Loyalists then residing in Canada. His mother (a second wife of his father) was Sarah Hanson (Ogden) from Livingston Manor, near New York City, a woman of fine attainments and property in her own right. She was a sister to Capt. John Wilkinson Hanson of the British army. Peter Skene Ogden's grandfather was Judge David Ogden, a graduate of Yale College in the class of 1728, and mentioned by one historian as the first thoroughly trained lawyer to reside in the State of New Jersey, and a man of prominence and influence in the City of Newark.

Peter Skene Ogden's father, "The Hon. Isaac Ogden, was doubtless born in Newark, N. J. He graduated in the first class that went out of King's (College), now Columbia University, chose the law for his profession, and became a distinguished jurist. Newark tradition says that at the outbreak of the Revolution, his father, Judge David Ogden, and all his sons took the patriotic side, and that the son Isaac Ogden delivered a stirring address to a mass meeting from a platform extended from the second story of the old court house, Newark. * * * But in the latter part of 1776, the old Judge and his sons, Isaac, Nicholas and Peter, affiliated with the Royalist party and their property was condemned and sold during the war. However, Isaac's brothers, Abraham and Samuel, remained staunch and active patriots."

"Judge Isaac Ogden was said to have built a store on the northeast corner of Broad and Market streets, Newark, where the First National Bank now stands. His house in Newark was alternately the residence of the British General and the American Commander, as either party happened to be suc-

cessful. In this way his young family became subject to all the horrors attending a residence in the seat of war. But his loyalty to the mother country becoming pronounced, he sought safety as a refugee in New York; and when the British evacuated that section in 1783, he abandoned his property and prospects and took his family to England. There is every evidence that, like his father, he was honest in his convictions, for several biographers represent him as a man of sterling integrity and of great moral worth.

"The sufferings he had undergone and the sacrifices he had made, together with his learning and legal ability, attracted the attention of the English government, and after the close of the war, he was appointed Judge of the Admiralty at Quebec by King George III. in the year 1788. He at once re-crossed the ocean and established his family in Quebec, where his natural energy of character enabled him to retrieve much of his losses, although his salary was small in meeting the demands of the rank he was obliged to assume." (This quotation is from "The Ogden Family," a genealogical work prepared with great care and labor by the late Wm. Ogden Wheeler, from which other facts relating to the family are also drawn.)

The two brothers, Abraham and Samuel, who supported the side of the colonies, deserve mention. The former resided at Morristown, N. J., and his house became headquarters for General Washington during one period of the New Jersey campaigns—he was a close adviser of the General, and his little son David became a favorite of the General, and a companion on the daily ride among the troops. The story is well authenticated that upon one occasion General Washington engaged in a playful fencing contest with the little boy and by accident scratched his hand with one of the foils and then and there shed the only blood drawn from him during the war. After the war Abraham Ogden became District Attorney for New Jersey and a member of the State Senate, and at his death in 1798 was one of the most promi-

ment lawyers in the state. Samuel Ogden, and his nephew David, became interested in land purchases along the St. Lawrence out of the tracts ceded by the Iroquois Nation, colonized those tracts and the city of Ogdensburg took its beginning and name from them.

These facts and traditions concerning the antecedents of Peter Skene Ogden are related somewhat at length because of their inherent interest, and also because they indicate the kind of blood that ran in his veins and the opportunities and associations he was depriving himself of in undertaking and enduring the hardships common to the life of a fur trader. We can also understand why his father and mother gave him the family name Peter, after that of the uncle who had remained loyal to the crown, but who had died before 1794.

The name Skene came to him from outside the family. Among other prominent U. E. Loyalists then residing in Quebec were the Skenes, formerly of Skenesboro (now Whitehall) on the shores of Lake Champlain in New York state. These two families, the Ogdens and the Skenes, had been possessed of large properties and accustomed to the luxuries of life and were living in Quebec in circumstances limited for people of their social station, and a common bond of sympathy existed between them. Andrew Skene was also a jurist, and became god-father to this, the youngest son of Judge Ogden. Hence the middle name which is properly spelled S K E N E, but in later years was spelled indiscriminately Skeen and Skein by the man who bore it, because he said it looked better and he enjoyed a little variety in life.

Judge Isaac Ogden was, very soon after 1794, by the recommendation of Lord Dorchester (then Governor General of Canada), appointed to be one of the Puisne Judges of the District of Montreal, and at once removed his family to that city, and it was there, presumably, that the boyhood and youth of his son Peter Skene were spent. There is no record as to those years, although the record as to a brother, Charles Richard, three years his senior, is that he, Charles, "was

educated by Rev. Mr. Doty of Three Rivers and Mr. Shakel of Montreal, where he studied law. In 1812 he began to practice," etc. . . . It is not unreasonable to suppose, therefore, that the Rev. Mr. Doty or some other vicar or rector (the family were devout members of the Church of England) tried a hand at educating young Peter Skene. However that may be, neither any such influence or the overwhelming preponderance of biblical names among his ancestors induced him to become a clergyman. His was a restless and imperious spirit which demanded a life of activity and adventure. The "call of the wild" to a young man in Montreal in those days was not the quest of gold or the sailing of the seas or the raising of stock on the plains, but the trading for furs. The men of wealth in Canada were the shareholders in the fur companies; there was a reputed romance to such a life as well as a prospect for future gain and prominence. A fur trader would he be! And, moreover, just then was gently heard that special call to the region beyond the Rocky Mountains just being opened up to the fur hunters through the explorations of Lewis and Clark, Simon Fraser, David Thompson, Joseph Howse and others. Between the Northwest Company of Canada and the "Gentlemen Adventurers of England Trading into Hudson's Bay," known generally as the Hudson's Bay Company, the rivalry was already intense and it was not a rivalry in trade only, but in exploration and discovery. Beginning with 1800 both the chief explorers, David Thompson for the Northwesters and Jos. Howse for the Hudson's Bay Company, began to feel their way to the summit of the Rockies and soon after along the head waters of the Columbia. We already know of David Thompson on the lakes of the upper Columbia and in the beautiful valleys of the Kootenai and the Pend d'Oreille and the Skeetshoo (Spokane) from 1807 to 1812, and in future years we shall probably learn that Joseph Howse was not far behind. The adventurous spirit of young Peter Skene then might well be drawn toward the fur trade and the romantic lands of the Columbia.

It has been suggested that the early years of Peter Skene were spent in dissipation and that he left the parental roof without the consent or knowledge of his parents. We prefer to think the contrary in the absence of any detailed information. The record is brief, but clear enough. It comes from the late Archibald McKinlay, his son-in-law, and from the late Elwood Evans, of Tacoma, both of whom took it from Peter Skene himself. It is this: In the year 1811, that is, at the age of seventeen, in the Spring he entered the service of the Northwest Company as clerk; previous to that he had begun the study of law, and previous to that he had been in the employ for a short time of John Jacob Astor as a clerk. This takes him pretty well back toward boyhood, and as to that period—well, what real boy is not mischievous! Where he was employed by Mr. Astor is not stated, but presumably in Montreal. In 1810 the organization of the Pacific Fur Company had been completed and the activity of that enterprise was at Montreal rather than New York. The partners and employees of that company took their start, both the overland party and those going by sea, from Montreal. Peter Skene's oldest brother, David, twenty-two years his senior, was already a leading solicitor in Montreal and a few years later was one of the chief counsel for the Northwest Company in their litigation with Lord Selkirk. It is entirely reasonable to suppose that the family were influential in favoring the strong and wealthy Canadian fur company in preference to the more hazardous enterprise of Mr. Astor.¹

In Southern Athabasca there is a lake and an island, both called Isle a la Crosse; and each of the two fur companies had a fort on the island. Sir Alex. Mackenzie tells us the occasion for this peculiar name: "This lake and fort take names from the island mentioned, which received its denomination from the game of the cross which forms a principal amuse-

¹It may be stated with confidence that it was not Peter Skene Ogden who was supercargo of the *Lark*, Mr. Astor's vessel that was wrecked near the Sandwich Islands in 1813. That was Nicholas Gouverneur Ogden, a distant cousin, who afterwards represented the Astor Company in China.

ment among the natives." Earlier fur traders (probably the Frobishers in 1775-6) had found the Indians there playing a game which afterward became the national game of Canada. Another explanation given is this: here the canoe routes divided or crossed, that north to the Athabasca District, and that west to the Rocky Mountains. Just where Peter Skene Ogden began to earn his thirty or forty pounds per year during his apprenticeship as clerk of the Northwest Company we do not know, but presumably he spent the entire seven years at and in the region of Fort Isle a la Crosse. This was a rather more pleasant fort than others because less isolated; and the Cree Indians thereabouts were a superior tribe.

The rival fur companies were then opposing each other bitterly. That was the period of the Seven Oaks Massacre on Red River. Ogden had his hand in some of the acts of violence, which were not limited to the Red River neighborhood by any means, and he was of an age and disposition to be recklessly active in behalf of his own company. Hon. Donald Gunn, in his *History of Manitoba*, writing of the loss of two lives at Fort Isle a la Crosse in the Winter of 1814-15, says (pp. 121-126): "The consequence was that the servants of the Northwest Company, among whom Samuel Black and Mr. Peter Ogden, acted a conspicuous part when at leisure, amused themselves by annoying and insulting their neighbors, at times encouraging if not commanding their men to set their nets adrift, and at other times cutting them into pieces—not forgetting to pay occasional visits to the Hudson's Bay Company's House, where their conduct was often highly improper and unjustifiable."

And right here, for the sake of diversion, let us note a further companionship of Messrs. Ogden and Black, twenty-one years later, recorded in a letter of Archie McDonald's at Colville in January, 1837, to John McLeod: "With your two friends of old, Ogden and Black, I made the trip to the sea last summer. There we found the usual bustle not at all diminished by the presence of a new transport ship from Eng-

land, a very superb vessel intended for the coast. In this Skokum Ship, as the Chinooks call her, the Isle a la Crosse Gents and myself were treated with a delightful cruise round the mouth of the Wilamette before her final departure for the coast of Finlayson." This refers, of course, to the trial trip of the steamer Beaver on the Columbia river in 1836.

By far the most picturesque and at the same time quite accurate account of conditions in general and Mr. Ogden in particular at Isle a la Crosse is the one inscribed by that red-headed artist with the pen, Ross Cox, in his book entitled, "Adventures on the Columbia River." Ross Cox in the spring of 1817 journeyed East with the express from Ft. George on the Columbia to Fort William and Montreal. He wrote:

"June 26th (1817). Beaver River at this place branches into several channels. We took the principal one, and at eleven A. M. arrived at its termination, where it enters the lake of Isle a la Crosse, nearly opposite the fort. Stopped here for half an hour pour se faire la barbe, and make other little arrangements connected with the toilet. These being completed, we embarked, but having the fear of the Crees before our eyes our progress was slow and cautious across the lake, until our avant-couriers announced to us that the flag of the Northwest Company floated from the bastions, and that all was safe. The Chanson a l'aviron was instantly struck up, and at one P. M. we reached the wharf, where we were met by Messrs. M'Murray and Ogden, who were in charge of the fort. Those gentlemen had also heard the rumoured intention of the Crees to attack the establishment, but they were of opinion that the attempt would not be made. They had only eight men under their command; but the place was surrounded by strong palisades, and flanked by two bastions, which, although not very beautiful specimens of fortification, would have puzzled a battalion of Indians to take. The Hudson's Bay Company had a fort on a point of land running into the lake, which was not more than a quarter of a mile distant from our establishment. It had been taken the preceding winter by

the Northwest Company, and at the period of our arrival there were about twenty men prisoners in it, and upwards of one hundred and twenty women and children, besides dogs innumerable. They were miserably supplied with provisions, and all seemed dejected and emaciated. Their principal reliance for food was on the lake; and when the fish failed, their chief support was *tripe de rocher*. I conversed with some of the men. They were from the Orkneys, and wished they were safe home again. They spoke in no flattering terms of the treatment they had received from their captors; but admitted that such of the Northwesters as had been made prisoners by their party fared no better

. We remained a couple of days at the fort to refresh the men, and were hospitably entertained by our hosts, on excellent white fish and tea without sugar. One of those gentlemen, Mr. Peter Ogden, was nearly related to a high judicial functionary, and in early life was destined for the same profession. The study of provincial jurisprudence, and the seignorial subdivisions of Canadian property, had no charms for the mercurial temperament of Mr. Ogden; and, contrary to the wishes of his friends, he preferred the wild untrammelled life of an Indian trader to the "law's delay," and the wholesome restraints which are provided for the correction of over-exuberant spirits in civilized society. His accounts of his various encounters with Orkney men and Indians would have filled a moderate sized octavo, and if reduced to writing would undoubtedly stagger the credulity of any person unacquainted with the Indian country; and although some of his statements were slightly tintured with the prevalent failing of *La Guienne*, there was *vraisemblance* enough throughout to command our belief in their general accuracy. In a country, however, in which there is no legal tribunal to appeal to, and into which the "king's wit does not run," many acts must be committed that would not stand a strict investigation in *Banco Regis*. 'My legal primer,' said Ogden, 'says that "necessity has no law," and in this place, where the custom of

the country, or as lawyers say, the *Lex non scripta*, is our only guide, we must in our acts of summary legislation, sometimes perform the parts of judge, jury, sheriff, hangman, gallows and all! "

While at Isle a la Crosse, Mr. Ogden took unto himself a wife, as was the custom among the fur traders, an attractive daughter of the Cree nation, and his first son was born on January 18th, 1817, and named Peter, of course. This son was educated in the Protestant school at Red River and entered the H. B. Company's service and died in 1870 while still in that service. His eldest son (named Peter Skene) had died suddenly and both were buried the same day and in the same grave.

The two fur companies were in 1817-18 engaged in legal struggles at Montreal and we are told that the Northwesters did not hesitate to send some of their men to remote districts so as not to have them available at the trials. The famous Coltman-Fletcher Report to Gov. Sherbrooke (by him transmitted to England) mentions one tragic incident in which Ogden had a part near Isle a la Crosse in 1817, and says: "A bill of indictment was issued against Ogden for this." This may have been the occasion for the departure of Mr. Ogden for the Columbia the following year, for there is where we get our next glimpse of him.

It is a fact worthy of emphasis that the partners of the Northwest Company were, as far as now known, the first explorers of and the first traders on the upper Columbia river. When the Pacific Fur Company's brigade ascended the Columbia in the summer of 1811 to establish their posts in the interior they found there already built and doing business, Spokane House, Kootenai Fort, Flathead or Saleesh House, and perhaps a Fort at the mouth of the San Poil. And in the spring of 1818, when Peter Skene Ogden came sweeping down the river on its flood waters, the Northwesters controlled the river from source to mouth without opposition. James Keith was then the senior partner in charge at Fort

George and harmony did not prevail there, if the few accounts we have are correct.

The Columbia river immediately below Wallula passes through what is now known as the Gap, formed by high cliffs on either side. Just below the Gap, in fact in it, a small island is located. The two rocky cliffs were known to the fur traders as McKenzie's Head and Ross's Head, so called after the two men who built Fort Nez Percees, or Fort Walla Walla as more generally called, in July and August, 1818. Passing down the river that spring, Mr. Ogden camped at the mouth of the Walla Walla river, but was attacked by the natives and compelled to take refuge on this island, "where he made a stand and completely routed the Indians." (Lieut. Drayton, of the Wilkes Expedition, visited the spot in company with Mr. Ogden in 1841 and the Wilkes account is our authority.)

This occurrence was one of the deciding factors to determine the immediate erection of the new Fort along the middle Columbia river and the selection of that particular place for its location. According to one authority, Mr. Ogden was one of the party who assisted to build it, but we think this incorrect.

There are but few records of that day to refer to, but it can with reasonable certainty be said that during the years 1818-19 Mr. Ogden's headquarters were at Fort George (Astoria), and that he led trapping parties from there into the country between the Columbia and Puget Sound and around the harbors north of the Columbia. We have as authority for this his own conversations as reported by Lieut. Wilkes; there is also the family tradition that his second son, Charles, born September 19th, 1819, first saw the light of day on the lower Columbia. There were a good many Iroquois Indians in the country at that time, employed by the Company or free trappers. The Iroquois were a troublesome lot to get on with. Mr. Ross in his "Fur Hunters" relates one experience of the Fall of 1818 that took place in the Cowlitz neighborhood when Mr. Ogden and a band of Iroquois were compelled to flee for

their lives back to Fort George. The result of that escapade was a grand wedding at Fort George in April, 1819, at which the daughter of Chief How How, of the Cowlitz tribe, became the wife of *one* of the gentlemen of the fort. Whether Mr. Ogden was the groom we do not know, but bashfulness would not have been a prevailing hindrance. The record is silent, also, as to his presence at another event at Fort George on October 6th of 1818, when J. B. Prevost, special commissioner of the United States, arrived in H. M. ship Blossom, and went through the formality of raising the Stars and Stripes over the fort, an occurrence that seems to have been viewed in the light of a joke by the participants, but really was of considerable importance in the claim of the United States to the "Oregon Country." As Peter Skene Ogden was learned in legal phrases, the first lawyer to reside in Oregon we may say, let us romance a little and suppose that he was present and entered a demurrer to the proceeding.

In 1820, Mr. Ogden acquired an interest in the Northwest Company. Among the family papers is one yellow and worn and bearing the written signatures of all the partners of the Northwest Company present and voting (some very prominent names of the fur trade) at the annual meeting held at Fort William in July of 1820, reciting the transfer to Peter S. Ogden of one share in the company and his admission as a partner. That year he appears to have been in charge in the Shuswap country, for in a report written from Thompson river (British Columbia) in 1823 by John McLeod, who was then there, it is stated in regard to the Indians living on a certain branch of the river that "Mr. Ogden three years ago made an attempt to send freemen up this North river, but in consequence of some dissension that broke out amongst them they returned (having) been 40 miles up the river." This statement is as yet the only direct reference found as to his whereabouts in 1820 and 1821, but from his familiarity a

little later with the Flathead country and the Spokane country, it is probable that he was also in service at those interior forts.

In the spring of 1821 at London the principal owners of the Northwest Company and of the Hudson's Bay Company were compelled by circumstances to bury their differences and merge their interests in the form of what we would now call a trust. Right then began that "gigantic monopoly" to which the more pious of the American settlers in Oregon took such exception, but which, by the irony of fate, actually contributed more than any other one factor to the peaceable settlement of the "Oregon Question" in favor of the United States.

This trust took the name of the older and larger of the two companies, and the news of its formation reached the Columbia in the fall of the same year. To the Northwesters actually in the service, both on the Columbia and in the Indian country, this news caused chagrin and wonder. They had put forth their best efforts, and most of them had endangered their lives for the Northwest Company, and now it seemed to have been wiped out. Peter Skene Ogden evidently proposed to know where he stood as to future prospects, and the following year, 1822, he departed for Lower Canada and London, under leave of absence.

Another reason may have taken him to England. His father had been obliged to relinquish active service as a "Justice of the Court of the King's Bench" (to use the words of his will)¹ in 1818 and retire to England for medical treatment, and was in fast declining health. Perhaps the father longed for a sight of his youngest son and sent for him. At any rate, among the family papers appears a letter written in trembling hand at Taunton, England, addressed to Mr. Peter Ogden, London Coffee House, Ludgate Hill, London, as follows:

¹Judge Isaac Ogden was not Chief Justice at Montreal, as often stated.

Taunton 9th March 1823.

My Dear Son;

The thought that we were separating forever in this world was so afflicting that I found myself unequal to take leave of you in Person, and indeed to bid you adieu in this mode fills my heart with grief which I cannot express. You have my blessing and my prayers that God of his great mercy & goodness may watch over, preserve & keep you in all your perils & dangers to which you will be exposed. And that he will give you grace to be grateful for all the benefits & favours he may vouch safe to bestow on you, that you may repose your trust & confidence in him, and that through the whole course of your life you may be vigilant & careful to keep his commandments, to have a lively faith in our blessed redeemer, and finally through his merits & atonement you may be eternally blessed & happy. You will as often as you have leisure think on these things, and that you may benefit & profit by those reflections, as being appointed (?) to your present & future welfare.

Let me recommend to you to be careful of your health and not to expose yourself to danger unnecessarily. You will of course be exposed to many in the discharge of your duty, but let me entreat you not to court them or be a volunteer in any hazardous enterprise for which you will get little thanks & credit.

I think my health daily improves. I have not yet ventured out, the weather is too cold for me to go abroad, but I hope will soon be milder.

I long much to receive a letter from you. I suppose I shall receive one tomorrow.

I am interrupted by a visit from Col. Plenderlist (?). Your mother Sister & Pering (?) are well & all join me in best wishes that God may preserve & keep you.

Believe me to be most affect'ly & truly, Your Father,

I. OGDEN.

You will be pleased to tell my friends to whom you have letters that they were written on the 5th of March, as I forgot to date them.

The year following the father died and by his will Peter Skene inherited with the other children one-eighth of the estate.

So our Mr. Ogden had a real taste of civilized life and that in the capital city of the kingdom. London Coffee House

was a fashionable place then and his photo, presumably taken there, reveals a striking man. We wonder whether returning through Canada he was not tempted to remain there. His brother, Charles Richard, was already becoming very prominent, and a little later became attorney general of Canada and a leader politically. Another brother, Isaac, was an army officer for many years and afterward sheriff at Three Rivers. Peter Skene himself was vivacious, active and fond of company and a natural leader. But the call to him was still the call to the open, and to the Pacific slope. So on July 23rd, 1823, we find him at York Factory on Hudson's Bay ready to take charge of the Express to the Columbia, after the annual council that year.

The difference between the service and fare at the London Coffee House and that on this journey by "Canoe and Saddle" must have been very appreciable. Instead of roast beef for dinner it was pemmican, with some grease to help it go down easily; and for breakfast it had been pemmican, and for supper would be pemmican again. The party did not find provisions along the way as expected and had to subsist for a time on "berries and 6 or 8 fish caught each day with 6 or 7 fathoms of net made out of a skein of twine they happened to have along." Even horseflesh was not to be had until they sent across country to Edmonton for some. Mr. Ogden took sick because of the lack of food and worry and was delirious for a time, but recovered.

The record of this journey across more than half of our continent has been preserved to us in the journal of John Work, the clerk of the party, and it would be of interest to follow it day by day, but not to the purpose of this narrative. They passed the "height of land," as the continental divide was always designated in those days, on the 10th of October, and were at Boat Encampment on the Columbia on the 13th, where they met according to appointment the fall express from the Columbia bound east. With that party was Alex. Ross on his way east to quit the service, but Mr. Ogden

delivered to him a letter from Gov. Simpson which turned that gentleman back again to take charge of the Snake Expedition that fall. (Of this we learn in his "Fur Hunters.") Down the Columbia the party go in three boats and reach the "Forks of Spokane" on the 21st at evening, three months from York Factory. Here Mr. Birnie from Spokane House and Mr. Kennedy with 21 men start down the river for Fort George, and Mr. Kittsen, Mr. Ogden and Mr. Work set out for Spokane House on the 25th. And there evidently Mr. Ogden remains for the winter.

Spokane House, nine miles northwest of the present city of Spokane, even then a center of activities (although soon to be abandoned for a more favorable location at Kettle Falls)—what was its attraction? Mr. Ross gives a rather highly colored view of it: "There all the wintering parties, with the exception of the northern district, met. There they all fitted out; it was the great starting point. * * * At Spokane House, there were handsome buildings; there was a ball room even and no females in the land so fair to look upon as the nymphs of Spokane; no damsels could dance so gracefully as they; none were so attractive. * * But Spokane House was not celebrated for fine women only; there were fine horses also. The race ground was admired, and the pleasures of the chase often yielded to the pleasures of the race. Altogether Spokane House was a delightful place." We insert this reference to Spokane House because it is appropriate to this period in our narrative. Either just now or a few years earlier Mr. Ogden has taken unto himself another wife, a remarkable woman from the Spokane tribe of Indians (if family tradition is correct), who became a dutiful mother to his children and afterward resided at Ft. Vancouver and for some years at Oregon City. During the sixties, she removed to Lac la Hache in British Columbia and died there in January, 1886, at the age of ninety-eight years. She was a step-daughter of old Francois Rivet, of the Lewis and Clark party, who took up a claim on French Prairie in Oregon, and she was heir to

a portion of that claim. Could she have been a charming widow when Mr. Ogden married her? She was six years his senior in age.

The following spring, 1824, the journals of Mr. Work assist us again: "April 15th, Thursday, clear, fine weather. Left Spokane House early on horseback, accompanied by Mr. Ogden and Mr. McDonald (Finan) and in company with the men and horses loaded with furs for Spokane Forks, there to embark for Ft. George." And again: "Sat. May 1st. The brigade, consisting of 7 boats, left Oganogan for Wallawalla, wrought by 63 men and loaded with the Spokane and Thompson river veterans and a number of passengers." They arrived at Fort George the morning of the 13th. The annual ship from London was late that year and the partners waited as long as possible, but (the journal continues)—"Tues. Aug. 3rd, Early in the morning Messrs. Dease, Ogden, and McLeod accompanied by Kennedy came to the boats which were already loaded. The three former embarked and proceeded up the river for the interior." They reached the mouth of the Spokane on the 25th of August (a quick passage), and Ogden proceeded to Spokane House with 80 loaded horses. Soon an Indian brings the message from Fort George that the ship has arrived and back down the river again they go to Fort George, but are again at Spokane Forks on the 21st of October. And here we note an interesting item, the arrival of important people in "Old Oregon." The journal reads: "Oct. 21st (1824) The property and all the Spokane men but two were sent off to Spokane in charge of Mr. McDonald. Mr. Ogden remained with me and the remainder of the extra men to wait for the express. Oct. 27th. The express arrived in the afternoon, 2 boats with Governor Simpson, Dr. McLoughlin, Mr. McMillan, Mr. Dears and Mr. McKay. October 28th. The Governor, Dr. McLoughlin, Messrs McMillan, Ogden and McKay went off to Spokane. * * * Oct. 30th. The gentlemen returned from Spokane. Sunday, Oct. 31st. Embarked about 11 o'clock with the Governor and Mr. McMillan

in one boat and Mr. McLoughlin and Mr. McKay in another for Fort George. * * * Mr. Ogden and the people for Spokane removed to proceed to their destination."

We thus mark the arrival of Dr. McLoughlin on the Columbia and the company in which he came, but leave that party at Okanogan, where Gov. Simpson wrote on Nov. 1st to John McLeod, who was at Thompson River, among other things the following: "While at Spokane House we received letters from Mr. Ross and the report he gives of the Snake Expedition is favorable * * * and Mr. Ogden proceeds immediately to the Flat Head Post in order to outfit and conduct it back to the Hunting Grounds." So here we have the record of the beginning of Mr. Ogden's five years in charge of the brigade to the Snake Country, then considered the most dangerous and most important field in which the Hudson's Bay Company operated. We should not omit to mention that Gov. Simpson (probably) brought out with him a parchment from the Hudson's Bay House, Fenchurch Street, London, certifying to the appointment of Peter Skene Ogden as a Chief Trader by the Directors of the Company at their meeting in March, 1824. (That parchment, dated March 3d, 1824, is still in the possession of the family.) Mr. Ogden was winning his spurs early, thirty years of age, and only thirteen years in the service; many of the older clerks waited for years for such a promotion.

Flathead Post or Fort of those days was located about where Thompson Falls, Montana, on the line of the Northern Pacific R. R. is now situated. And we are fortunate to be able to quote, by the courtesy of Miss Agnes C. Laut, from her transcript of the Journal of Alex. Ross for the year 1824, as follows: "Friday, 26th Nov. From Prairie de Chevreux myself and party arrived at this place (Flathead Post) in the afternoon which terminated my voyage of 10 months to the Snakes. Mr. Ogden and Mr. Dears with people and outfit from Spokane reached (this) place a few hours before us. Saturday. 27th. All hands building. Mr. Ogden handed me

a letter from the Governor appointing me charge this place for the winter. Mr. Ogden takes my place as chief of Snake Expedition. Sat. 11th Dec. Finished equipping the Snake hunters. Monday 20th. Statement of men under Mr. Ogden to go to the Snake Country. 25 lodges, 2 gentlemen, 2 interpreters, 71 men and lads, 80 guns, 364 beaver traps 372 horses. This is the most formidable party that ever set out for the Snakes, and Snake Expedition took its departure. Each beaver trap last year in the Snake Country averaged 26 beavers. Was expected this hunt will be 14100 beaver. Mr. Dears goes as far as Prairie de Chevroux." Their course was through the valley of the Bitter Root river, passing by the mouth of Hell Gate canyon, the present site of Missoula.

The next word we have of him is when John Work inscribes in his Journal at Okanogan on July 26th, 1825: "A little past noon an Indian arrived from Spokane with a note from Mr. Birnie and a packet which had recently reached that place from Mr. Ogden dated East Branch of the Missouri 10th July. * * * A series of misfortunes have attended the party from shortly after their departure and on the 24th of May they fell in with a party of Americans when twenty-three of the former deserted. Two of this party were killed, one by the Indians and one by accident, and the remainder of the party are now coming out by the Flat Heads." This fixes for the first time, as far as known to the writer, the date of an unprofessional proceeding on the part of a band of trappers of the Rocky Mountain Fur Company, then controlled by Gen. Wm. H. Ashley, of St. Louis. By distributing liquor among Ogden's men a general desertion was brought about, but this was apologized for a year or so later, as other journals show. The H. B. Co. did not then allow liquor and cards to be carried by their men or used in their camps; the only drinking allowed was at times of festivity or "regale". But the Americans were much more free and easy.

Mr. Ogden did not come out by way of the Flathead Post after all but by way of the Snake River route, already estab-

lished by Mr. Mackenzie in 1819, arrived at Fort Walla Walla on Nov. 9th; there Chief Factor John McLoughlin was impatiently waiting for him and at once (Nov. 21st) started him off again for another year's exploration and trade.

But it is not the purpose of this narrative to follow closely these five years of trade and exploration and exposure and danger among the thieving Snakes (how he did despise them!) and the treacherous Blackfeet and wandering Piegans, not to mention the various other tribes. The Snake Country stretched from the Three Tetons on the east to the Cascades and Sierras on the west, and hardly a tributary stream in that whole stretch of country was overlooked by this indefatigable trader. Much of the time was spent in the eastern portion, near the Port Neuf river (so named after one of his men) which Ogden declared the best beaver country on earth, but all the winter of 1825-6 he was exploring the rugged country of eastern Oregon around the head of the John Day river and from there crossed to the Snake by way of Burnt river, and nearly starved to death reaching there; and in the fall of 1826 he led his trappers to Malheur and Harney lakes and then ascended the Des Chutes and crossed the height of land to the waters of what he called the Clamitte, and further on to a river he called the Sasty, after the Indians found there, with a high snow peak visible to the westward to which he gave the same name; and toward spring turned to the northeast across the plains of southern Oregon to the head waters of the Malheur and followed that to the Snake; this time additional discomfort was the presence of so much salt or alkali water. The fall of 1828 he penetrated into the regions of what he called Unknown River and the trappers afterward called Ogden's river, but known to us as the Humboldt, and from there struck eastward to the shores of Great Salt Lake which he skirted around to the northward, contributing more than the usual number of horses to the kettle for subsistence, and finding Indians who ran from him and evidently had never seen a white man before. He returned

in the spring and summer (1829) across that same region, enduring heat and dust and narrowly escaping from rascally Indians we know as the Modocs; but telling those Indians (on May 29th, 1829) that in three months he would see them again, he started homeward to Fort Nez Percés, which was always the point of departure and return. Of the last four of these expeditions we are in possession, through the courtesy of Miss Agnes C. Laut, of copies of the original journals kept by Mr. Ogden and on deposit in the H. B. House at London (see Vols. 10 and 11 of the Oregon Historical Quarterly). The data that he obtained was used by Arrowsmith, the famous map maker of London, on his maps published during the thirties and forties which were dedicated to the "Hon'ble Hudson's Bay Company," and commonly used by the fur traders at their posts. There are many names yet remaining through the regions he explored that appear in his journals, but the only locality still named after him is that in Utah, where there is an Ogden Hole, Valley, River, Canyon and City, though it remains yet to be definitely determined what special circumstance led the American trappers to so designate that locality or when the circumstance occurred. There is little doubt as to his having been the earliest explorations of the region around the westerly and northerly end of great Salt Lake, and as to the localities bearing his name, the following letter, written on the 7th of May, 1909, by Mr. Charles F. Middleton, of Ogden, Utah, will be sufficient authority: "I settled in Ogden in 1850, and have grown up with the town. * * * Ogden¹ was named after Mr. Ogden of whom you write, both as to the river and city. * * * Ogden Hole, or as some used to call it, Mr. Ogden's Hole, is a low divide about seven miles north of center of Ogden City. It used to be the only route over which the trappers and Indians traveled into and out of Ogden valley which lies directly east and north of Oregon City."

¹As to the name Ogden this positively proves that the name was already there when the first settlers arrived in 1849-50, but as to the location of "Ogden's Hole," and the occasion for that designation, other explanations are given and will be further mentioned in connection with the Ogden Journals.

Archibald McDonald, writing from Ft. Langley to Edward Ermatinger in March, 1830, remarks that "He (i.e. Francis Ermatinger) and Ogden with large parties are now to the Southward". And Mr. Ogden, himself, writing to John McLeod from Vancouver on March 10th, 1831, states modestly: "I was not so successful in my last years Trapping as the year preceding although I extended my trails by far greater distance to the Gulph of California but found beaver very scarce, and unfortunately below the main Dalles of the Columbia my own Boat was engulfed in a Whirlpool and 9 men were drowned. I had a most narrow escape". This (and Chap. I of "Traits" hereafter mentioned) is the extent as yet of our record of the expedition under Mr. Ogden that left Fort Nez Perces in the early fall of 1829 and visited California and returned in the summer of 1830. From the data appearing on the Arrowsmith maps it is fairly certain that he kept to the east of the Sierras most of the way down, and we can well imagine what sort of experiences he passed through. But we must remember that the name California on British maps then applied to all the region belonging to Mexico south of the 42nd parallel, and not to the California we now know as such.

The letter of Mr. Ogden's last quoted from continues: "On my arrival here I found from the Committee's Letter I was appointed to form an Establishment at a place called Nass about 10 degrees to the Northward of this and was to have sailed last Fall but an infectious fever made its appearance amongst the natives and carried off upwards of two hundred and our servants unfortunately took it and for three months we had not one at our command and we are now again making preparations for this same place. I know not what success I may meet with there but I am not of opinion our wealth will be increased". This letter is signed *Peter Skein Ogden*.

After six years of life on the hurricane deck of a cayuse Mr. Ogden was ready for any change of scene, of climate and of die*, but we may easily imagine that it took a little

time for his legs and digestion to become accustomed to this change, which required him to cross the Columbia River bar periodically and remain on board ship part of each year. The departure of the expedition James Douglas mentions in a letter written to John McLeod from Fort Vancouver in March, 1832: "The Nass party left us in the early part of last April. * * * They were greatly retarded on the passage by contrary winds and in consequence did not reach their destination before the 11th of May." And a letter of Duncan Finlayson's of the same date reports: "The coasting trade is progressively improving; it turned out last summer about 3000 Beavers, exclusive of other valuable furs, but the loss it sustained in the death of Cap. Simpson will be seriously felt. * * * he departed this life at Nass on the 2nd of September (1831). * * * Our people appear to be firmly seated down at Nass. * * * and we have it in mind to extend our settlements along the coast, the best and most judicious plan we can adopt for the purpose of wresting that trade from the grasp of the Americans who have so far monopolized it". The Fort built in the summer of 1831 was at the mouth of the Nass River and was named Fort Simpson in honor of the Captain who died there as just noted. In the summer of 1834, however, the location was changed to a point forty-five miles further down the inlet, not far north from the present Prince Rupert of the Grand Trunk Pacific. The following year the location of a post was selected further south on Milbank Sound near the mouth of the Bellacolla, which stream Alexander Mackenzie had followed to the Pacific in 1793; this fort, was named Fort McLoughlin.

The American monopoly which Mr. Ogden was expected to break up and succeeded against so well had to be met with its own methods and means of trade. This is evidenced by the following entry in a journal kept by Wm. F. Tolmie the 14th August, 1833, at Nisqually on Puget Sound: "A vessel is soon to be dispatched to the Southward for a supply of tobacco and rum, etc. The latter article is expended and

consequently the trade has been stopped at Nasse and Milbank." It is hinted in history that trading vessels from Boston and vicinity dealt profitably in rum in other parts of the world also. To the credit of the H. B. Co. be it said that by agreement with the Russian-American Fur Co. some years later liquor was abolished as an article of trade with the Indians of the coast.

The same journal entry by Dr. Tolmie says: "H. B. Ship Cadboro arrived from Milbank Sound with news. * * * Mr. Ogden has gone northwards to Stikeen with the Llama and Vancouver, which place he is to survey." That took him beyond the Russian boundary and into the trading territory of the Russian-American Fur Company at New Archangel (Sitka), but the plan was to build a fort upon the Stikeen river above the thirty league limit. Dr. Tolmie was transferred to Fort McLoughlin that fall and the following spring joined Mr. Ogden's expedition (outfitted at Fort Vancouver) to the Stikeen, and his journals for June, 1834 (the originals of which are in Victoria, B. C.), relate in detail the exchange of courtesies with the Russian officers off the mouth of the river and the attempts of Mr. Ogden to bluff his way past their vessel and rude block house, and the decision finally to abandon the enterprise and return southward. Hubert Howe Bancroft seems to have had access to this same source in writing his History of the Northwest Coast and the incident is told by him with considerable accuracy and need not be repeated here. But that it became an item for discussion and comment among the fellow traders of Mr. Ogden is manifest from another letter which follows, the answer to which could it be found would be even more interesting to read:

official	Stuarts Lake Western Caledonia
George Simpson Esq	20th Feby, 1838--
Governor in Chief of	
Ruperts Land	
<i>Sir</i>	

Had I last year called upon you for your opinion respecting my conduct in the discharge of my duty as con-

nected with the Stikine Expedition, you might probably then have considered the application as premature - The circumstances in which that affair was enacted have now, however, been thoroughly investigated and in justice to myself in common with the Gentlemen attached to the Expedition under my command, I can no longer defer doing so. Reports, I am informed are current throughout the Country insinuating that I acted with "too much caution" or in other words with cowardice, whence it would appear that an impression is entertained by many that the failure of the expedition in question is attributable to unworthy conduct on my part.

Under the unfavorable aspect which opinion has apparently assigned with regard to the share I bore in the transactions alluded to, I deem it proper, nay indispensable [sic]—to call upon you for an official answer to the following queries which, in justice to all concerned, I doubt not will unhesitatingly be accorded answer viz: Whether the part I adopted under the peculiar circumstances wherein I found myself placed, of withdrawing without having carried into effect the instructions I had received, be attributable to cowardice or not? Again: What in the opinion of Gov. Pelly and yourself, is the line of action I ought to have pursued in order to avoid the foul stigma which has been so charitably affixed to my name? And finally: Whether, even admitting the question of my physical disparity to have been less obviously unfavorable to me, I could, without infringing on the provisions of the Convention, or consistently with the duty which I owe to myself as well as the Gentlemen who accompanied me, have acted in a manner more conducive to the ultimate interest of the Concern of which I am a member?

I remain, etc.

P. S. OGDEN.

Of his arrival in the Columbia again in 1834 we have this item from J. K. Townsend's Narrative. Mr. Townsend was, in December of that year, on board a H. B. Co. vessel en route for the Sandwich Islands and had been bar bound in Baker's Bay several days: "On the morning of the 11th, Mr. Hanson, the mate, returned from the shore, and reported that the channel was smooth; it was therefore deemed safe to attempt the passage immediately. While we were weighing anchor, we descried a brig steering toward us, which soon

crossed the bar, and ran up to within speaking distance. It was one of the Hudson's Bay Company's coasters, and as we were getting under weigh, a boat put off from her, and we were boarded by Mr. Ogden, a chief factor from one of the Company's forts on the coast. He informed us the brig left Nass about the first of October, but had been delayed by contrary winds, and rough, boisterous weather. Thus the voyage which usually requires but about eight days for its performance occupied upwards of two months. They had been on an allowance of a pint of water per day, and had suffered considerably for fresh provisions. Mr. Ogden remained with us but a short time, and we stood out past the cape".

One further item regarding the three and one-half years on the coast is worth mentioning. It was then that the first circulating library of the Pacific Coast was started. The record is that the Gentlemen of the coasting trade contributed to a fund and had brought from England the latest books and magazines and circulated them from one post to another. In his journal Dr. Tolmie speaks of receiving from Mr. Ogden the *Life of Edmund Burke* and *Franklin's First Journeys to the North*. Mr. Townsend was a trifle in error as to Ogden being then a chief factor, but it was only a month later that he arrived at that honor. The parchment showing his appointment is dated at H. B. House, London, January 1st, 1835. The promotion was accompanied with the assignment, to the command of the New Caledonia District with headquarters at Fort St. James on Lake Stuart; the post established by Simon Fraser in 1806. This district extended from the Coast Range eastward, and included all streams drained by the Fraser river.

As a young man Mr. Ogden is described as being a little below medium height and broad between shoulders and hips, but very muscular and quick in action, such a man as it would be unpleasant to line up against in a foot ball match. When in the Snake country he had complained of being reduced to skin and bones by the life there, which was calculated to make

him a man of sixty in a few years, he said. But sea air and food and an occasional potion, perhaps, seems to have agreed with him, for we are told that the Indians of New Caledonia stared at him as the fattest man they had ever seen.

New or Western Caledonia was an extensive region of mountain peaks and valleys and prairies, of beautiful lakes and swift rivers, and of curious Indians,—different from those of the Snake country. The road thither left the Columbia at the Okanogan; there the "property" was transferred to the backs of horses, often several hundred in number, and the pack trains went winding their way northward to the Thompson river at Kamloops, and thence on through the mountains to the northern forts, five or six in number. Later this became the famous Okanogan mining trail.

There was also a trail from Fort Colvile up Kettle river, a route now traveled by the steel rail locomotive; but few goods were taken in that way. It is not purposed to relate incidents of the nine years spent in charge of New Caledonia. Father Morice has treated that period quite amply in his "History of the Northern Interior of British Columbia."

Mr. Ogden took his family with him to Lake Stuart; a daughter named Eureka (whose mind was clouded) and his youngest son named Isaac were born there. To some extent he introduced farming in the district but the main article of food the year round was dried salmon. Every spring he made the journey to Fort Vancouver to sit as a member of the Board of Management, which Gov. Simpson had organized, perhaps as a means to curtail the authority of Dr. McLoughlin. Mr. Ogden appears to have been pretty close to Gov. Simpson during all of his career. We will next quote from the Narrative of Lieut. Chas. Wilkes of the U. S. Exploring Expedition, who met Mr. Ogden in June, 1841, at Vancouver:

"At Vancouver, I was again kindly made welcome by Dr. M'Laughlin, Mr. Douglass, and the officers of the establishment. During my absence, Mr. Peter Ogden, chief factor of the northern district, had arrived with his brigade. The fort had, in consequence, a very different appearance from the one

it bore when I left it. I was exceedingly amused with the voyageurs of the brigade, who were to be seen lounging about in groups, decked in gay feathers, ribands, &c., full of conceit, and with the flaunting air of those who consider themselves the beau-ideal of grace and beauty; full of frolic and fun, and seeming to have nothing to do but to attend to the decorations of their persons and seek for pleasure; looking down with contempt upon those who are employed about the fort, whose sombre cast of countenance and business employments form a strong contrast to these jovial fellows.

"Mr. Ogden has been thirty-two (twenty-three) years in this country, and consequently possesses much information respecting it; having travelled nearly all over it. He resides at Fort St. James, on Stuart's Lake, and has six posts under his care.

"The northern section of the country he represents as not susceptible of cultivation, on account of the proximity of the snowy mountains, which cause sudden changes, even in the heat of summer, that would destroy the crops.

"His posts are amply supplied with salmon from the neighboring waters, that empty themselves into the sounds on the coast. These fish are dried, and form the greatest part of the food of those employed by the Company during the whole year. Their small-stores of flour, &c., are all carried from Colville and Vancouver. Furs are very plenty in the northern region, and are purchased at low prices from the Indians: his return, this year was valued at one hundred thousand dollars, and this, he informed me, was much less than the usual amount. * * *

"The day before I left the fort, Mr. Ogden informed me that he had made arrangements to take me as far as the Cowlitz Farm in his boat, on my way to Nisqually, and desired that I would allow Mr. Drayton to accompany him up the river as far as Wallawalla. To both of these arrangements I readily assented.

"About ten o'clock, we were all summoned to the great dining-hall by Dr. M'Laughlin, to take the parting cup customary in this country. When all were assembled, wine was poured out, and we drank to each other's welfare, prosperity, &c. This was truly a cup of good-fellowship and kind feeling. This hanging to old Scotch customs in the way it was done here is pleasant, and carries with it pleasing recollections, especially when there is that warmth of feeling with it, that

there was on this occasion. After this was over, we formed quite a cavalcade to the river-side, which was now swollen to the top of its banks, and rushing by with irresistible force.

"On reaching the river, we found one of Mr. Ogden's boats manned by fourteen voyageurs, all gaily dressed in their ribands and plumes; the former tied in large bunches of divers colours, with numerous ends floating in the breeze. The boat was somewhat of the model of our whaleboats, only much larger, and of the kind built expressly to accommodate the trade; they are clinker-built, and all the timbers are flat. These boats are so light that they are easily carried across the portages. They use the gum of the pine to cover them instead of pitch.

"After having a hearty shake of the hand, Captain Varney, Mr. Ogden and myself embarked. The signal being given, we shoved off, and the voyageurs at once struck up one of their boat-songs. After paddling up the stream for some distance, we made a graceful sweep to reach the centre, and passed by the spectators with great animation. The boat and voyageurs seemed a fit object to grace the wide-flowing river. On we merrily went, while each voyageur in succession took up the song, and all joined in the chorus. In two hours and a half we reached the mouth of the Cowlitz, a distance of thirty-five miles. * * *

"On the second day, our voyageurs had doffed their finery, and their hats were carefully covered with oiled skins. They thus appeared more prepared for hard work. * * *

"On the 19th we reached our destination. On our approach, although there were no spectators, except a few Indians, to be expected, the voyageurs again mounted their finery, and gaily chaunted their boatsong.

"Mr. Ogden had been one of the first who travelled over this part of country, and he informed me that he had seen the whole country inundated by the rise of the river. This, however, can but rarely occur, and could only be the result of a sudden melting of the snows when accompanied with violent rain-storms." * * *

And again from the same Narrative later:

"The brigade, after remaining at Wallawalla till the 8th, took their departure. In taking leave of Mr. Ogden, I must express the great indebtedness I am under, for his attentions and kindness to Mr. Drayton, as well as for the facility he offered him for obtaining information during their progress

up the Columbia. I am also under obligations to him for much interesting information respecting this country, which he gave without hesitation or reserve. He was anxious that Mr. Drayton should accompany him to Okonagan; but as this route had just been traversed by another party, it would have been a waste of the short time he had to spend about Wallawalla. Mr. Ogden is a general favorite; and there is so much hilarity, and such a fund of amusement about him, that one is extremely fortunate to fall into his company."

On one of his trips from Fort St. James to Fort Vancouver he had the company of Father P. J. DeSmet (see his *Letters and Sketches* p. 217), who was en route to Europe and who wrote; that he reached Colvile and "embarked on this river on the 30th of May (1842) in one of the barges of the Hudson's Bay Company. Mr. Ogden, one of the principal proprietors offered me a place in his. I shall never forget the kindness and friendly manner with which the gentleman treated me throughout the journey, nor the many agreeable hours I spent in his company. I found his conversation instructive, his anecdotes and bon mots entertaining and timely; and it was with great regret that I parted from him."

At the time of his final departure from New Caledonia a written testimonial was presented to him in behalf of the gentleman of the district, the original of which is among the family papers, and reads as follows:

Fort Alexandria Westn Caled.

26th, April 1844.

Sir,
To Peter Skeen Ogden, Esquire
Chief Factor of the Honble.
Hudson's Bay Company.

I have been honored with a communication from the several Gentlemen recently under your command in Western Caledonia, wherein I am requested to adopt measures for conveying to you the testimony of their respect and esteem, under a very substantial form. But since a certain latitude has been vouchsafed to me upon this point, and knowing well, as I believe, your private sentiments in connexion with it, I have thought proper, under all the circumstances, to deviate from the form prescribed, and to tender you in the present shape the expression of our united esteem and regard.

Permit me, therefore, in the name of the Several Gentlemen attached to this District, and in my own name, to express the Satisfaction which we have individually experienced while serving under your command; and to bear testimony to that urbanity and friendly feeling which have throughout characterised your deportment towards us during the period of your administration—a period, it may be added, distinguished no less by the substantial increase of our private comforts than by the Several public improvements which you have so successfully planned and carried through.

With our united good wishes for your health during the journey which awaits you, and for your safe return, I have the honor to subscribe myself, in the name of the Several Gentlemen of Western Caledonia.

Dear Sir,

Your most obedient and
humble servant

ALEX. C. ANDERSON,
Clk. H.H.B. Co.

In the Spring of 1844 Mr. Ogden crossed the Rocky Mountains under a year's leave of absence, his first vacation since 1822; rather strenuous for a Britisher. Archibald McDonald mentions sending two sons, 12 and 14 years of age, in his care to Montreal, to be placed in a good school in Vermont. During the year he attended to matters of business connected with the estate of his mother, who had died, and visited relatives and friends in Canada and New York, and traveled in Europe. In the Spring of 1845 we find him again at Red River returning to Oregon and assigned by Gov. Simpson to take charge of the Warre-Vavasour party, then just starting for the Columbia. The Earl of Aberdeen had asked Lord Metcalf, Governor General, and Sir Richard Jackson, Commander in Chief, in Canada, to detail two army officers to visit the "Oregon Country" incog., as travelers, and gather information for the use of the English government in the event of war, as the negotiation over the boundary question was then at an acute stage. As to this party the story is told in the Oregon Historical Quarterly for March, 1909, and need not be repeated here. A jolly time they had of it fol-

lowing the quicker route on horseback through what is now Banff National Park and across by Simpson's Pass, the same route followed by Gov. Simpson himself and described in his "Journey Around the World." They reached Fort Vancouver late in August, after being only sixty days en route.

And now we will pause to mention one of the first bunco games known to have been played in Old Oregon, at Cape Disappointment at the mouth of the Columbia river. Among the instructions given to Mr. Ogden by Gov. Simpson the most important was that relative to the taking possession of Cape Disappointment and the isthmus back of it. This was to be attended to at once, ostensibly with a view to the formation of a Trading Post and Pilot's Look-out," but really for the use of the British forces, if need be. Fort George was to be abandoned and a trading post established at Baker's Bay; a clerk named Richard Lane was sent from Red River with the party to be left in charge there. Pursuant to instructions, Mr. Ogden quickly and alone visited the Cape, but found there a rude house already erected and a man named James Sanler in possession, whom he at once bought off for the sum of \$200.00. Upon visiting Oregon City to file the claim of the H. B. Co., Mr. Ogden found that two other persons, Messrs. Wheeler and McDaniel, were the real claimants, and that Sanler had been put there merely to hold possession for them. What Mr. Ogden may have said then and there is not recorded, but in a letter to Lieut. Warre on Oct. 2nd he reported his failure, and the willingness of Wheeler and McDaniel to sell for \$900.00, but his refusal to pay the price. Then followed a vigorous correspondence between Mr. Warre and Mr. Ogden, the former urging to buy and the latter declining to do so because not strictly authorized by the letter of Gov. Simpson, which distinctly stated that neither the cape or any other place was to be taken possession of "if already held by any citizen of the United States." On February 14th, following, however, Mr. Ogden informed Mr. Warre by letter that he had concluded to purchase and had

done so as a cost of \$1000.00, and had filed on the land in his own name, and from a further note by Lieut. Warre at Red River the following June, it is learned that Gov. Simpson allowed the item as one to be repaid to Mr. Ogden by the H. B. Co. But we very much doubt whether Mr. Ogden ever again saw the color of the \$200 paid to James Sanler. Later, in their claims against the United States Government, the Hudson's Bay Company included Cape Disappointment at a value of \$14600.

From 1845 to the time of his death Mr. Ogden made Fort Vancouver his headquarters, and with the retirement of Dr. McLoughlin became the ranking Chief Factor on the Columbia. He shared the management with James Douglas until 1849 when that gentleman removed to Victoria, after which he was the only Chief Factor on the Columbia until 1852 when Mr. Dugald MacTavish was transferred from the Islands to assist him. There is just a suggestion here and there of slight differences with James Douglas; at any rate the dignified and reserved Mr. Douglas looked especially after the affairs at Vancouver, while Mr. Ogden preferred the field duties and is often reported as "leaving for the interior." The trip up the Columbia seemed an every day occurrence to him and he was the best known white man to all the Indians west of the Rocky mountains. They knew him as "The Old Whitehead", and he was accustomed to give small presents to the older Indians here and there in remembrance of some service performed in previous years. His canoemen and the servants knew him among themselves as "M'sieu Pete."

In June, 1846, the National boundary was fixed at the forty-ninth parallel, and then began to arise important and perplexing questions regarding the properties of the H. B. Company within United States territory, their "possessory rights," as the treaty indefinitely recited. There were questions relating to squatters on the lands claimed by the H. B. Company and there were unreasonable constructions of law by local customs officials in regard to the carrying of freight by the

H. B. Company's vessels, and the payment of duty upon goods transferred around from Vancouver to Nisqually. In the Spring of 1849 United States troops began to arrive at Vancouver and their encampment was on the higher ground immediately behind the H. B. Company stockade under a formal lease at a pretty stiff consideration entered into between Capt. Rufus Ingalls, Quartermaster, and Mr. Ogden. This lease continued for periods of six months at a time until Col. Bonneville (the Capt. Bonneville of Washington Irving) was instructed from headquarters at Benicia to lay out a military reservation one mile square, and this was surveyed so as to include the entire stockade and village of the H. B. Company. There was every occasion for serious friction, at least in sentiment, for the H. B. Company was claiming a large amount of land along the river. But Mr. Ogden, although holding strictly to the rights of his company, managed to avoid conflict and was on the best of terms with the army officers.

Fort Vancouver continued to be the supply point for the company's forts along the coast and at the Sandwich Islands, and the business with the Oregon settlers and the Indians of the interior continued to be large; and there were accounts to be collected from the early settlers. As manager of the largest business concern in the country Mr. Ogden's responsibilities were both varied and great. He came to be called Governor Ogden and many Oregon pioneers yet living recall him as "a short man, dark complexioned, witty and lively in conversation" and distinguished in appearance. Of those years we can not here speak in detail but will offer a few glimpses of him through contemporaneous documents.

On October 5th, 1849, the mounted regiment of riflemen to Oregon arrived overland from Fort Leavenworth and their quartermaster, Maj. Osborne Cross, has this to say in his report:—

"My duties had now come to a close and from this time to the 11th of November I was employed in paying off the team-

sters and collecting money ; which I was enabled to do through the kindness of Mr. P. S. Ogden, the chief factor of the Hudson's Bay Company, who advanced money enough at par to finish my duties, besides turning over to Captain Engalls (should be Ingalls) a few thousand dollars for the use of the Department. The kindness of Mr. Ogden in many instances in accompanying the officers of the department, places it under many obligations to him".

A little later, Hon. Thos. Nelson, chief justice of the supreme court of Oregon, to whom the secretary of state at Washington referred special duties, wrote: "The Chief Factor of this Company, Gov. Ogden, is a gentleman of high standing, and much kindness and good feeling is manifested by him on all occasions towards the people of the United States."

In August, 1850, a party of distinguished people arrived in Oregon and their experience is told in the words of Gen. James C. Strong, one of the party, who wrote thus:

"I came in a sailing vessel around Cape Horn to San Francisco, and from there in another sailing vessel to Astoria, Oregon, with Governor Gaines and family, General Hamilton, secretary of the territory, and family, and William Strong, judge United States district court, and family; landing at Astoria about the middle of August, 1850.

"Great was their disappointment on finding that the little river steamer Multnomah, the only one plying on the Columbia at that time, and which they had been told would be there and take them up the river, was laid up for repairs, and that Captain Hoyt had gone to San Francisco for new machinery. The Captain of the vessel could not be prevailed upon to go up the river, so how to get to their place of destination became a serious problem to the newly appointed territorial officers.

"The next day after the landing, an attache of the Hudson's Bay Company came over from Scarborough point, and on learning the situation suggested that word be sent to Governor Ogden, of the Hudson's Bay Company, whose headquarters were at Fort Vancouver, asking him to send a bateau to us.

"Governor Gaines at once wrote a letter to Governor Ogden, and this man, who could speak the Chinook jargon fluently, got an Indian to take it to him.

"It was a new and novel sight to all of us as we watched that Indian start off in his 'icht man' canoe for a trip of about 100 miles up one of the grandest rivers in the world, and how anxiously we waited to know the result, frequently walking up to Tongue point and scanning the large bay above.

"There were quite a number of inhabitants living at Astoria, all of whom treated us very kindly and told us that would be the quickest way of getting up the river, as it would be about three weeks before the mail steamer would arrive, and they had no doubt but that Governor Ogden would do the best he could for us.

"In a few days a large bateau arrived bringing a cordial welcome from Governor Ogden."

It may be added that when the next day a H. B. Company coaster called at Astoria to carry up the goods and baggage of this official party the U. S. Customs official there forbade the loading of it.

In October, 1853, Mr. Ogden was extending courtesies to the family of Judge Pratt, who had recently arrived in Oregon, as shown by the following:

Hon Peter Sken Ogden Linn City, O. T'y. Oct. 20t 1853.

Dear Sir,

The grapes you so kindly forwarded from "Van Couver" placed me alike under obligations to the giver, and tended to decrease my dislike towards Oregon as a home. Your neighborly spirit in that particular deserves as it really receives a grateful remembrance. Little attentions of that kind it is out of the question to be insensible to; and, I can do no less than to thank you sincerely for the favor—

But if I am grateful for the first present, pray what should I be for the second consisting of two such fine Turkeys. I must confess that the knowledge that such luxuries can be produced here in this country, enhances my opinion of it four fold—And now allow me to say I am quite embarrassed with the thought, how I shall repay your kind recollection of me. I need hardly add that we esteem as almost invaluable, and in some way or other my husband and self will make it a point to reciprocate these unmistakable tokens of good will, and in the meantime, I remain with a sincere respect,

Most Truly Yours,

Annie A. Pratt.

The family relations of Mr. Ogden at this time we get a glimpse of through the following letter:

"My Dear Sir:—

"I was indeed truly glad to receive your letter yesterday and do most heartily congratulate you and Sarah on the birth of your daughter and still more that all are well. The name given to the young lady also gives me great satisfaction as it is one that is dear to me in every sense of the word as it again recalls to my remembrance the name of my dear departed Mother. We have so far no Express but am most anxiously looking for it—at all events at present as I am now situated cannot leave this before the 22nd. * * * I shall be glad to see the Old Lady here when she can leave Sarah with safety but not before. * * * I should like to see Janet with her sister and what she thinks of it. Yrs. Sincerely, Peter Skeen Ogden". (The Old Lady was his usual term of endearment for his wife).

This letter was written at the time of the birth of his granddaughter Sarah Ellen McKinlay, at "The Cliffs," near Oregon City, on November 6th, 1851. His own daughter, Sarah Julia, had married Archibald McKinlay in June, 1840, and in 1846 Mr. McKinlay was promoted from command at Fort Walla Walla to a chief tradership in charge of the Hudson's Bay Company's store at Oregon City. He became an American citizen and took up a donation claim (afterward deeded to David McLoughlin) just south of the town; his house on that claim is still standing. Because of its sightly location, Mr. Ogden named this residence "The Cliffs" and purchased from Mr. McKinlay (in the name of his wife) a small tract of the land upon which a house was built in 1852 for the wife and younger children to reside in.

And if there be any suggestion that he was not faithful and tender to his family during these last years let this letter to Mrs. McKinlay testify:

Lachine (Canada), Oct'r 18th, 1852.

My dear Daughter:—

I was indeed truly glad to receive a letter from you and dear little Janette's kiss which you must mean for me; the tidings you report of all being in health, the Old Lady and all

the children, was indeed good news for me. At present I shall not write you a long letter but merely say I am truly anxious to see you all again and hope to be with you before next spring. * * * You say in your letter I will find warm hearts ready to receive me, in you particularly. My Dear Daughter, I never doubted it, and you are indeed often the subject of my thoughts. Now do not for one moment suppose that your Father will ever forget you; if it has entered banish such an idea from your mind, but I do not think you ever formed such an opinion of me. I know your goodness of heart, and your Mother's also. Excepting when traveling I lead a very solitary, lonesome life and never go into society, indeed live more retired than I did at Vancouver.

Now my dear daughter, may God bless you and all your children and your Mother and children. * * *

Ever your affectionate Father. Peter Skeen Ogden.

We diverge a moment to note Mr. Ogden's slight contributions to literature. As a letter writer he was given to playful allusion and amusing fur trade gossip and we could wish that more of his letters were in existence. One he wrote from Western Caledonia to John McLeod in 1837 has already been printed in full (in Vol. II p. 260 Washington Historical Quarterly) but reveals his style and a small part will be reproduced here: "When at Vancouver last summer I saw our Steam Boat and made a short trip in her. She cost fifteen thousand pounds but our commerce will soon repay us, at all events will have a decided advantage over our opponents, again last summer they, the Americans, had four ships there (i.e. on the N. W. Coast). * * * Amongst the many good things their honours from Fenchurch Street sent us last summer was a Clergyman and with him his wife, the Rev'd Mr. Beaver, a very appropriate name for the fur trade; also a Mr. & Mrs. Coppindale to conduct the Farm Establishment & by the Snake country we had an assortment of Am. Missionarys the Rev. Mr. Spalding and Lady two Mr. Lees & Mr. Shepherd surely clergymen enough when the Indian population is so reduced but this not all there are also five more Gents as follows: 2 in quest of Flowers 2 killing all

the birds on the Columbia & I in quest of rocks and stones all these bucks came with letters from the President of the U. States and you know it would not be good policy not to treat them politely they are a perfect nuisance—" etc. From his wide acquaintance and fondness for comradeship it is evident that he was quite a voluminous correspondent.

Beyond his personal letters the extent of Mr. Ogden's literary work is not certain. In the Bancroft Collection there is a manuscript (dictated) by Mr. Jesse Applegate, who was one of the most intelligent and observing among the Oregon pioneers of the Forties, which states: "Peter Skeen Ogden wrote very extensively on the Indians—he showed the Mss. to Mr. Applegate; it comprised his own early experiences; he was the discoverer of the Humboldt river. We had no reading and Mr. Ogden gave it to me as a Winter's amusement. It was full of interesting episodes. Mr. Applegate revised and made many suggestions. It ran back to the union of the two companies. Mr. Ogden brought it to Washington Irving who undertook to edit it, but died before its completion."

In the collections of the Oregon Historical Society, at Portland there is a letter by Mr. George T. Allan, for a long time a clerk at Ft. Vancouver and afterward a resident of Oregon, which reads: "Mr. Ogden possessed considerable ability as a writer and literary man, and wrote some very interesting sketches of his adventures in the Indian country, which I perused in manuscript and partly copied for him in 1849. I believe they were afterwards published, but I have never seen the book."

And Mr. Archibald McKinlay, writing to Elwood Evans in March, 1882, says:—"Peter S. Ogden did publish a book. I never saw but one copy. I have the dedication written by Washington Irving dedicated to Lady Simpson. It is in his own handwriting. It was more of what I would call a romance." This introduction is extremely graceful.

There is, as far as yet appears, no reference in the family correspondence to any acquaintance with Washington Irving, but such an acquaintance would have come about very naturally during the year 1852 when Mr. Ogden was in New York and vicinity. And it is said of Mr. Irving that he did accumulate a number of manuscripts of this character but instructed that they be destroyed after his death, which occurred in November, 1859. The book referred to by Mr. McKinlay can hardly be the same as the writings described by Mr. Applegate, though it might be the part copied by Mr. Allan. It is readily identified as a small and now very rare little volume published in London in 1853 anonymously and entitled "Traits of American Indian Life and Character, by a Fur Trader." The style of its writing has little semblance to that of Mr. Ogden's letters, it is entirely lacking in that quaintness and humor so common to him, and it is quite impossible to conclude that he would have personally edited it without the correction of certain contradictions as to dates, localities and facts. But the incidents related just as certainly refer to Mr. Ogden as the actor and relator and check closely with portions of his own career, and must have come from him.¹

In December, 1851, Mr. Ogden left Ft. Vancouver in charge of a Mr. Ballenden and again started for Montreal; not this time by the familiar route up the Columbia, but by steamer to San Francisco and from there to the Isthmus of Panama and steamer to New York. His letter from there reports extreme heat on the steamer followed by extreme cold upon arrival and a preference for the climate of Oregon. He was welcomed at the wharf in New York by his brother Henry, the father of that Wm. Seton Ogden who lived in Oregon for many years and who married the daughter of Thos. J. Dryer, the founder of *The Oregonian*. For family reasons this marriage was objected to by Peter Skene Ogden, who in a letter

¹For discussion of this see Appendix of 3rd Edit. of Hist. of No. Interior of B. C. by Father Morice.

from Lachine ordered his subscription to "Squire Dryer's Paper", as he called it, stopped. This brother Henry had been for a time prior to 1839 employed as cashier in the New York custom house and was influential in political matters. He resided on 11th street near Union Square, and in after years Peter Skene in various ways assisted him quite often.¹

He met Sir Geo. Simpson in Montreal en route to Washington and followed him there to assist in official business of the Company. Then Sir George desired assistance in New York in the purchase of a cargo of goods for Vancouver, and the ship *Henry Benton* of 400 tons burden was chartered to bring the goods out. Afterward in June he again visited Washington to meet Supt. Anson Dart of the Indian Department and the Secretary of the Treasury regarding claims of the H. B. Company for goods furnished during the Cayuse War, but to his disgust was not given much encouragement. While then in Washington he met Mr. Elwood Evans, afterward the writer of a History of Oregon and Washington, and in a letter from there to Mr. McKinlay says: "What think you, who should be seated opposite to me at the (hotel) dinner table but our old Drayton of the Wilkes' Expedition; he at first sight recognized me" etc. His letters mention meeting many of the army officers who had been stationed at Vancouver and had returned East.

While in Canada his headquarters seem to have been at the H. B. Co. House at Lachine but he visited his brother Isaac at Three Rivers and his sister and nieces in Montreal and with his brother-in-law, Mr. Edward M. Hopkins, invested considerable of his savings (which had been accumulating at 4% with the H. B. Co. in London) in bank stocks in Canada. To landed investments he seems to have had no liking and an open rupture took place with his next older brother over some 5670 acres of land in the Gosford District which had turned out to be worthless. This brother Charles Richard Ogden was then residing in England, after

¹His only daughter yet living resides in Portland at the present time.

serving a term as Governor of the Isle of Man. His career in Canada had been really brilliant but political changes had compelled a change of scene. Sir Geo. Simpson went to England that year and Mr. Ogden seems to have been waiting for some new appointment, for in a letter from Lachine to Mr. McKinlay in November he says:— "Before this can reach you young Miles from London on his way to teach them to keep accounts at Victoria will be with you and will give you all the particulars of my new arrangements—satisfactory to my feelings in almost every respect and I do hope will prove satisfactory to all concerned". Probably the new arrangement meant the transfer of Mr. MacTavish to Vancouver to assist him, although certain changes were taking place at Victoria incident to the retirement of Jas. Douglas from the Company's employ. After almost exactly a year upon the Atlantic seaboard he returned to the Columbia, of which journey the following memorandum is found among his papers. "Feb. 5th (1853) Went on board the Steamer Georgia. Sailed on the 7th. Arrived at Aspinwall on the 16th in morning. Arrived at Panama at 8 oclk evening on the 17th. 19th Left Panama on the Steamship Tennessee for San Francisco. Arrived at Accupulco [sic] on the morning of the 26th of February. Sunday morning at 9 O'clk March 6th Steamer Tennessee stranded off Tellegraph Rock 4 miles north of the Heads. Monday Left the Wreck across the mountain for San Francisco. Arrived at the Oriental at one O'clock. Sunday March 13th Left for Oregon on steamer Columbia. 16th arrived at Astoria in the evening."

An experience of this ship-wreck revealing the natural shrewdness of the man has been kindly furnished by Gen. Jas. C. Strong, (a brother of the late Judge Strong of Oregon) who is still residing in California. "Peter Skeen Ogden was one of God's noblemen. I had as good an opportunity to become acquainted with him, I think, as any American, as on his invitation, I occupied a room in the H. B. Co.'s stockade, and lived at his table a great deal of the time whenever I was in

Fort Vancouver. He told me all about his shipwreck, and seemed to enjoy thinking how he outwitted the thieves. As he told it to me it was like this. The captain missed the entrance to the bay of San Francisco by reason of fog, and he was wrecked on the rocks just north of the entrance. Mr Ogden had quite a large sum of money with him in gold coin. He wrapped this in some soiled clothing and put it in the bottom of a large valise and placed some more soiled clothing over it, and carried that on shore himself, leaving the rest of his baggage to take its chances with the others, much of which was brought ashore during the day. They were told it was not many miles to where they would get shelter and that they could walk there easily enough. His satchel was too heavy to carry, so he unlocked it, pulled some of the soiled clothing to the top, and let a pair of old half wornout shoes stick out of the satchel in plain sight, and leaving it unlocked as of no value, went with the other passengers to San Francisco. The next morning he came back with the wagons procured to bring the baggage and found, as he had anticipated, that the trunks had all been broken open and rifled, but the thieves had not touched his satchel, which laid on the ground just as he had left it." Other recollections of Mr. Ogden by Gen. Strong are of interest:—"I should not call Mr. Ogden's voice peculiar, it was neither falsetto, tenor or harsh, still it was an individual voice. * * * He did not have a hearty laugh but when pleased had a most peculiar little twist to his lips, one I shall never forget, it was an individuality. He was a well read man and frequently quoted from Shakespear, and some times from the Bible. * * * Mr. Ogden spoke three languages, English, French and Indian. He greatly amplified the Chinook Jargon by his acquaintance with so many words from the various Indian tribes with which he had lived."

Returning to Fort Vancouver in the spring of 1853 Mr. Ogden again undertook the management of the H. B. Company's business on the Columbia, which still continued to be

large. It was the principal wholesale house on the Columbia, and distributed goods to Fort Hall and Fort Boise, in Idaho and Fort Colville in North Washington and the Indian traders of Southern Oregon. In the nearer by communities, The Dalles, Oregon City, Cathlamet, Chinook and Champoege goods were sold on commission by former officers of the Company, Mr. Allan, Mr. McKinlay, Mr. Anderson, Mr. Birnie and others. But Mr. Ogden was in failing health; his letters speak of internal disorders and a recurrent fever, possibly beginning, as Mr. Evans states, though some exertion at the time of the stranding of the steamship Tennessee. The published notice of his death speaks of an illness of several weeks. These last weeks were spent at "The Cliffs" under the care of his wife and daughter and Dr. Barclay; death occurred on the 27th of September, 1854. Rev. St. Michael Fackler, the first Episcopal clergyman to reside in Oregon (Rev. Herbert Beaver excepted) officiated at the burial and his body was laid to rest in Mountain View Cemetery at Oregon City, where his grave may still be seen, a wild rose bush its only adornment, and the glistening peak of Mt. Hood its only monument.

During his illness Dr. McLoughlin was a regular visitor at the bedside and urged upon him to permit a formal marriage ceremony with his wife. Mr. Ogden bluffly refused, saying that if his many years of open recognition of the relationship and of their children was not proof enough the empty words of man could not add anything of value. Surely enough this refusal occasioned long delay and much trouble in the settlement of his estate, for certain of the family in Canada and England began proceedings to break the will on the ground that there was no proof that he was ever married. A compromise was finally arranged, however, by Sir George Simpson, who was the executor. The will was executed at Fort Vancouver in June, 1851, but described him as a resident of Montreal and was proven at Montreal. Probably this was because nearly all of his investments were in Lower Canada,

although Sir Geo. Simpson, in one communication, suggested that it had been Mr. Ogden's intention to return to Canada to reside permanently. He always remained a British subject. His estate amounted to at least fifty thousand dollars.

At the time of his death the oldest son, Peter Ogden, had advanced in the service of the H. B. Company to the rank of chief trader and was in charge of Fort Stuart, British Columbia, where his father had been before him. Many descendants through him still reside in various parts of Canada and some still continue in the service of the H. B. Company. The second son, Charles, remained a bachelor—seems to have been employed at Fort Vancouver for a time, and died at Lac La Hache in 1880. Another son, Michele, was a stockman and ranchman on the Pend d'Oreille river, and died on the Flat-head reservation where his descendants still live. A daughter Cecilia had married one Hugh Fraser, of unknown residence. The three younger children, Mrs. McKinlay, Eureka and Isaac resided at Oregon City. All of these children together with relatives residing in Canada and New York, were remembered in the will. None of his direct descendants are known to be now living in Oregon; but a niece, Mrs. Ogden Chase is a widow, residing near Portland.

Archibald McKinlay, writing to Elwood Evans in 1882, paid this tribute to Peter Skene Ogden: "He was undoubtedly a wonderful man. Whenever the Hudson's Bay Company had occasion to send any of their officers on a dangerous expedition Peter S. Ogden was sure of the berth. His even temper, his great flow of good humor and his wonderful patience, tact and perseverance, his utter disregard of personal inconvenience and suffering rendered him just the man for any difficult or dangerous task. He was greatly esteemed by his brother officers and nearly worshiped by his men and the Indians. * * * His last great and good work was when he went with a small party of men to liberate the poor women and children captured by the Cayuses after the Whitman massacre, a dangerous task and one which the Indians plainly

told him no other need have attempted." A brief mention of that event is appropriate before conclusion.

On December 6th, 1847, late at evening a French-Canadian messenger arrived at Fort Vancouver in a canoe from up the Columbia bringing a letter from Wm. McBean of Fort Walla Walla giving the news and particulars of the massacre and captivity at the Whitman Mission. Mr. Ogden was first informed and at once went into consultation with Mr. Douglas.

The problem presented to them was a complicated and perplexing one. The location of the national boundary at the 49th parallel of north latitude had been determined by treaty eighteen months previous, the Whitman Mission was an American settlement and the legislative body of the provisional government of Oregon was at that very time in session at Oregon City only twenty-five miles distant; but that government was physically powerless to begin and carry on a war against the Indians without calling upon the Hudson's Bay Company for even powder and lead, not to mention other equipment. Should the officers of the company take the initiative, or merely report the event to the Americans? If the former alternative, could the company accomplish anything before the excitable Americans further angered the Indians and rendered the Hudson's Bay Company's influence and methods futile? Would the Indians themselves desist from further bloodshed, or was this a general uprising? But it was a situation calling for quick decision and action, and, just as in 1843, when the weary and destitute immigrants arrived at the Columbia, the call of humanity prevailed. The following morning Mr. Ogden was off for Fort Walla Walla with two bateaus manned by only the usual compliment of servants and without any display of arms and was well on his way before the tidings of the massacre even reached Oregon City.

Twelve days were consumed by the journey—not a rapid one for he proceeded as though on regular business and paid the regular toll of powder and ball to the Indians at The Dalles

portage, and it was the 19th of December before arrival at the destination. Messengers were then at once dispatched to the Spokane country to learn whether the Indians of that quarter were still quiet, and to the chiefs of the Walla Walla, Cayuse and Nez Perces tribes to say that "The Old Whitehead" was at the fort and desired to speak with them, a message to them no doubt as welcome as it was imperative. It was the 24th inst. before he assembled them in council and only after he considered himself in possession of full information. Mr. Wm. McBean has related to the writer some of the incidents of that day. It is the nature of the Indian to be deliberate in words and the council lasted all day; Mr. Ogden alone of the whites attended and in the end prevailed. This was the tenor of his speech to the Indians and of the reply of one of them, as reported by Mr. Ogden himself to the editor of the Oregon Spectator at Oregon City upon the return there in January: "We have been among you for thirty years without the shedding of blood; we are traders, and of a different nation from the Americans, who are of the same color, speak the same language, and worship the same God as ourselves, and whose cruel fate causes our hearts to bleed. Why do we make you chiefs, if you cannot control your young men? Besides this wholesale butchery you have robbed the Americans passing through your country, and have insulted their women. If you allow your young men to govern you, I say you are not men or chiefs, but hermaphrodites who do not deserve the name. Your hot-headed young men plume themselves on their bravery; but let them not deceive themselves. If the Americans begin war they will have cause to repent their rashness; for the war will not end until every man of you is cut off from the face of the earth! I am aware that many of your people have died; but so have others. It was not Dr. Whitman who poisoned them; but God who has commanded that they should die. You have the opportunity to make some reparation. I give you only advice, and promise you nothing

should war be declared against you. The company has nothing to do with your quarrel. If you wish it, on my return I will see what can be done for you, but I do not promise to prevent war. Deliver me the prisoners to return to their friends, and I will pay you a ransom; that is all." To which Chief Tiloukaikt of the Cayuses replied: "Chief, your words are weighty, your hairs are gray. We have known you a long time. You have had an unpleasant journey to this place. I cannot therefore keep the families back. I make them over to you, which I would not do to another younger than yourself."

Then followed five days of suspense until the captives were brought in, and two days more until the whites residing at Lapwai, Mr. Spalding and others, arrived. Mr. Ogden at the time thus wrote: "For two nights I have not slept, but, thank God, they are all safe and none have been maltreated." The party then at once set off down the river and none too soon because of the arrival of the news that some of the Oregon volunteers had arrived at The Dalles and the Cayuse war had begun.

This, in brief, was the crowning event of Mr. Ogden's career, for which his name will be ever held in grateful remembrance in Oregon. The official letter of thanks from Gov. Abernethy to him and his modest reply need not be reproduced here. Mr. Ogden's own religious affiliation was with the Church of England. Although he always rendered courteous treatment and support to the missionaries, both Protestant and Catholic, he had little faith in the permanency of religious influence upon the Indians. But it is stated, without verification, that a short time before the massacre he had sent to Mrs. Whitman, with his compliments, the material for a dress.

Sojourners at the Lakeview Hotel (of which the courteous and generous Mr. A. B. Ferguson is the proprietor—Mr. Ferguson's wife was the Susan Ellen McKinlay already mentioned as a babe and it was at this home that both Mr. and

Mrs. McKinlay died) at Savona's Ferry, on Thompson River, British Columbia, are wont to inquire as to the identity of a large oil portrait hanging in the parlor, which bears on the back the following legend: "Stanley, Oregon, 1848. Mrs. McKinlay with compliments of the artist." This portrait represents Peter Skene Ogden as he is remembered by the survivors of the Whitman massacre.

Traveling eastward from Savona's by the Canadian Pacific Railway and when close to the continental divide of the Rocky Mountains looking to the north up the beautiful Yoho valley a massive peak appears that has been designated by the Canadian government as Mount Ogden (not, however, in honor of our hero). Its melting glaciers form a stream flowing to the south and westward as one of the sources of the mighty Columbia, upon so many of the waters of which Peter Skene Ogden, the fur trader and explorer, spent so many strenuous but happy days. And as these waters rush onward to the ocean they are joined and swelled by other glacial streams from that beautiful mountain of Oregon which will ever stand as a snow white sentinel over his final resting place in the Mountain View Cemetery at Oregon City.

THE LATE GEORGE H. WILLIAMS

By T. W. Davenport.

In the Oregon Journal of April the 4th of this year, the same day on which the above named person departed this life, a staff editor of that paper gave quite a lengthy account of the public services of the deceased statesman, with an earnest desire, no doubt, to be entirely accurate in every particular. But, as often happens, there was an error or two which should be corrected, and I have waited four months for some one more intimately acquainted with Judge Williams than myself to make the correction.

I have felt so kindly to the Judge on account of the inestimable public services he performed at a time when the Nation was passing thru its most critical period, that I would not give voice or pen to lower the tone of what I might consider extravagant eulogy; but in this case, as the writer has credited him with services he never performed (I should say, charged him with acts of which he was not guilty), I am moved to the task of setting the matter straight before it is quoted as veritable history. The Judge was a member of the Convention which framed the Oregon Constitution, and the Journal writer made the statement that he (the Judge) made speeches in the convention in opposition to slavery and after the convention had finished its labors and before the vote was taken upon the organic law, he canvassed the Territory in advocacy of a free state. Now, neither of these statements is true, and any one well acquainted with Judge Williams would set them down at once as being inconsistent with his known character.

It was well understood by the people of the Oregon Territory that the question of slavery therein would be decided by a popular vote, and that the functions of the constituent assembly in relation thereto would be fully performed when it had adopted a form of submitting it to the people. So it will be

seen that speeches in the convention for or against slavery, as an institution, or as to its adoption or rejection by the people of Oregon, would have been wholly out of place and insultingly impertinent. And, as a matter of fact, no pro- or anti-slavery speeches were made in the convention by anybody.

Early in the session Jesse Applegate, a noted anti-slavery man, introduced a resolution to prohibit the discussion of the slavery question in the convention, and this resolution was very promptly and properly voted down.

This was a tactical blunder, and rather a strange move for the "Sage of Yoncalla" to make; and there is no accounting for it except upon the assumption that he feared a trick would be played, as in Kansas, and slavery be forced upon the people of Oregon without their consent. It may be inferred that he was alarmed by the selection of Matthew P. Deady, the most influential pro-slavery man in the Territory, to be president of the convention, and the further fact that democratic partisans were largely in the majority and reticent as to their intentions concerning slavery.

I never had any other opinion at that time, and have learned of nothing since contrawise, than that the Oregon democrats intended to conform to Stephen A. Douglas's Squatter Sovereignty doctrine and give the people of Oregon a square submission of the slavery question. Only one other tactical mistake was made during the session of the convention, concerning slavery. John R. McBride had promised his constituents that he would exert himself to place a clause in the constitution prohibiting slavery, and this was very summarily disposed of—voted down by the help of anti-slavery whigs who had promised him support. Likely Mr. McBride fulfilled his promise to his constituents in opposition to his better judgment, for to have grafted such a clause in the body of the instrument would have turned every pro-slavery voter into an opponent of the constitution as a whole—would have certainly insured its defeat at the polls and kept a free state out of the Union when the political strength of a free common-

wealth was badly needed to withstand the forces of rebellion. So it may be seen that any diversion from the well understood, popular course, would have been disastrous to the cause of both union and liberty, and under the conditions then existing speeches in the convention relating to slavery would not have been tolerated a moment, and any one attempting such would have been rated as "non compos mentis." Evidently Judge Williams never attempted such a flagrant departure from common sense and the prevailing deference to the wishes of the Oregon electorate.¹

After the constitution was placed before the people it would not have been out of place or inconsistent with the Douglas doctrine for the Judge to have gone out canvassing for a free state. But he did not do it. His sole service for free institutions in Oregon was his eloquent and unanswerable free state letter printed in the *Oregon Statesman* on the 28th of July, a short time before the meeting of the constitutional convention.

Doubtless Judge Williams preferred free institutions among which he was born, reared and schooled; but, like most persons in the Northern states, having a strong desire for political promotion, never permitted his anti-slavery sentiments and preferences to interfere with his political aspirations. He accepted a federal judgeship in Iowa by appointment of President Pierce, a position he could not have reached unless he was known to be a National Democrat,—that is, an apologist for slavery or opposed to agitating the question; for at that time the democratic party was completely dominated by the slave power, and a man could not get the lowest position in the government, not even a chain carrier in a surveyor's gang, unless he was known to be, in the slang of the day, "sound on the goose."

In his speech at the celebration of the 40th year of Oregon statehood, he described his attitude respecting chattel slavery, by saying that having been brought up in the North he had

¹ Contemporary reports of the proceedings of the Constitutional Convention in the *Oregon Statesman* and in the *Oregonian* bear out Mr. Davenport's contention.—EDITOR QUARTERLY.

imbibed prejudices against the institution,—a curious expression, indeed, and one which must be interpreted to mean a very mild and inoffensive phase of anti-slavery feeling. For we must remember that he was by natural endowment a deliberate, cautious, conservative,¹ time-serving, law-abiding individual, whose altruistic sentiments were not sufficiently strong to carry him out of his party to which he clung, despite its becoming an abject tool of the slave power, until its dissolution in the year 1861. He was by temperament and feeling unfitted to be an agitator, educator or a radical in the cause of human progression. He was not even a protester against the errors and perverse tendencies of his party, though he had the intellectual ability and oratorical force, if he had been of more heroic mould, to have exerted a modifying influence favorable to republican institutions.

Hence, he was not a strong and guiding partisan, the un-deviating one whose services as an advocate were frequently employed to promote a partisan victory.

He must have believed slavery to be a great evil, moral, social and political; but he never publicly declared such a belief, thus ranking behind Webster, who did.

Still, this can be said in mitigation of Judge Williams' subserviency,—his party would not brook the freedom of speech that was tolerated by the whigs. But is it not discouraging to common humanity to see the great and powerful of the earth submitting themselves, like Sampsons, bound to neutral service which they knew to be detrimental to the public welfare? With what sadness of heart I look back to the time when the great New Englander, essaying to stem the tide of anti-slavery sentiment then voiced by Phillips, Sumner and other conscience whigs, make this declaration in the famous cradle of Liberty: "Fellow Citizens, I am a whig, a Fanueil Hall whig, a liberty-loving, Union-loving whig, and if you kill the whig party where shall I go?" At that time Lincoln

¹ This word is used to indicate a kind of caution and adaptation to circumstances or conditions which is akin to sagacity.

was a whig partisan, but before the year 1856, he had despaired of the party, was willing to see it die, and found a place to go, along with others of his fellow citizens who would no longer tolerate the noncommittal policy of the whigs.

Doubtless, Webster, after the repeal of the Missouri Compromise, would have found the same place and been free from the lets and hindrances of compromises with powers that were unfaithful to their obligations. But Judge Williams, regret it as we may, had not the power or courage to abandon the democratic party until it met the fate of the Egyptians who would not let the people go.

The great majority of men have a dominating pride of consistency as partisans—(stability of character they call it)—and perforce an abhorrence of change, of being called a quitter, a vacillator. Human beings have an innate pride of consequence and power and there is a consequent dread of being stigmatized as trifling, small and easily moved. Really great-souled, great-minded men have this vanity. Lincoln and Washington were not free from it. And how common it is for men to vaunt their physical proportions rather than their virtues.

Looked at rationally as a natural endowment for which its possessor is in no wise responsible and is equally void of praise or blame, size or power, or any other quality of mind or body should furnish no occasion for arrogance or swelling pride, and if this vain and simple feeling could be banished and a pride of civic achievement be substituted for it, very likely human society would be much the gainer by the exchange. The death of the National Democratic party was a glorious resurrection to Judge Williams, for then began the services for which he will hold a place in American history. His previous career on the bench in Oregon and in Iowa was entirely commonplace, and his speeches in the latter state in favor of the election of Franklin Pierce to the presidency, being colorless as to human rights and the dangerous tendencies of the continued domination of the slave power, could not

involve to the fullest his admirable gifts of speech and demonstration. But after his advent to the ranks of the defenders of the Union and the supporters of the Lincoln administration,—free from suppression at last,—he loomed grandly as a statesman.

It will be recalled that Judge Williams was nominated by his greater admirer, President Grant, to the office of Chief Justice of the Federal supreme court and that the Senate refused to confirm the nomination. There was objection also in this, his home state, for which no satisfactory reason was assigned then or since. There was an allegation that he did not, while Attorney-General of the United States, prosecute the Star Route exploiters and cotton smugglers as strenuously as some interested persons of much influence wished; but there was no allegation of fraud or venality against the Attorney-General, either in Washington or at home. Perhaps he was not as rigorous or venomous as his faultfinders desired; and if so, it must be remembered that it was more in accordance with his generous nature to end abuses than to punish to the limit those who were guilty of them. He was not fitted to be a relentless prosecutor, a "muckraker."

The animus of the opposition came from ex-United States Senator Nesmith, of Oregon, who had been his opponent at the first senatorial election in 1860 and who was chronically disposed to resent any proffers of advancement to his adversary. It was at Judge Williams' request that Gen. Grant withdrew the nomination, for the real opposition of the Senate was not to the Judge himself and related to social matters which he could not remedy or publicly explain. Society at Washington has something to do with official promotion there, and especially if it invades the harmony of the supreme court circle.

I have been induced to write this last explanatory paragraph for the reason that one of the officers of the Oregon Historical Society lately wished to know my opinion as to the inside reason for the rejection of the appointment by the Senate.

I believe only two members of the constitutional convention are now living, ex-United States Senator L. F. Grover and William H. Packwood, of Baker City. Being desirous of fortifying my statements by the evidence of a participator in the work of the convention, I addressed a letter to Mr. Grover and received the following answer:

Portland Oregon

May 18th 1910

Hon. T. W. Davenport

Silverton Ogn.

My Dear Sir.

I was in attendance daily during the Constitutional Convention and can confirm your recollection of the fact that the late Judge Williams did not make any speeches on the slavery question. But he did write an able letter on the subject which was published in the Oregon Statesman. This fact may have given rise to the reporter's mistake. I will also add that I have no objection to the use of my name in the controversy.

Yours very truly,

L. F. GROVER.

FINANCIAL HISTORY OF THE STATE OF OREGON—IV

PART III

PUBLIC EXPENDITURES

CHAPTER ONE.

SOCIAL SIGNIFICANCE OF THE STATE'S EXPENDITURES.

The State's Finances Viewed as a Whole.—In the interest of a clearer and more comprehensive view of Oregon's finances, it is advisable at this stage of our sketch of them to dwell a moment on the fundamental processes in Oregon's commonwealth housekeeping. An attempt will be made to so characterize them that they can be kept in the mind's eye in their essential relations throughout the remainder of this discussion.

In Part Two the salient features of the system of taxation in use in Oregon, with the changes introduced from time to time, and the varying practices followed in the state's land policy, were outlined. In these two sources, the taxes and the proceeds from its public lands, the organized life of the commonwealth has its support. It is proposed now to trace the application of the revenues derived from these sources. The use of them in public expenditures exhibits the purposes of the people that are served by the government. These public expenditures reveal the course and development of the commonwealth life.

A people does not tax itself or have occasion to utilize a public domain except as it has needs to meet or aims to realize. These community needs and commonwealth ambitions and aims are fundamental and initial to all financial systems and policies. They impel to organization and out of them financial arrangements and finances emerge. It would seem then that they should have been noticed first in a discussion of the finances of a state. So would they had our subject

been the large one of the characterization of the essential life of the commonwealth. However, as the subject in hand is the restricted one of the presentation of the financial means in their relation to the commonwealth's life, it was thought advisable as a first step to bring these financial means into view through the discussion of taxation and of the use of the state lands.

These finances thus brought into view should now be made a tell-tale. A system of taxation rightly presented should have illustrated the ideas and sense of social justice of a people and its skill in adjusting the burden of the support of common interests, and the discussion of a state's land policy should have exhibited its thought pertaining to the common welfare as affected in land-ownership; but a discussion of the expenditures of the revenues obtained from these sources should yield a yet deeper insight into the essential life of the commonwealth. The relative proportions of the different lines of expenditure give comparative measures of the community's interests along these lines, or at least the relative extents to which these several interests are appreciated. The total public expenditures in their ratio to the total resources of the people in their annual collective incomes, measure the collective interests that the people unite to promote. The growth of the public expenditures in a like manner exhibits the pace of expansion of the common needs and activities—or at least the proportion of the social income the people have a mind to divert to them. These are some of the characteristic purposes to be served through an examination of the development of the public expenditures of Oregon.

Modern political communities do not, however, in their public expenditures limit themselves to what they can afford to divert from their current social incomes. Conditions develop in a state, either of imminent danger to public safety or of possible public advantage in the creation of great permanent improvements, that call for the immediate command by the government of extraordinary amounts of revenue,—

larger than the people can spare from their private affairs. Recourse to public credit is then wise as well as virtually necessary. A public debt is incurred. An account of the successive uses by a state of its credit thus reveals the character of its policy in meeting such crises or opportunities. Public expenditures at these times are not restricted to the means afforded by taxation and the public domain, but additional support is sought through loans, and the burden of repayment is shifted in part upon posterity—and justly so, for posterity had a stake in the perpetuation of freedom or in the construction of the improvement which will remain for its use. A sketch of the use of public credit in Oregon thus comes appropriately as an integral part of a complete account of its public expenditures.

Furthermore, the whole process of taking this portion of the social income as revenue from the people who have produced it, and of applying it safely and economically to the purposes they intended it to serve, requires the highest degree of public efficiency. There is first the determination by the legislature of the amounts needed for public purposes and of the ways and means of supplying these amounts. Rightly determined, the total sum diverted from the use by the people in their homes and in their business will just suffice for the public purposes in hand. Then there is the handling of this revenue while in transit from the pockets of the people to their service as the support of the public servants and public activities. Great waste and loss are certain without skillfully devised and honestly conducted treasury administration. An avoidable deficiency of revenue causes embarrassment and impairment of service; while, on the other hand, a large unused surplus fosters extravagance, and means that the people are being deprived of the use of their hard-earned wealth. What the records reveal pertaining to financial legislation in Oregon and the handling of the resources of the treasury must thus come in for attention. Skill and economy in these matters involve public interests of great magnitude. Bung-

ling and neglect through lack of appreciation of the measure of the interests at stake no people can afford.

Let us assume that the discussion of Oregon's system of public revenues in chapters one and two of Part Two sufficed, in a measure, to bring before the mind's eye the flow of means utilized in the past life of the state. We desire still such a review of the remaining phases of the state's experience with its finances as will enable us to pass judgment on what constitutes the right ordering of them; and the discussion should also suffice to shed as much light upon the course of the commonwealth's life as financial records are adapted to give. To attain these purposes an examination of the public expenditures, the public credit and budgetary legislation and treasury administration, respectively, in Oregon is in order.

The Flow of Public Expenditures.—It will give the aid of concreteness to conceive of public expenditures as a flow, a stream of wealth passing through the state treasury. This flow has its largest source by far, as we have seen, from the annual income of the tax-payers. Only a small part of it in Oregon comparatively has come from the state's public domain, either as income from sales or as the income of interest from the loan of trust funds accumulated through previous sales. These two tributaries quite distinct in character thus make up this volume of public funds flowing into the state treasury. Initially, these revenues from taxation and from the land funds alike have their sources in the annual social income of the Oregon people,—from the net product secured by them from the soil, the rivers, the mountains and the factories. A portion of this collective surplus is diverted to the state treasury. The main part of it being used for the individual, the family, the local institutional and governmental needs. In this discussion we are concerned only with that particular portion diverted through the action of representative agencies of the people to the state treasury and consumed as public expenditures.

Several things are to be noted about this flow of wealth into the state treasury destined for public expenditures. First, that it should increase in volume as the years go by in a state increasing in numbers and wealth is most normal. It is, however, worth while to mark particularly the variations in the rate of expansion of this flow as it keeps pace with the growth in population and in wealth. More significant still is the apportionment of this flow of funds by the legislatures for different public purposes as they directed the diversion of it from the whole volume of social income. It is, for instance, a matter of much moment, whether these funds as they pass from the treasury is used in growing proportions for the mere protection of person and property through appropriations for the militia, the courts and the policing officials, or whether they are applied rather in more rapidly increasing sums to provide conditions under which the production of wealth will be facilitated. Most promising of all for the future welfare of a people if the expansion of well-applied expenditures is greatest for public service affecting the conditions of life and enlightenment. The tendencies exhibited by the items of a significant classification of a state's expenditures answer queries like these concerning the rise or decline of a people. It is, of course, not so much what a people spend as the efficiency they develop in their public service that counts. There is hardly a limit to the amount that may be judiciously applied by a community in public expenditures if efficiency in using them increases correspondingly. The really vital question about public expenditures centers on the returns they yield the people. Improvement in the efficiency of its public agencies a people must have in this age of growing interdependence or that people is doomed.

The growth, the direction that this growth takes, and the efficiency of the public expenditures are among the leading matters to be inquired into in an examination of the treasury records of a state.

CHAPTER TWO.

THE GROWTH OF PUBLIC EXPENDITURES IN OREGON.

Expenditures and Population.—The variations in per capita cost to the people of Oregon through the past half-century of their state government is a matter of some significance. In comparing the growth of public expenditures with the growth of population caution is needed against taking the numbers secured for per capita expenses through the successive decades as by themselves measuring the burden of the support of the state organization. If, for instance, it were found that five dollars of the average individual's income were taken by the state now, though only one-half that sum had sufficed for the state's share in the earlier decades, the conclusion should not be drawn that the cost of the support of the same public service is twice now what it had been. Universally is it true that public agencies are doing more for the citizen now than formerly. It should be noted in this connection that public business is normally one of decreasing cost. As the numbers of a people increase, the per capita cost of their public service should decrease. The reluctance of the Oregon people during the fifties to assume the support of a state organization was based upon sound views of the cost of public service: it showed clear recognition of this principle. But not even the strongly individualistic early Oregon was to realize an actual diminishing cost per capita of its state government with its increasing numbers. The scope of the state's activities widened quite regularly. More and more duties were assigned to an increasing number of state officials. A rising rate of per capita state expenditures was inevitable. As elsewhere, the stream of wealth diverted to the state treasury in Oregon has been growing more rapidly than has the number of its people. Other evidence, however, than this fact will be required if judgment is to be passed upon the economy and efficiency of Oregon's state government. The individual's increased power of production in the Oregon of today compared with that of the sixties and the higher standard of

living would, other things equal, justify a measure of increased per capita cost.

The treasury statistics of public expenditures in Oregon show the following averages of per capita cost during the first four decades and the first six years of the last decade:¹

'60-'70	'70-'80	'80-'90	'90-'00	'00-'06
\$1.63	\$2.52	\$2.32	\$2.57	\$2.92

Expenditures and Wealth.—Comparisons similar to the above, in which statistics of population and state expenditures are used, may be made by taking the property valuations and the public expenditures. Since throughout nearly the whole period of statehood the almost exclusive source of state revenues was the general property tax, the state levies from year to year indicate how the state's needs grew in comparison to the growth of wealth.

These tax levies for state purposes were as follows:

Year.	Mills.	Year.	Mills.	Year.	Mills.
1858....1		1875....5 1/2		1892....5	
1859....2		1876....5 1/2		1893....7	
1860....2		1877....7		1894....4 3/10	
1861....2		1878....7		1895....3	
1862....2		1879....7		1896....4 3/10	
1863....3		1880....7		1897....4	
1864....3		1881....5 1/2		1898....3 1/2	
1865....5 1/2		1882....5 1/2		1899....5 7/10	
1866....5 1/2		1883....5 6/10		1900....6 3/10	
1867....5 1/2		1884....4 6/10		1901....5 7/10	
1868....5 1/2		1885....3 7/10		1902....6 51/100	
1869....5 1/2		1886....3 1/10		1903....5 13/100	
1870....5 1/2		1887....2 1/20		1904....7 6/100	
1871....5 1/2		1888....5 1/5		1905....5 45/100	
1872....5 1/2		1889....4		1906....2 21/1000	
1873....5 1/2		1890....6		1907....2 4/10	
1874....5 1/2		1891....4 12/35			

¹In securing these per capita averages of state expenditures the annual distribution of the income from the different trust funds was not taken into account. These annual distributions, beginning with the first in 1872, have grown from about \$40,000 to more than \$250,000. Included with the expenditures from the other sources the per capita expenditure series would then show a slightly accentuated tendency to increase.

A uniform rate of taxation from year to year indicates of course the expenditures are just keeping abreast of the state's development; a small levy means that the state's wealth is gaining on the cost of government, and a high rate the converse.

This table of the state levies has damaging limitations as an index of the relation between the growth of public expenditures and of wealth in Oregon,—and I shall proceed immediately to point out these limitations,—still it should suffice to give something of a line on this relation in a state making little use of public credit and confining itself, too, almost to the present time, to a general property tax for state revenues. The conditions preventing its being a true index are the following:

1. The levies did not yield revenues regularly covering the expenditures from year to year. During the first half of the seventies, for instance, a comparatively large volume of floating indebtedness was accumulated.

2. Under-assessment, though continuous, was yet varied as to the degrees to which it was carried at different times; thus the total valuation of the state in 1893 was about \$168,000,000; in 1900 it was only \$118,000,000; the material progress of the state in the interim had been slow yet substantial.

3. Sources of revenue supplementing the general property tax have been brought into requisition, especially in recent years. The light that this table of state levies is fitted to give on the course commonwealth life in Oregon will be best available after we have before us some idea of the extension of the state's public activities and the use it has made of its credit.

Expansion of State Activities in Oregon.—The statistics given relating to the average per capita expenditures of the state government in Oregon, and those of the number of mills on a dollar levied from year to year for state purposes on a valuation not amounting to more than from one-third to one-half of actual values,—with exemptions for indebtedness allowed most of the time,—these give striking proof that the

state government activities in Oregon have been kept within a most restricted range.¹ This stinting of the state government in Oregon, or,—viewing it from a different standpoint,—this failure of the people of Oregon to make the most of their state organization as a means of co-operation in promoting their common welfare, can be accounted for as the result of the combined influence of several conditions that obtained here-to a peculiar degree.

The Oregon community was a frontier community to a degree, and for a length of time, nowhere else paralleled in this country. Such a community cannot from the nature of things get much out of its state organization—except to use it as an agency directing the common defence. The frontier communities of the Middle West, it is true, did attempt great things with their state organizations, but Oregon became a state just in time to profit by their sad experiences and did take full warning.

In determining the boundaries of the different states of the Pacific Northwest the suggestions of the natural features of the region were defied. Unity of geographical conditions was ignored. The penalty is of course paid in the absence of unanimity and in the lack of vigorous and efficient commonwealth life. Outlying sections of the different states that were unnaturally joined to the main portions take little interest in the main lines of state policy and are almost constantly entertaining projects for a revision of the boundaries.

Physical features in this region are prevailingly of a titanic mold and communities with limited resources are daunted and great undertakings for the common welfare are well-nigh out of the question. Projects rather of the nature of avoiding than of overcoming the obstructions to navigation of the Willamette at its falls and of the Columbia at the cascades, and

¹The assessed valuations and the estimates of the Federal census of the wealth of Oregon for the different decades are as follows:

	1860.	1870.	1880.	1890.	1900.
State	\$19,024,915	\$31,798,510	\$ 52,522,084	\$114,077,788	\$117,804,874
National	28,930,637	51,558,932	126,000,000	590,396,194	632,879,729

the dangers at the mouth of the Columbia, were tackled in a way by the state.

The habit of a people whose progenitors for several generations back had largely participated in the van of the westward movement accorded with a let-alone policy by the state. There were no men of the Alexander Hamilton type in the state constitutional convention, though there were some able exponents of the ideas of Jefferson.

These conditions inherent in the people and in the environment discouraged any vision of possible achievement through commonwealth effort. The ultra-individualistic tendencies were at their climax when the state constitution was formed. It took the hue of the times. Its provisions of severe restriction of state action have been the molds determining the cast of state policies. The constitution has been retained unchanged in these features through half a century.

The following restrictive provisions are characteristic:

"The legislative assembly shall not loan the credit of the state, nor in any manner create any debts or liabilities, which shall singly or in the aggregate with previous debts or liabilities exceed the sum of fifty thousand dollars, except in case of war, or to repel invasion, or suppress insurrection . . ."¹

(There is a similar county limit of five thousand dollars.)

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

"Provided, That no part of the university funds, or of the interest arising therefrom, shall be expended until the period of ten years from the adoption of this constitution, unless the same shall be otherwise disposed of by the consent of congress for common school purposes."³

Such strait-jacket features in a constitution were no doubt salutary so long as the people were closely limited in economic resources, in purposes cherished as a commonwealth

¹Article XI, Section 7.

²Article XIV, Section 2.

³Article VIII, Section 5.

and in the administrative efficiency they could command. But the status fixed by such constitutional restrictions is, nevertheless, primitive and hidebound. The natural effect of the retention of the letter of a constitution which changing conditions was rendering archaic was bad. It forestalled an open rational policy of public improvement. It did not bring into play the test of public utility upon schemes to get money from the state treasury, but, on the contrary, gave advantage to the methods of the log-roller. Surreption has won all too frequently. This has meant spasmodic policies which are wasteful to the last degree. For instance, four state normal schools were brought into existence, not in the development of a consciously espoused and avowed state policy, but because one locality after another was able through its delegation at the legislature, using approved methods of combination in securing votes, to get recognition and then an appropriation for a local institution for a series of years, support not only for maintenance but also for buildings. But when the temper of the legislature changed there was trouble, with the upshot that all were left without support and closed. Similar policies have been pursued with roads and canals, fraught with waste and injustice.

The constitution, however rigidly restrictive, would admit of some expansion of state activities, and the evolving social conditions and special resources to be developed would determine the duties that a progressive state must assume. The aid of higher education was imposed upon the state, as it were, through national grants of land to aid in the establishment of a state university and an agricultural college. The prevailing sentiment with regard to the support of a state university from the proceeds of taxation is indicated in the suggestion in the constitution of a desire to have the university land funds diverted to aid of the common schools. A more positive provision to this effect would have been inserted had there been any hope that Congress would accede to such a step. The location of the institution, instead of being determined by any clear and definite purposes affecting the interests of the state

as a whole, was decided by the bid of the community that showed highest appreciation of the advantage of being the home of the institution. Appropriation of state funds for the support of the institution were at first justified on the score that they were reimbursements for losses suffered from the land fund of the university due to careless administration by the state. As recently as the nineties a governor who was re-elected reiterated arguments in his messages for withholding state support from the university and the state agricultural college. In a somewhat similar grudging spirit did the state come to assume its normal attitude of responsibility for the dependent and unfortunate classes. Its more recent biennial budgets show now that it has fully committed itself in all these directions.

Almost equally hesitating was the public opinion of the state in its recognition of the function of the state government to secure conditions of justice and equity through the regulation of the power of monopolies and through the keeping up of the plane of competition. A railroad commission and a bureau of factory inspection are, however, now supported in good working order.

The more tangible interests of the people have been more sedulously fostered. A consistently liberal policy has been displayed towards agencies promoting improvement of the basic industry, agriculture. Fish and game, subject to common exploitation, are cared for. The social and business advantages that accrue from a growing population, and from a larger utilization of now vast idle resources, have been anticipated and comparatively large outlays of state funds have been made to advertise these resources to the world with the view of increasing immigration.

A table of classified expenditures of the state government exhibiting more in detail the course of development of this side of the state's budgets will be found in the appendix to this sketch. From it the comparative costs of the different lines of the state service as they have expanded can be readily ascertained.

Salaries, Fees and Perquisites of State Officials.—Oregon's state government has been one virtually limited to the functions of securing law and order. With a government of this type the degree of economy actually realized is largely determined in the salaries and other emoluments received by the different state officials.

The elements of the situation that has existed here almost from the beginning of the period of statehood in regard to this matter affords a unique side-light on the ways of the Oregon people. What with the language of the constitution specifically fixing the salaries, with the repeated efforts of the legislature to get the people to ratify amendments increasing, or opening the way to increase, these salaries; their refusal, and then the realization through legislative enactment, first in one form, then in another, of what the people had denied—could anything be more anomalous than all this? It proves clearly enough that the Oregon voter is obdurately parsimonious and that he is hugging the delusion that with his rigidly fixed and meagre constitutional salaries he is securing economic state service. Not unlike the fabled ostrich is he, believing itself protected with its head alone buried in the sand. The legislature first submitted an amendment in 1864 to grant the legislative assembly power to "at any time alter or modify the salaries of any officers provided for in the constitution . . ."¹ This was defeated at the polls. Again in 1872 an attempt was made by the legislature to bring about a change in the constitution. This time it took the form of specifically naming the higher salaries to take the place of the sums fixed by the original document.² This again failed. Once more in 1887 the legislature tried to have the constitution changed; this time, as in 1864, the aim was to have the legislative assembly empowered to fix these salaries.³ But the people were obdurate. During all this time, however, the state officials were receiving compensation in excess of their constitutional salaries. Per-

¹Memorials and Resolutions, 1864, p. 15.

²Laws of Oregon, 1872, p. 217.

³Laws of Oregon, 1887, p. 353.

quisites for specific duties assigned as the state institutions were developed, pay for serving on commissions created and fees for performing acts authorized by law—compensation of the several forms, frequently a number of sources in each form, aggregated a liberal and, for some officers, extravagant allowances. In addition to these different forms of emoluments there were frequently additional sums available for traveling expenses and the habit was not lacking of using passes though charging up the regular fares to the state. During this era of perquisites and fees from 1863 to 1907 the language of the constitution remained as follows: "They shall receive no fees or perquisites whatever for the performance of any duties connected with their respective offices. . . . " Their plea in exoneration was that the added pay was for extra duties imposed. Furthermore, although the constitution placed the annual salary of the governor and the secretary each at fifteen hundred dollars and that of the treasurer at eight hundred, it did not append the words "and no more" as with the "three dollars per diem" of the members of the legislature and therefore the sums named in the constitution it was held were intended as the minimum salaries. This latter argument receives some weight from the record of the proceedings of the constitutional convention.

The system of perquisites was inaugurated in 1862 through the appointment of the governor as superintendent of the penitentiary with the duty of examining "into the general affairs of the penitentiary at least once in every three months." His expenses in visiting the institution and "a salary of four hundred dollars per annum" were allowed him. In 1870 the opportunity was seized to develop a full-fledged fee system for the secretary of state and the treasurer in connection with the creation of a system of taxation and supervision of foreign insurance, express and brokerage companies.¹

¹The incipient beginning was in 1864 with the allowance of a \$2.00 fee for recording a trade-mark by the Secretary of State.

Abstracts of the features of the systems of perquisites attached to each office for extra duties assigned are given below:

PERQUISITES OF STATE OFFICIALS.

Governor.

The office of governor, to which a constitutional salary of \$1,500 has attached from the beginning, was granted perquisites as follows:

\$400 as superintendent of the penitentiary, 1862-1864.

\$200 as prison inspector, 1864-1876; the governor was relieved from the duties of the superintendency of the penitentiary in 1864, but retained the position of prison inspector.

\$300 as prison inspector, 1876-1878. (The extra \$100 of this biennium was for expenses.)

\$200 regular flat allowance as prison inspector from 1878 on until 1907.

Additional perquisites were granted and continued as follows:

\$100 as member of board of trustees of state insane asylum, 1882; increased in 1895.

\$250 as member of the Oregon Domestic Animal Commission, from 1889 on.

\$250 as trustee of Reform School, 1893.

\$250 as trustee of Deaf Mute School, 1893.

\$500 as member of Board of Public Works, 1893; increased in 1895.

\$400 additional appropriation for salary as asylum trustee.

\$500 additional appropriation for salary as member of Board of Public Works, 1895.

In addition to the above the governor quite regularly received traveling expenses when on state business. He received no fees.

A flat salary law was passed in 1905, to go into effect January 1st, 1907, making the salary of the governor \$5,000.

Secretary of State.

The office of secretary of state, to which a constitutional salary of \$1,500 has attached from the beginning, was granted continuing perquisites as follows:

\$100 as trustee of the insane asylum, 1882.

\$250 as member of the Oregon Domestic Animal Commission, 1889.

\$250 as trustee of Reform School, 1893.

\$250 as trustee of Deaf Mute School, 1893.

\$500 as member of Board of Public Works, 1893.

In addition to the above perquisites the secretary of state was allowed to retain some very lucrative fees which are explained below. Provision was quite regularly made for his expenses while engaged with any of his public duties. The flat salary law of 1905 fixed his compensation at \$4,500.

State Treasurer.

The office of state treasurer, to which a constitutional salary of \$800 has attached from the beginning, was granted continuing perquisites as follows:

\$100 as trustee of the insane asylum, 1882.

\$250 as member of the Oregon Domestic Animal Commission, 1889.

\$500 as member of the Oregon Board of Public Works, 1893.

In addition to the above perquisites the treasurer received certain fees and retained the interest that he might make the funds in the treasury earn for him through depositing them with banks. The flat salary law of 1905 fixed his compensation at \$4,500, and he is compelled to turn interest received into state treasury.

Justices of the Supreme Court.

The provisions of the constitution pertaining to the salary of the justices of the supreme court has remained unchanged and is as follows:

"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."

In 1872, however, it was provided "That there be and hereby is allowed to each of the Justices of the Supreme Court doing Circuit Court duty, the sum of one thousand dollars per annum, to defray the traveling and other incidental expenses to which said Justices may be subjected in the execution of their official duties."

In 1878 when relieved of the work of circuit judges their salaries were again fixed at \$2,000. In 1889, however, an increase of \$1,500 was again provided for in their salaries. The reasons assigned at this time were the additional expenses that would be incurred in holding a term of court away from capital required now for the first time, and the expenses involved in preparing duplicates of opinions, a syllabus of points in each decision, indexes, etc., etc. In 1903 the compensation for these additional expenses and services was raised to \$2,500. Their salary thus stands at \$4,500, notwithstanding the language of the constitution given above.

The fees that went into the pockets of the secretary of state and the state treasurer were much more lucrative than their perquisites for extra duties. As samples of the earlier fees received by the secretary of state we have the following: \$25 for recording and issuing certificates of deposits required of foreign insurance companies with the state treasurer; \$10 for issuing license to life insurance agents; 5% commission on all sales of stamps required to be affixed to insurance policies; in 1887 40% of the annual license of \$100 required of all life and accident insurance companies. Then there were the fees for issuing commissions to notaries public; fees for recording and filing articles of incorporation; profits on the transcribing of the session laws and the journals. This list is not complete, but will suffice to indicate the character of this source of the secretary's income. Recently suits were instituted to compel those who had filled this office since 1895 to disgorge. Judgment was secured in a state circuit court for over \$100,000 against the incumbent from 1899 to 1907. The state supreme court reversed the decision of the lower court. The higher

court did not in its opinion pass upon the question as to whether the constitution prohibits state officers from receiving fees in addition to their constitutional salaries. It disposed of the question at issue as follows: "Assuming without deciding, that the compensation is fees and perquisites and within the inhibition of the constitution, then the acts authorizing them are clearly void, to that extent, and cannot be construed as authorizing the collection of them for the use and benefit of the state." It seems strange that with a people so boastful of their political efficiency a court should content itself with a judgment so negative and incomplete or that it should be allowed to do so. It did hold that the compensation authorized by the legislature for transcribing the laws and journals was lawful, for it was not compensation for personal services but was pay for the expense of having such records transcribed. Again, one must ask why was the court so silent concerning the profits pocketed by the secretary in connection with this duty assigned him?

The state treasurer, too, was not forgotten when the fee system was established in 1870. He was allowed one-eighth of one per cent on all amounts required to be deposited with him in connection with the sureties required of foreign corporations. From 1870 to 1874 he was allowed one-half of one per cent of all moneys received by him as state treasurer towards compensation for an "assistant treasurer." Of course arrangements were made to secure an equitable division between the treasurer and his "assistant" of the sum thus secured, as the treasurer had the naming of the assistant. The main source of the income of the state treasurer, however, arose from the fact that he had charge of the state's funds and did not until 1907 have to account for any interest he might receive from the banks with which balances were deposited. It is well authenticated that the candidates of the majority party before a recent election each spent from \$20,000 to \$23,000 in his campaign.

The flat salary law that went into effect in 1907 provides very liberal salaries for all these officials and turns the fees they collect into the state treasury. But the language of the constitution fixing the salaries which former legislatures tried repeatedly to have changed still remains. There is surely virtue in an open and candid facing and acknowledging of conditions as they are. It cannot but be demoralizing for the youth of the state to be perpetually confronted with the spectacle in which the highest officials of the state in order to draw salaries at all commensurate with the value of their services must and do wink at the plain, evident meaning of the state constitution.

In connection with the income that has attached to the office of state printer there is a situation quite distinct. The state printer's office is like those that have been noticed in being provided for in the constitution, but different in that his compensation is left to be determined through the rates established by the legislature for the state printing. So his income, however inordinate, does not involve a gross violation of the plain meaning of the language of the constitution.

The schedule of rates allowed by the legislature have been such that the incomes of the state printers during the last two or three decades have been of prodigious proportions. It is the general consensus that \$15,000 a year at least have been their average profits. The failure of the people to get economic public service of this class has been due mainly to lack of effective publicity. Neither the private citizen nor the average legislator has had data available from which to determine how princely the proportions of the state printer's income. No doubt the methods of machine politics have, when necessary, been used to balk efforts of legislative reform of this official's compensation.

Despite the intent so strongly emphasized in the discussions of the constitutional convention on the matter of salaries, and so clearly exhibited in the constitution that was retained intact for half a century, the people of Oregon have paid dearly for

their public service. This experience is only one of many untoward and inevitable results of a distorted and perverted view of what a people have at stake in their state government. Instead of looking upon the state organization as embodying opportunity and a precious heritage of common resources, it was regarded as an incubus to be shackled and repressed. State activities were viewed as involving consumption of resources with little if any redeeming outcome of production of either service or commodity. Public offices were but prizes in the game of politics, won by the few, the party leaders. These prizes the people had gotten into the ineradicable habit of putting up.

With such a view of the essential character of the whole state establishment the sole achievement through which credit and acclaim might be won would be that of retrenchment. When a thing is regarded exclusively as a drain or outlay the effecting of any diminution of that outlay is the highest service. The state officials responded to this prevailing idea. Their only boasts were those of economy. This single criterion of merit is reiterated in all the state reports. This view of their state government, and the consequent attitude of the people, bore in themselves the causes of their own re-enforcement. The people could not help being sensible of what the government took from them for expenditures. This was obtrusive and tangible. The service secured in return, limited quite closely to the securing of law and order in a naturally law-abiding community, was not only intangible but also almost imperceptible. Receiving from this attitude of the people none of the higher rewards of public service, ardor and zeal in that service could not exist. The generous-minded and the competent were repelled from that service. It was mainly coveted by the shrewd, the designing and commercially minded. Constructive and conserving achievement failed to be realized. Intrigue and combination reigned and the mercenary motive was dominant. Ways of legitimatizing the appropriation to themselves of a goodly share of the public funds passing

through their hands are contrived by those who under these conditions aspired to public positions. All this financial experience of the people of Oregon with regard to the compensation of the officials came about through the inadequate appreciation by the people of the means at hand in their state organization of promoting their common welfare.

DOCUMENTS

LETTER AND CIRCULAR OF INFORMATION FOR PROSPECTIVE EMIGRANTS TO OREGON.

The following letter was written to Col. William M. King, who, in 1847, was a resident of one of the interior counties of New York. Col. King came to Oregon in 1848, arriving at Portland late that fall. Being a lawyer by profession, he soon became a prominent character in the early annals of Portland. In addition to his law business he engaged in general merchandising, and had as a partner a man named Mr. Kittredge. The circular referred to in the letter follows:

Independence, Missouri, March 2d, 1847.

Sir:—

Your letter of the 12th inst. was recd. by last mail. I send you the within circular, which has been prepared with some care and from which you can gain most of the information which you desire.

I will, however, add that mules and oxen are much better adapted to crossing the plains than horses, as they have to subsist entirely on grass. Mules, from present appearances, will be worth \$40 to \$50 each and oxen from \$30 to \$40 per yoke. Flour will be \$2.25 to \$2.50 per bbl. Corn meal 25 cents per bushel; Bacon about 6 cts. per lb. Sugar & coffee each 10 cts. to 12 cts. per lb. You can purchase wagons here suitable for the expedition at from \$80 to \$90 each. You should try and be here by the first of May so as to be certain to be ready by the time the grass gets up. I have no doubt but that there will be a very large emigration leaving here for Oregon this spring. There are a number already here.

I am, Dear Sir,

Your obedient servant,

To.

GEO. W. BUCHANAN, P. M.

Wm. M. King, Esq.,

OREGON AND CALIFORNIA.

For the Western Expositor.

Mr. Editor: Knowing the interest which you take in common with other citizens in facilitating the progress of emigrants to Oregon and California, I feel assured that you will devote a column of your paper to giving publicity to such information as I may be able to communicate, for the benefit of those desirous of emigrating to the shores of the Pacific.

Twelve months since it devolved upon me to answer the vast number of communications from persons in every State in the Union, who addressed the post-master at this place making enquiries on the subject of emigration to Oregon and California, at which time I took pains to glean from every reliable source information on that subject, and I find of late, much additional evidence to confirm me in the belief that the knowledge, which I then imparted to emigrants, was correct.

I then recommended emigration to those countries as promising a rich reward to the pioneer, and much more readily can I now do so, since the difficulty then existing between this government and Great Britain in regard to the boundary of Oregon is settled, and the laws of the United States are extended over that territory. Late accounts inform us that the forest is giving way to extensive fields, the country is already dotted over with flourishing towns and villages, the immense water power of the Columbia and her tributaries supersede the necessity of steam, and the country can now boast of some of the best merchant mills, her commerce is in the most flourishing condition and the country in its vast extent of territory embracing almost every variety of soil and climate, has already assumed an importance among the nations of the earth.

Look too, at California, and see the change a year has wrought in her destiny. There roamed the wild Mexican, as wild and untutored as the mustang he bestrides, governed by

no law save that of tyranny, upon the principle that "*might makes right*," he too has changed to the respectable and industrious "*ranchero*," and as he looks upon the Stars and Stripes that flutter in the breeze, toils on in the full assurance of protection from the new government, the laws of the United States have there taken the place of the despotic edicts of tyrannical governors, the right of trial by jury is extended to all, the American flag by Com. Stockton and Capt. Fremont, has been placed upon every town in both California, and where—? let me ask has our banner ever been planted, that the march of civilization did not speedily follow. That the country on the other side of the Rocky mountains and the great valley of the Mississippi will ere long be connected by rail-road is not the wandering of a chimerical brain, but will as certainly be accomplished as we remain a free and united republic. Let the skeptic go back to the landing of the Pilgrims on Plymouth Rock, suppose a panoramic view of the vast wilderness on this side the Alleghany mountains were then presented to them, how many would have been found among them who would have believed that such a change could take place. There is almost nothing too great for American industry to achieve, her energies never sleep, and each succeeding anniversary develops something new in literature, the arts and sciences.

"No pent up Utica contracts our powers," but the march of improvement is onward and will never cease until the shores of the Pacific and Atlantic are united by rail-road, and that which is now a wilderness and occupied by the savage, will be made to flourish and blossom like the rose.

For the benefit of those wishing to emigrate, I will give some information which may be valuable to them in making preparation for their journey across the mountains. The emigrating company that will start from Independence the coming spring, from present appearances, will be large, and all persons should endeavor to rendezvous at this place or vicinity at least by the first of May next, in order to form a thorough organization and start by the tenth, or at least fifteenth of that month.

Wagons should be light but strongly made and drawn by two or more yoke of oxen or by four mules; cows are just as good to work and are worth four times the amount in Oregon that they are here. 2,000 lbs. should be a full load for a wagon, no furniture whatever should be taken, blankets and quilts should supply the place a feather beds, and tin ware that of crockery, a good part of the provision stores should be flour and pilot bread, at least 150 lbs. bacon, the same of flour—20 lbs. salt, 40 lbs. sugar and 20 lb. coffee to each person, but it is well for every one to take a large supply of both sugar and coffee, as much more will be used on the prairie than here, and any overplus can be disposed of at an excellent price at the different trading posts which will be passed on the route.

Strong and durable clothing should be provided, and some tools, such as axes, saws, augers, spades, hoes, &c., as well as a few ploughs.

For further information of the emigrants and to save them the expense of high freight on the Missouri in the spring, I will connect with this letter a synopsis of the resources of our town and surrounding country, giving a correct list of the number of mercantile houses, the mechanic shops and other business houses, in our town as well as the state of agriculture in Jackson county,—to commence.— We have in the town of Independence

18 Dry Goods	establishments
9 Family Grocery and provision	"
3 Confectioners and Bakers	"
3 Clothing store	"
2 Tin and sheet iron	"
2 Watch, Clock and Jewelry stores,	
1 Boot and shoe	"
3 Drug	"
3 Harness and Saddler	shops
5 Boot and Shoe-maker	"
5 Tailoring	"
2 Gun-smith	"

- | | |
|--|-------|
| 1 Hatter | Shops |
| 2 Ox Yoke Maker | " |
| 3 Extensive livery stables, | |
| 2 Hotels, the most extensive this side of St. Louis, | |

47 Blacksmith forges, with between some four and five hundred hands employed, directly and indirectly in the manufacture of wagons. I give merely the establishments in which the emigrants will feel interested.

In the neighborhood of the town are four good steam mills doing an extensive business. Provision of every kind is low here owing to the large crop of last year.

Wagons, mules, oxen, provisions, and all necessary outfit for emigrants can be obtained here at much less price than elsewhere when you add cost and carriage. I am enabled to state candidly the facts from the information gathered of different emigrants in the last four years who had made their purchases before arriving at this point.

This is the great starting point for all the westward bound, whether their destination be Santa Fe, Chihuahua, the Rocky Mountains, Oregon or California, and may justly be termed the "Great Emporium" of the West. Our farmers, merchants and mechanics are industrious in their zeal to vie with each other in furnishing at the lowest rate the best articles wanted by the emigrant or trader, and although like all other communities there are some who are guilty of dereliction from the path of rectitude, yet our community will compare with any in point of morals and probity.

I see that you have given notice through your paper that an Oregon meeting will be held here on the first Monday in March next. I know it would be useless to recommend that meeting to pass a resolution that all emigrants while they sojourned with us should be treated kindly; for the hospitality of our citizens is proverbial, but I would suggest that suitable persons be appointed to await upon all emigrants and give them information as to outfit even in the minutest particular before they launch out on the broad road to the Pacific.

The unthinking mind may value too lightly the emigrant to west of the Rocky mountains, but like the pioneers in the Mississippi valley, they are laying up for their posterity a treasure and a name engraven upon the everlasting tablets of their country's recollection. Even upon the top of the highest mountains of Switzerland the proud bard of England sung of the immortality of "Gen. Boon, backwoodsman of Kentucky," and other generations are destined to read to some mighty Daniel in the farthest west that which will add to the galaxy of heroes already departed.

Independence, Mo., February 15, 1847.

APPOINTMENT OF DR. MARCUS WHITMAN AS GUARDIAN OF
THE SAGER CHILDREN.

(While examining the earliest probate records of Clackamas county, Oregon, recently, I found the following relating to the appointment of Dr. Marcus Whitman as guardian of the Sager children, the parents of whom died on the plains in the summer of 1844, while on the way to Oregon. Capt. William Shaw and his wife, notwithstanding they had a large family of their own, took charge of the seven orphan children, and provided for them as best they could until the Whitman Station, near Walla Walla, Washington, was reached, and placed them in the care of Dr. Whitman and wife, who took care of them until the fearful massacre of November 29-30, 1847, occurred. Then Dr. and Mrs. Whitman and twelve others were killed and fifty-three women and children taken prisoners, from which condition they were rescued through the instrumentality of Peter Skene Ogden, the head of the Hudson's Bay Company at Fort Vancouver.—George H. Himes, Assistant Secretary, Oregon Historical Society.)

Klackamas District,

3d June, 1845. J. W. Nesmith, Judge.

Now on this day came Marcus Whitman, of this district, and represents as follows: That Henry Sager, late of the State of

Missouri, died, as it is said, on or about the 30th day of August, 1844, while on his journey immigrating to Oregon, and that one William Shaw did then take possession and charge of the goods, chattels and effects of the said Henry Sager, deceased, and also took charge of the children of Henry Sager, which were as follows: John C. Sager, Francisca Sager, Catherine Sager, Elizabeth M. Sager, and Matilda Jane Sager, and Hannah L. Sager, and Henrietta Sager, all, as it is said, under the age of fourteen years, and furthermore, that the said William Shaw did, on the 6th day of November, 1844, deliver up to Marcus Whitman at his station, all the goods, chattels and effects belonging to the estate of the aforementioned Henry Sager, deceased, together with the aforesaid children, all to remain with said Marcus Whitman until further arrangements could be made.

And now the said Marcus Whitman requests that a guardian may be appointed to said orphan children by the court, and also that measures may be taken to secure the estate of Henry Sager, deceased, for the use and benefit of his heirs.

Whereupon the court appointed B. Nichols, Solomon Eades, to the said Marcus Whitman. The appraisers, after being and Edmund B. Magruder to appraise and fix the value of said estate of the said Henry Sager at the date it was delivered up sworn, returned the bill of appraisement, which amounted to the sum of \$262.50.

Whereupon the said Marcus Whitman gave bonds for double the above sum and was appointed guardian of the above named children, subject to, and accountable to, the probate judge of Oregon.

(Signed) J. W. NESMITH,
Probate Judge of Oregon.

The above is a true copy of the records in my office, this 8th day of September, 1845.

J. E. LONG,
Secretary.

NOTES

At the September meeting of the Board of Directors of the Society action was taken to secure a fitting expression at the annual meeting of the members on the services of the late Harvey W. Scott to the cause of history in Oregon. Mr. Scott was the Society's first president and always manifested deepest interest in its welfare.

The matter of the commemoration of Astor's enterprise for the commercial conquest of the Pacific Northwest during the approaching centennial anniversary year was also considered at the September meeting of the Board of Directors. A committee of the Board has taken up the project with the authorities having the movement in charge at Astoria. The suggestion for having the observance of this centennial take the form of pageantry has elicited inquiries from Harvard University. Those most successful with New England celebrations of this character are interested.

The committee on a permanent home for the Society is active. It will no doubt be able to report substantial progress to the annual meeting.

THE OREGON HISTORICAL SOCIETY

ORGANIZED DECEMBER 17, 1898

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The Rise and Early History
of
Political Parties
in
Oregon

By W. C. Woodward

*A Thesis submitted for the Degree of Doctor
of Philosophy*

LELAND STANFORD, JR.

UNIVERSITY
1910

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Part I

The Period of the Provisional Government

INTRODUCTORY



Chapter I

POLITICAL BASIS AS FOUND IN SETTLEMENT

No story of the political development of a people would be complete without some notice of the basis of that development as found in the conditions of the settlement of its territory. The sources and manner of settlement, the motives prompting it, the geographical relations, the effect of frontier environment—all contribute toward expressing the character of the state builders. From Jamestown and Plymouth onward, the study of such conditions has contributed largely to an understanding of American institutions.

Particularly is such study important where distinctive elements enter into the situation as is the case in the political beginnings of Oregon.¹ Two, if not three, such elements are to be noted. First, that of geographic isolation.² The history of the westward extension of the American frontier had been that of a steady and gradual movement from the known to the relatively unknown. No advance was so decided that the new frontier was not linked to an appreciable degree with the old. A forward advance from Missouri to the Pacific wrote a new chapter in the story of American expansion. The second distinctive element, related to that of distance, is found in the fact that it was a land emigration. The early colonization of America, involving great distances, was effected by the sea voyage. An overland journey, embracing months en route over desert wastes and obstructive mountain ranges and involving dangers from hostile peoples, produces problems peculiar to itself. These two elements are geographical. The third is political. The vast country toward which the settlers were making their way was not strictly American territory. It was at the same time either American or British and was neither. By the treaty of joint occupation concluded between Great Britain and the

¹In the discussion of the political development of Oregon, it is that territory comprising the present state which is under special consideration. However, in the study of the early period, the area of the state of Washington is included up to 1853, when the latter was set off from Oregon as a separate Territory.

²J. R. Robertson, "Genesis of Political Authority in Oregon," *Quarterly of the Oregon Historical Society*, March, 1900, p. 8.

United States in 1818 and renewed in 1827, the two nations were to have equal rights of settlement in the Oregon country pending an agreement as to the ownership of the contested territory. The settlers were thus entering a partnership relation solely on the chance that they would be able to oust the other partner and secure control. Any other sequel would render their venture a failure.

What were some of the more general conditions affecting settlement? "The motives promoting it were varied, some old as the story of the race, some particular and local, but all to be taken into consideration as factors in that composite product—the future citizenship of Oregon. The one most widely applicable is doubtless to be found in the "force of the ever impelling westward movement—an inborn passion leading to new westward regions."¹ But this does not signify the pioneer to have been a mere first grade tramp—an irresponsible "wanderer in the earth." If he responded to this potent Wanderlust, he had a reason for his action. This big, all-inclusive spirit and movement which has given the distinctive character to our American civilization is certainly not based on mere whim and caprice.

Whatever else he may have been, the typical emigrant was preeminently a home seeker and a home builder; not primarily a gold seeker, an explorer, a land speculator, nor an agent of political or religious dogma. This meant the possession of moral tone and stability. It gave the new community from the first that element of permanency as a sure basis for future political action.

Various factors, more or less significant, entered into this general motif of home building. The greatest was doubtless economic. Many of the pioneers had lived in the interior, west of the Mississippi river, with few or no transportation facilities for taking their products to a market. They had thus borne the brunt of the hard times of the late thirties and were pre-

¹G. H. Atkinson, Address before the Oregon Pioneer Association, 1880. J. Q. Thornton, "Oregon and California," pp. 25-27.

¹P. S. Knight, Address before Oregon Pioneer Association, 1898. Proceedings, p. 37.

pared to give ready ear to the story of a new and fertile country where open waterway transportation to the sea was ample.¹ Coupled with this was the typical western attitude of mind that in a more or less vague way placed the responsibility of their bad financial situation upon the East, resulting in their nursing a sense of injury and in their desire to place themselves beyond baleful tutelage. Land values were rising throughout the Middle West, necessitating smaller holdings. To a man of a large family for which he desired an adequate field of activity, the situation was becoming less and less desirable. The pioneer method of agriculture is extensive. There is land in plenty and to spare and it is natural to seek the greatest returns with the minimum of effort. The extent of American areas had ever fostered this attitude and it has been a decisive factor in continually pushing westward the line of frontier. The farmer's land was rising in price. Taxes were increasing. Greater effort was required for making a comfortable living. Debt followed financial stringency, with its relentless mortgage. Why not go to Oregon and begin again where free land was in prospect? The man with several sons rapidly approaching manhood wished them to have the opportunity which had been his when as a young man he had taken up land on the then frontier. This opportunity was virtually promised in the far Northwest by the enlistment of such men as Benton and Linn in the effort to give the Oregon question an American solution.² The Linn Bill with its provision granting six hundred and forty acres of land to every white male inhabitant who should cultivate the same for four years, had finally passed the Senate, February 3, 1843. It was an earnest of the future to those whose faces were set westward. The desire to "give the boys a chance," was not the least of those influences promoting settlement.³

¹Jesse Applegate, "Views of Oregon History," Ms. p. 31.

²Jesse Applegate, "Views of Oregon History," Ms. p. 32.

³"Linn's bill in Congress was the first start that set me to thinking of coming here. . . . Another inducement was to settle my family . . . a family of boys and they were getting to be men and I was not able to settle them in Missouri. Land began to get up and it was hard to get, and I thought by moving to a new country my boys could shift for themselves," Wm. Shaw, "Mississippi and Columbia River Valley Pioneer Life Compared," Ms. pp. 6, 7.

A factor at once economic, political and social is found in that institution whose influence had already become dominant in American politics—slavery. The small land holder in the Southwest felt its blighting effect. Indeed, its influence was not limited by Mason's and Dixon's Line. As a three-fold factor it touched the life of the Southerners, while it was in its political phase first, and economic second, that it gave its impress northward. To the man who hesitated to raise his family in the vitiating atmosphere of slavery; to him who chafed under the growing abasement of free labor and the iniquities incident to a social system based in servitude; to him who felt the great impending political and sectional struggle, the Oregon trail appeared as the road leading out of bondage. A concrete example is found in the expression of one of the foremost of Oregon's early settlers, Lindsey Applegate, to the effect that he came to Oregon because a pro-slavery mob, sustained by an intolerant public sentiment, drove him and his friends from the voting place in his native state in 1842.¹

To these general motives may be added others which apply in a more restricted manner. No inconsiderable number were drawn by religious zeal, quickened by the prospect of a new field of effort in the evangelization of the native races of the great Northwest. The impress of this class was marked in the new community for years. Some sought a new and wider sphere of political activity in the hope of personal advancement, where youth would not be a reproach or where a mantle of charity would be thrown over the past; where all might start anew on a common basis. There was a class of men who had preceded the bona fide settlers to the West—to the mountain districts especially. They came in quest of those fur bearing animals, the struggle to obtain which has had so great a significance in the winning of the West. Fur traders primarily, these men early became colonizers. On the other hand, following the earlier emigrant trains came the gold seekers and those drawn by opportunities offered in business and specula-

¹Col. Geo. B. Currey, Address before the Oregon Pioneer Association, 1887. Proceedings, p. 35.

tion. Finally, underlying and supporting these various motives generally, was that inborn, inbred instinct for adventure, very strong in the young and far from impotent in the older. The very element of uncertainty appealed strongly to those whose fathers, beginning at the Atlantic sea board, had pushed out into the unknown West, and step by step, had conquered their wilderness. Closely akin to this was the demand for personal freedom of action. Generations of pioneering breeds a strong individualism which chafed under conditions imposing restraint. This attitude of mind is clearly, though homely expressed in the words of the typical Westerner who said he came "because the thing wasn't fenced in and nobody dared to keep him off."¹

A general knowledge at least of the source of Oregon colonization is necessary for the understanding of the political development of the future commonwealth. It is conceded that the greatest contribution was made by the Middle West. The popular idea, however, seems to attribute too much of this to the far West and South. Geo. H. Himes, Curator of the Oregon Historical Society collections, has secured memorandum cards giving detailed information concerning over seven thousand of the early settlers, as to birth, ancestry, home, place of departure, etc. A study of this data shows that many of the emigrants who are credited to Missouri and other far western territory, were rather transient residents. Their homes were in Ohio, Indiana, Illinois, Kentucky and Tennessee. They had started on the distant journey westward, in some cases with Oregon as the goal from the start. Misfortunes or financial considerations had compelled a stop by the way, sometimes for two or three years, in which fortunes were recruited and preparations renewed for the continued journey. In other cases the final destination was not in view from the first. Bona fide settlement had been made in Iowa or Missouri from states east of the Mississippi, but in a very short time, succumbing to the Oregon fever, the new settlers were found in the emigrant trains which rendezvoused in Western Missouri. In many

¹Col. Geo. B. Currey, Address before the Oregon Pioneer Association, 1887. Proceedings, p. 35.

instances the way to the Columbia was made from some eastern state in three advances, as from New York to Illinois to Iowa; West Virginia to Ohio to Missouri; or North Carolina to Tennessee to Missouri—and thence to Oregon. The significance of these facts will be noted presently. The distinctly agricultural population of the new community was largely middle western—principally from that part of the Mississippi Valley region limited by the parallels of latitude thirty-five to forty-two. The business or mercantile element in the new population came largely from New York and New England, and by sea,¹ as did also a part of the missionary element.²

From the facts so far set forth, what can be deduced as to the general or composite character of the population which founded the distant state? First, those conditions spoken of as distinctive in its settlement are worthy of notice. The facts of geographic isolation and a land emigration may be taken together. The well-nigh appalling distance, taken into consideration with the difficulties and privations to be met over desert and mountains and the dangers from hostile Indians, "formed a selecting test of the kind of people who alone could come to Oregon."³ The timorous and the weak were in a large measure eliminated. They gave way to the aggressive, the resolute, the venturesome, the resourceful, the physically fit; to the younger and middle aged. The distance and the length of time on the road, necessitated careful preparation in securing adequate equipment. A good outfit meant an investment of several hundred dollars. This fact eliminated for the most part the indigent and extremely poor. The rich excluded themselves and as a result we have a population between the two extremes, but below rather than above the middle line—moderately well-to-do only.

¹M. P. Deady, "Oregon History," pp. 39, 40.

²Mr. Himes finds that of Oregon's pioneer population, 6 per cent. came from New England, 50 per cent. from the Middle West, 33 per cent. from South of Mason's and Dixon's Line and 11 per cent. from 22 foreign countries, the great majority of the latter from the British Isles, Canada and Germany.

³Thos. Condon, "Selection in Pioneer Settlement" in *Oregon Historical Society Quarterly* for March, 1900, pp. 60-65.

The distance from the Atlantic Coast naturally excluded the undesirable, floating element of foreign immigration which has readier access to the East. Of the pioneer foreign born population of Oregon, which for the most part was of a desirable nature, less than twenty-five per cent. came directly. This means that it had already become largely, if not wholly, Americanized.

The element of uncertainty as to the ultimate ownership of Oregon served to deter the conservative and incite the politically resolute. With personal interest was merged in different degrees an inherited spirit of active and aggressive patriotism which was eager to enter upon the conquest of new empire, particularly when the loser would be Great Britain. The element of risk and venture, allied with the national instinct, fostered by the treaty of joint occupation of the Oregon Territory between Great Britain and the United States, acted as an incentive to the aggressive western American.

In the various motives influencing settlement, heretofore recounted, may be found in large terms, the character of the colonizers. The home builder, with a high, serious purpose in view, acted with a sense of sober responsibility. He was not erratic and vacillating. The desire to escape the moral and political evils of slavery likewise added to the moral tone of the new community. The religious element of the population, with the missionaries as a nucleus, exerted a striking formative influence in the development of the country. With the discovery of gold and the advent of a different type of men, the result was temporarily to lower this high standard. Above all, independence and freedom of individual action, characterized the Oregon pioneer. He was typically a western man and the heir of several generations of pioneers through which individualism had been steadily developed. This fact stands out prominently from the very first, when the emigrant train organized and chose officers for the journey. Lieutenant Wm. Peel of the British Navy, who was in Oregon in 1845, impressed by this characteristic of the American colonists, remarked to

Jesse Applegate that they would make the best soldiers in the world. The latter, one of the leaders of the emigrant train of 1843, replied that "they were probably brave enough, but would never submit to discipline as soldiers. If the President himself had started across the Plains to command a company, the first time he would choose a bad camp or in any way offend them, they would turn him out and elect someone among themselves who would suit them better."¹ The Westernism of the settlers was especially manifest in the political direction. The West had but recently come into its own as a power in national politics in the elevation of its popular hero Jackson to the executive chair. The first flush from the realization of that power had not passed. Every settler was a politician, and not in the mere sense of the word as used today when preceded by the word "practical." One fact which continually impresses one in studying this early period is the ease, fluency and precision with which the average man could discuss the political issues of the time in their various phases. They were the embodiment of Aristotle's dictum that man is a political animal.

The statement has been given that settlement was made not as largely from the extreme western frontier as has generally been presumed. This has political significance in the fact that the extreme individualistic tendencies of the nomadic, less responsible frontiersman, whose political theory if formulated, would have been to the effect that that government is best which governs least, was balanced by those who had become accustomed to stable political institutions and who had learned to value the same as the requisite of an endurable state of society.

In a few words then, the Oregon settlers as a class, were plain, respectable, common people, in moderate circumstances, many of whom were fairly well educated but few of whom could be called cultivated.² They were independent, resolute, aggressive, national, with a natural gift for politics. They were scrupulously honest, fairly progressive, not usually given

¹Applegate, "Views of Oregon History," Ms. pp. 14, 15.

²Deady, "Oregon History," Ms. p. 71.

to overwork.¹ They were probably not more patriotic, less selfish or more heroic than the average American, but they were characterized by those qualities which the exigencies of the situation called forth and which adapted them for the work of state-making under the peculiar conditions which were to confront them in the Pacific Northwest.

One of the first results of the appearance of the vanguard of American independent colonization in Oregon was a sudden reversal of its policy of occupation on the part of the Hudson's Bay Company. To the English Company Oregon was nothing but a fur bearing district. Settlement was discouraged. Discharged employees were transported out of the country. Oregon must be preserved in its primeval state. But with the Americans in the field it was different. The Puget Sound Agricultural Company was organized in 1837, as rather an adjunct to the old organization, its purpose being to colonize the territory with British subjects. But English colonization of Oregon was difficult. Not until 1841 did an emigration arrive from the British Red river settlement of the North and the failure of its attempt at settlement north of the Columbia discouraged future attempts in this direction. They had waited too long.² The Americans had found the way, had conquered its obstacles and were arriving in numbers as convincing as disheartening to the British officials.

The two systems of industry were now in open competition, the fur trade versus agriculture, typifying the struggle for possession between the two nationalities which they represented. There could be little question as to the result. It has always been the same. With the arrival of the farmer the fur trader soon disappears. As opposed to the industry which had marked English dominance, agriculture meant settlement, development and Americanization. And as surely as it displaced the former, so surely did American interests supplant those of the British. There was a question as to which nation had priority rights by discovery and exploration. But there could

¹Judge Wm. Strong, "Oregon History," Ms. 19, 20.

²H. O. Lang, "History of the Willamette Valley," p. 234.

be no longer any question as to which had fulfilled the second condition for valid title, in occupation and settlement. The American settlers had won, for themselves and the United States. In the first place they were winners of empire; in the second, builders of state. "This great movement of immigrants to Oregon from 1843 to 1846, inclusive, may not even now be thoroughly understood nor explained, but it is fully appreciated. With all its dangers and hardships, with all its mystery and simplicity and its commonplaces, it stands today one of the most daring colonizing movements for, and the most remarkable, interesting and romantic story of the settlement and upbuilding of any part of the continents of the two Americas."¹

¹F. V. Holman, "Dr. John McLoughlin," p. 89.

Chapter II

AMERICAN SELF-GOVERNMENT

As the arrival of the Americans in Oregon placed two opposing systems of industry, representing opposing nationalities, in open and active competition, in the same manner were two conflicting ideals of government brought into contact. The purposes and ends of the British occupation in the Northwest called for centralized and arbitrary government. Primarily a commercial organization, the vast interests of the Hudson's Bay Company necessitated a strong political organization, which was necessarily autocratic in form and spirit. And as far as the English Government was concerned, the Company's law was the British Constitution in the Oregon Territory. The Hudson's Bay governor and his council had authority not only to punish their own offenders but also to try for any crimes in any of "the said Company's plantations, forts, factories or places of trade within the Hudson's Bay territory."¹ For the furtherance and protection of the interests of the fur trade, the vast territory must be carefully policed, and thorough police organization is another expression for arbitrary authority. All of the employees of the Company were subject to the most rigid discipline, not less complete than in the British military organization itself. If exceptions were made to the rule forbidding settlement as in the case of the Canadian settlers on French Prairie, the relations established were in a large measure feudal. "Authority" was the keynote of British rule in the Northwest, and authority always exerted from above.

How anti-thetical was all this to the spirit and training of the American settler—the heir of generations of local self-government! Indeed, eliminating from the history of his fathers the story of their struggle for and their activities in, the exercise of self-government, there would be little worth the telling. The story of the movement of westward expansion is the story of the establishing and growth of free local institu-

¹H. H. Bancroft, "History of Oregon," Vol. 1, p. 48.

tions. As the Hudson's Bay officials had been trained in an atmosphere of absolutism at one extreme, the Western American was thoroughly imbued with the spirit of independence and self sufficiency on the other. The two radically differing political ideals had largely moulded the temperament and personality of those holding them, rendering misunderstanding and friction almost inevitable. "The direction of the affairs of the Hudson's Bay Company was confined to a comparatively few men, and these were strongly influenced by aristocratic tendencies. Being themselves subject to rules adopted by the directors of the Company in London, they subjected all their servants down to the Canadian and Indian messenger to 'authority.' This tendency led the officers of the Company into many mistakes in their dealings with the Western men."¹ That the Hudson's Bay officials clearly recognized from the first this irreconcilable difference in political attitude, and its import, is clear. When in 1844 an American attempted to establish a claim on the north side of the Columbia within the shadow of the Company's factory at Fort Vancouver, Governor John McLoughlin and Chief Factor James Douglas made strenuous protestation, candidly admitting that they feared that such proximity of American ideas and ways would tend to render their servants insubordinate.²

It has been shown that through the Hudson's Bay Company the British Government followed its subjects with law into the debatable Oregon country. As far back as 1821 the English Parliament had passed a bill by the terms of which the laws of Canada were extended over English subjects operating in the territory to the South, those laws to be exercised or enforced at the hands of the Company officials as justices of the peace.³ On the other hand what was the legal status of the immigrating Americans to be? It was unthinkable that they should subject themselves to the existing government, for reasons already

¹John Minto, "Early Days in Oregon," Ms., pp. 26, 27.

²Ibid, pp. 28, 29.

³Text of Act found in J. H. Brown's "Political History of Oregon," pp. 24-29.

given and because such a course would defeat the very purpose for which they had come. Yet their own Government refrained from throwing over them the protection of its laws and political institutions. This remissness was a cause of embarrassment, if not shame, with the settlers, before their English competitors. While in the westward expansion of our territory the people have always preceded the National Government, the remoteness of the territory and the fact of joint ownership made the situation in Oregon peculiarly trying, and called for prompt action. When on the other hand unusual dilatoriness and hesitancy was shown by the Government at Washington, it was a cause of disappointment and irritation.¹ That this apparent neglect on the part of the United States Government was occasioned by a difficult international situation, the Oregon colonists were in a poor position to realize. In 1842 Dr. Elijah White was appointed by the President as a sub-Indian agent in Oregon. This has been designated as the initial step of the Executive Department in reclaiming Oregon and treating it as a territory of the United States.² That it was so considered by the American settlers is evidenced by the minutes of a meeting held June 23, 1843, at Champoege, in which the following resolution is found: "Resolved, That we, the citizens of Willamette Valley, are exceedingly happy in the consideration that the Government of the United States have manifested their intentions through their agent, Dr. E. White, of extending their jurisdiction and protection over this country."³ But for years this was to be but a token of future action and was not followed up in a way to assist the colonists in solving a puzzling problem. "The American immigrants were often doomed to feel that they occupied the extraordinary and in every way anomalous position of a people who, without having either renounced their country, or being renounced by it, were, nevertheless, without one."⁴

¹Robertson, "Genesis of Political Authority in Oregon," p. 21.

²Elwood Evans, "History of Oregon," Ms. p. 252. cf. Dr. Elijah White's "Early Government in Oregon," Ms., pp. 14, 26-29.

³Brown's "Political History of Oregon," p. 97.

⁴J. Quinn Thornton, "Oregon and California," pp. 28-30.

A steadily growing population made established government necessary. The situation of the colonists is clearly expressed officially in the message of the Executive Committee to the Legislative Committee, dated June 18, 1844:¹ "The United States held out inducements to their citizens and indirectly encouraged the settlement of this country by them. Consequently we are now improving the country by their consent but without their protection. And it is self-evident that every community have a right to make laws for their mutual benefit and protection where no law exists . . . Although this colony is small and its resources feeble, yet the life, rights and liberties of an individual here are of equal value to him as to one in the city of Washington or London." The tenure of the land upon which the settlers were building homes was uncertain and anxiety to secure permanent titles to claims taken up and improved was a strong factor in the demand for a government. The need of protection from the Indians, from possible aggression on the part of the British, from the lawlessness of the floating element which is always found to some degree in a new community, the need of regulations to govern the growing business relations, the inherited love of democratic institutions, the very sense of nationality itself, despite the lack of its encouragement—all combined to make established forms of government imperative.² If the United States declined to inaugurate these, fearing international complications which might result, there was but one course to be pursued. As often in the past in the advance of the frontier, the frontiersmen instituted their own government, so now must those directly concerned rely upon themselves. But American pioneering had presented no problem with the peculiar complications and diffi-

¹Unpublished Documents, Oregon Archives, p. 17.

²"We found ourselves placed in a new and very embarrassing position. The right of sovereignty over the country was in dispute between the United States and Great Britain and neither country could establish any government over us. Our community was composed of American citizens and British subjects, occupying the same country as neighbors with all their respective national prejudices and attachments, and so distant from the mother countries as to be of a great extent beyond the reach of home influences. We had, therefore, a difficult population to govern; but this fact only rendered government the more necessary."—Burnett, Peter H., "Recollections of the Past," Ms., Vol. 1, p. 144.

culties of this. The American genius for self-government had here a work worthy of all its achievements in the past.

The story of the organization of the Provisional Government has been often told and will not be dwelt upon here. Those phases only of the movement and its period will be touched upon which affect the general question of the purely political capacities and tendencies of the founders of the first American government on the Pacific Coast. The movement was launched in February, 1841, but the allied opposition of the British and Catholic interests proved too strong to warrant immediate action. There was no unanimity of opinion and attitude among the Americans. There was a not unnatural jealousy existing between the missionary element of the population, the first in the field and in a measure subsidized by the Missionary Board of the M. E. Church, and the independent American settlers, placed absolutely upon their own resources. As the latter rapidly became more numerous and their influence increased accordingly, the leaders of the former relaxed to some degree in their zeal in the cause which they themselves had first promoted.¹ To some it was questionable whether it would not be better, in order to enlist the co-operation of the British settlers as represented principally by the French Canadians, to organize a government independent of any reference either to Great Britain or the United States. Even if this had generally been acceded to, as a matter of policy the continued attitude of aloofness on the part of the latter would have weakened such a position. The conflicting ideals of the two peoples, above referred to, is clearly shown in the "Address of the Canadian Citizens of Oregon" in protest against the proposed government.² In a long list of objections, they say: "We do not wish a provisional mode of government, too self-interested and full of degrees, useless to our power and overloading the colony instead of improving it. . . . We wish either the mode of senate or council to judge the difficulties, punish the crimes

¹S. A. Clarke, "Pioneer Days of Oregon History," Vol. 2, pp. 660, 661.
H. S. Lyman, "History of Oregon," Vol. 3, pp. 290, 291.

²Oregon Archives, pp. 12, 13. Compiled by L. F. Grover.

(except capital penalties), and make the regulations suitable for the people . . . The more laws there are, the more opportunities for roguery for those who make a practice of it." Here we have a direct expression of the lack of confidence in the people to govern themselves wisely and of a preference for the autocratic, arbitrary rule to which they were accustomed under the Hudson's Bay regime.

The all-absorbing question was finally brought to a direct issue at the historic Champoege meeting of May 2, 1843, when by a vote of 52 to 50, organization was decided upon, which resulted in the withdrawal of the Canadians from the meeting. The Oregon Provisional Government then, was distinctly American in inception, in spirit and in form. This is openly avowed in the first section of the Organic Law: "We, the people of Oregon Territory, for purposes of mutual protection and to secure peace and prosperity among ourselves, agree to adopt the following laws and regulations, until such time as the United States of America extend their jurisdiction over us." The momentous decision reached, the work of organization was taken up with ability and dispatch. Officers, judicial, executive and military, were elected. A legislative committee of nine was appointed to draw up a form of government for the new commonwealth and report the same to another public meeting to be held July 5th. The committee, to which was entrusted this important work, was truly representative of the citizenship for which it acted. The members were typical pioneers, plain men, somewhat rough and unassuming in exterior, unlettered in constitutional law but with much good common sense and equal to a situation. The Mountain men, the independent settlers and the Missionaries were all represented among them. Dividing themselves into sub-committees on judiciary, ways and means, military affairs, land claims and division of country into districts, the work was performed with system and promptness. Their report was accepted at the above mentioned meeting, the officers elected in May were sworn in, an executive committee chosen and the new govern-

ment was in operation. Under the constitution, the three departments were arranged for as follows: Executive—an elective committee of three; Legislative—an elective committee of nine, representing the various districts according to their population; Judicial—a supreme court, consisting of a supreme judge and two justices of the peace, a probate court, and in justices of the peace. Various officials necessary to effective administration were provided for.

Though the large reinforcement of 1843 was on the way, for the time, those owning allegiance to the new government were in the minority in Oregon.¹ Increasing population with growing interests demanded an enlargement of governmental machinery, with the result that amendments to the Constitution were made in 1844 and again in 1845. The people showed themselves apt in their school of political experience, corrected mistakes made in the first organization and readily adapted their government to meet changing conditions. This Provisional Government, framed under such peculiar and difficult circumstances gave the new country order, peace and security for six years. Its markedly successful administration is the crowning glory of the Oregon pioneers.² Beginning with a minority of the people under its jurisdiction, it soon encompassed all, including the British element itself. It provided regulations governing business and social relations, enforced its laws against criminals with despatch, provided for the settlement of lands, made internal improvements, prosecuted successfully an Indian war far from the scene of main settlement; and all with commendable economy and conservatism. No better example can be found of the political resourcefulness of the American frontier settler.³ It did more than merely pro-

¹H. W. Scott, "The Provisional Government," in Oregon Historical Society Quarterly for June, 1901, pp. 108, 109.

²The Provisional Government—the crowning glory of the Oregon pioneers,—a striking exhibit of patient submissiveness when the American settlers were in the minority—of the magnanimity and conservatism when in the majority. . . . We must commend pluck, endurance, tact, their sturdy republicanism displayed in their persistent effort to secure the consent of the governed; . . . nor must we withhold our meed of praise for that scrupulous regard for the national prejudice of the British subject, who was their fellow citizen."—Elwood Evans, address before the Oregon Pioneer Association, in Proceedings for 1877.

³Robertson, "Social Evolution in Oregon," p. 31.

vide local stability and security. From a national standpoint it completed the transition from the British to the American regime politically, which the settlers had begun industrially. What the United States Government had not felt free to accomplish had been perfected by the colonists themselves and without foreign complication.¹ They had given the obvious solution to the Oregon Question.

Let us see what political characteristics or tendencies of the pioneer state makers are observable as illustrated either in their form of government, its administration or in legislation enacted—what inclinations or prejudices they manifested which might be expected to influence the later political development of the state. It has been suggested that the self-constituted government was thoroughly American in form and spirit. This is readily seen in the general provisions of the Organic Law. The Bill of Rights and political guarantees generally are taken from the Constitution of the United States and provide for freedom of religious belief and worship, right of habeas corpus and trial by jury, of judicial procedure according to the course of common law, moderate fines and just punishment, the rights of property and other "inalienable rights" so dear to the American heart. This similarity to the National Constitution is still more marked in the revised constitution of 1845 which reflects the influence of the aggressive nationalism of the pioneers of 1843 and 1844. Additions are made to the Bill of Rights, indicating the strong sense of personal liberty and independence in the cities of the embryo commonwealth. The article guaranteeing the encouragement of morality and knowledge, the maintenance of schools, the exercise of good faith and justice to the Indians, reproduces the language of the Ordinance of 1787, which document was used largely as a basis for the new frame of government.²

¹Robertson, "Genesis of Political Authority," pp. 39, 40. Evans, "History of Oregon," Ms., p. 271.

²Applegate, "Views of Oregon History," Ms., p. 39.

Where the feeling for personal liberty is so strong, jealousy of executive authority is manifested in like degree and this is well illustrated in that provision of the Organic Law which created an executive committee. At the Champoege meeting of May 2, 1843, after the action in favor of political organization was taken, the first motion carried was that there should be no governor.¹ In view of the need of some form of executive authority, this mandate of the people gave the Legislative Committee no little trouble, the expedient of a committee of three being finally adopted. Even this was not sanctioned at the convention of July 5th, without vehement protest. In fact it was the only provision which met serious opposition. Gustavus Hines, who presided, characterized the triple executive as a "hydra-headed monster in the shape of an executive committee which was but a repetition of the Roman Triumvirate—the Caesars upon a throne."² There were also other factors entering into the situation. The receptive candidates for governor were so numerous³ that the selection of such an officer might have left too many sore spots when unanimity in purpose and action was so necessary to success. And then the undercurrent of suspicion existing between the Mission party and the independent settlers was such that a governor from the ranks of either would have weakened the allegiance of the other. The plethora of candidates for governor indicated a healthful state of political ambition which would give tone to future politics in Oregon. With the growth in strength of the new government, the people yielded their prejudices on this point and in 1845 substituted a governor for the impracticable committee.

These typical frontiersmen were sensitive on the subject of taxation. The second motion passed at the Champoege meeting was that no law should be passed to levy a tax.⁴ This

¹Robert Newell, Annotations in copy of Grover's "Oregon Archives," in Bancroft Library, University of California.

²J. O. Thornton, "History of the Provisional Government" in Proceedings of Oregon Pioneer Association for 1874, p. 64. Clarke, "Pioneer Days," Vol. 2, p. 668. Lyman, "History of Oregon," Vol. 3, p. 304.

³Newell, Annotations.

⁴Newell, Annotations.

resulted in the following report of the Legislative Committee upon Ways and Means, which was adopted July 5, 1843, as a means of financing the new government: "We, the subscribers, pledge ourselves to pay annually to the Treasurer of Oregon Territory, the sums affixed to our respective names, for the purpose of defraying the expenses of government—Provided, that in all cases, each individual subscriber may at any time withdraw his name from said subscription upon paying up all arrearages and notifying the Treasurer of the colony of such desire to withdraw."¹ Here is a significant western interpretation of the theory of the Social Contract to the effect that the individual may return at pleasure to the "state of nature" from which he came. The thorough republican ideas of the framers of the government—their protest against financial obligations and restraint, are thus clearly set forth.² One year's trial of the free will offering method of maintaining government was sufficient, however. The Legislative Committee of 1844 amended this provision and laid a light tax, providing that any person refusing to pay taxes should have no benefit from the laws of Oregon and should be disqualified from voting.³ This rendered the traditional "state of nature" a condition rather than a theory and tended strongly to foster a wholesome appreciation of the blessings of established order.

Jesse Applegate, close friend of Shortess who was the chief author of the Organic Law, says there was a political purpose not comprehended by the mass of American settlers in basing the scheme of government upon the Ordinance of 1787—that purpose being to settle the slavery question west of the Rocky Mountains as the Ordinance had settled it in the Northwest States to the east of them, the anti-slavery provision of the Ordinance being copied in the new document.⁴ Whether the

¹Oregon Archives, p. 27.

²"The fathers of the American Oregon not only acted upon the idea that all just governments derived their authority from the consent of the governed, but they granted to each citizen the power to judge of how much he was willing to contribute to the support of such government—how much he was willing to be restrained by becoming a part of that government."—Evans, "History of Oregon," Ms., pp. 275, 276.

³Bancroft, Vol. 1, p. 433.

⁴Applegate, "Views of Oregon History," Ms., pp. 39, 40.

people were conscious of it or not, they were fully in sympathy with the prohibition of slavery, each of their subsequent frames of government containing the same provision. But it was a protest not only against human servitude but against the Negro himself. The settlers in general had little sympathy with slavery but those who had been in direct contact with it in the Southwest had a greater aversion against free Negroes,¹ this attitude being crystalized in an act of the first legislative committee prohibiting their presence in the new Territory.² Remote as Oregon was from the arena of contest, the early position of her people upon the great issue was to play a truly remarkable part in her history.

The self-governing western men were chary of a too free delegation of authority to their representatives in political affairs and resented what they considered undue assumption of the same. The first general election was held May 2, 1844, as provided for in the Organic Law. The men elected to the Legislative Committee had, with the exception of two members, arrived in Oregon since the adoption of the instrument of government.³ Recognizing defects in the latter, they proceeded in their first session to make amendments to it generally, assuming that the submission of the latter to the people was unnecessary. Though the changes made were doubtless on the whole salutary, the manner of making them created much dissatisfaction. The legislators, who had assumed the authority of constitution makers, were bitterly denounced for remodeling the Organic Law "without warrant" first obtained from the people and without submitting their work when done to their sanction or rejection."⁴ When the legislative committee of 1845 met it took the extreme position that it was not a constitutional body because the law under which it had been elected had not been submitted to the people and that it must appeal to the latter for authority to alter the fundamental law. Accordingly, after drawing up a revised constitution, it ad-

¹Ibid., p. 74.

²Bancroft, Vol. I, pp. 437-439.

³Bancroft, Vol. I, p. 471.

⁴Applegate, "Views of Oregon History," Ms., p. 41.

journed to a future date, awaiting the vote of the people on the same at a special election for which it had arranged. The fact was thus emphasized that the new government was to be government *by the people*. It was also tacitly declared by those provisions in the Organic Law making all the official positions elective and providing for annual elections.

In a similar manner it was made known by the citizens of this self-sufficient commonwealth that they would have real representative government. When in September, 1846, the news came that Congress had passed a bill giving notice of an intention to discontinue the policy of joint occupancy of the Oregon Territory and that a bill providing for an extension of the government of the United States over the citizens of Oregon was up before that body, discussion at once arose over the propriety or necessity of sending a delegate to Washington to see that the Provisional Government land law was recognized, to work for a Pacific-Atlantic railroad and to look after various interests of the Oregon country.¹ On September 26th a "meeting of the citizens of Oregon"² was held at Oregon City to discuss the general welfare of the country in the light of the recent action of Congress. It was decided to hold a convention in Oregon City on the first Monday in November for the purpose of drafting petitions or memorials to be circulated for the people to sign and to derive ways and means of forwarding the same, "whether by delegate or otherwise." The Spectator of November 26th gives the proceedings of the convention at which resolutions were passed denying the necessity of memorializing Congress or of sending a delegate. A year rolled round with no action on the part of the National Government. The people memorialized Congress in behalf of their needs, but the question of delegate was apparently avoided as liable to give rise to class or sectional differences. But in October, 1847, Governor Abernethy took upon himself the responsibility of secretly appointing and dispatching J. Quinn Thornton to Washington to represent the Territory,

¹Oregon Spectator, September 17, 1846.

²Ibid., October 1.

Thornton being recognized as friendly to the Missionary party, of which the governor was a member.¹ Such arbitrary procedure was not consonant with the western ideal of representative government. On the meeting of the legislature, on December 16th, J. W. Nesmith, expressing the general belief that Thornton had secretly been sent to Washington, denounced the action of Gov. Abernethy and voiced his sentiments in resolutions in which were the words: "It is important and desirable in all republican governments that the selection of all judicial and executive officers should meet the approbation and confidence of the majority of the people over which they are to exercise authority; and be as far as possible removed from the intrigue and influence of odious and secret factions."² The legislature prepared its own memorial and elected its own representative in Jos. L. Meek, to carry it to Washington.³

As loyal as were these western Americans to their nation they gave evidence of that independence of attitude which signified that there was a limit to what they considered the neglect and abandonment they were called upon to suffer, beyond which they were prepared to take their political destiny wholly in their own hands. There seemed always an undercurrent of feeling in favor of independent government, fostered by the British element of the population.⁴ Indeed in the early years of the Provisional Government there was the Independent party. This sentiment seems to be reflected in an act of the legislature on December 24th, 1844, calling for a popular vote on the question of calling a convention for the

¹Bancroft, Vol. 1, pp. 619-621.

²Oregon Archives, pp. 225, 226, 228, 229, 231-234. Spectator, December 25, 1847.

³The situation presented by the Whitman massacre of November 29, 30, 1847, was the special subject of the mission of Meek.

⁴"A few persons, respectable for their character and influence in Oregon, discussed about this time (1844) the question of the expediency and necessity of an independent instead of a provisional government. It was said that the geographical position of the country . . . rendered it not only expedient but necessary. The real cause, however, for this movement was the discontent and even the resentment felt in consequence of their seeming to have been left without protection and in a state indicating abandonment by their country."—Thornton, "Oregon and California," pp. 34, 35.

purpose of framing a constitution.¹ The convention project was defeated by a vote of 283 to 190.² This spirit of independence is illustrated in the reported stump speech of a candidate for a seat in the legislature in 1846 in which he said that they as a separate people had a right, in common with all detached communities to govern themselves; that he did not consider himself "a citizen of the United States or a subject of Great Britain" and could therefore take the oath to support the Organic Law of Oregon, without the qualifications.³

As anxious as the people were to have the protection of the United States thrown over them in the form of a territorial organization, they had become so imbued with the idea of entire self-government that they took exception to the idea of being under the authority of appointive officers sent on from the East. It was understood by the colonists in 1847 that President Polk had his list of officials for Oregon already made out, in preparation for the passage of the territorial bill by Congress. There is therefore something decidedly impressive in the serene and unconscious audacity of these squatter sovereigns in calling a convention of delegates at the Falls of the Yamhill river "for the purpose of recommending to the Executive of the United States suitable persons to fill the various offices that will be created upon the passage of a bill establishing a territorial government in Oregon."⁴ This action is thoroughly characteristic of the early people of Oregon and is demonstrated continually in the later history of the territorial organization.

Aggressive and national though the American settlers were, the administration of affairs in Oregon under their government demonstrates the qualities of liberality, moderation and conservatism often under circumstances when a manifestation of opposite tendencies might be expected. When increasing numbers had made their influence dominant their attitude

¹Oregon Archives, p. 70.

²Lang, "History of the Willamette Valley," p. 286.

³Spectator, May 28, 1846.

⁴Spectator, October 14, 1847.

toward the Hudson's Bay people and the British population is worthy of notice. Friendly overtures were made to the latter to induce them to co-operate in the new government. To make such co-operation possible and thorough the legislative session of June, 1845, modified the oath of office to read as follows: "I do solemnly swear that I will support the Organic Laws of the Provisional Government of Oregon, so far as said Organic Laws are consistent with my duties as a citizen of the United States or as a subject of Great Britain."¹ No attempt was made to control national allegiance by restrictions and restraints and members of the British party were chosen for positions of trust. This spirit of moderation is manifested in a passage from the message of the Executive Committee to the legislature of December 17, 1844: "As descendants of the United States and Great Britain we should honor and respect the countries which gave us birth; and as citizens of Oregon, we should, by a uniform course of procedure and a strict observance of the rules of justice, equity and republican principles, without party distinction, use our best endeavors to cultivate the kind feelings, not only of our native countries, but of all the powers or States with whom we may have intercourse."²

Though not subscribing to the idea set forth by their Canadian neighbors that "the more laws there are, the greater opportunity for roguery," the colonists were conservative in the amount and kind of legislation enacted. The message of the Executive Committee to the legislature of 1845 says: "While we deem it important to invite your attention to a necessity of the revision and amendment of the Organic and other laws * * * and the framing of others that you may deem necessary at this time, we would not conceal the fact that great difficulty might arise from too much legislation."³

¹Oregon Archives, p. 71.

²Oregon Archives, p. 71.

³Oregon Archives, Ms., p. 48.

Sufficient has been said to indicate the high order of political ability of these pioneer state builders. A few of them in after years became influential in the national councils, when their loyalty to established government as manifested in these days, was exerted in support of the national cause which their party had in the main deserted.¹ A few rose in ability to the position of real statesmen whose resourcefulness and qualities of mind and heart would have made them marked men anywhere. Such was Jesse Applegate.² The majority had that political aptitude which rendered them typical Americans—able to make any government work.

Summing up the political characteristics of the Oregon pioneers, we find them to be thoroughly American and nationalistic in their political ideals and tendencies, but at the same time thoroughly independent and ready to prove themselves self-sufficient on due occasion; personally ambitious for political advancement; suspicious of too freely exercised executive authority; slow to subject themselves to the financial burdens of government; opposed to the existence of slavery and the presence of the Negro; determined that their government should be one by the people, and that their representatives should be truly representative; conservative in legislation and liberal and moderate in administration; possessed of a high order of political capability.

As might be expected, there was no political alignment in the period of the Provisional Government except along local lines as were naturally drawn from the exigencies of the situation in the isolated, jointly occupied territory. Making up the population we find: those connected directly with the Hudson's Bay Company, the Catholic missionaries, the Protestant

¹Notably, J. W. Nesmith.

²Samuel Bowles, editor of the Springfield Republican, visited the Coast in 1866 and in his book "Across the Continent," p. 177, tells of visiting Applegate and "finding a vigorous old man. . . clear, strong and original in thought and its expression, with views upon our public affairs worthy the head of our wisest; every way indeed such a man as you wonder to find here in the woods, rejoice to find anywhere and hunger to have in his rightful position, conspicuous in the government." Cf. L. F. Grover, "Notable Things in a Public Life in Oregon," Ms., pp. 75, 80. M. P. Deady, annual address before Oregon Pioneer Association, 1875. Proceedings, p. 36. J. W. Nesmith, *ibid.*, p. 62.

missionaries, the French Canadian settlers, the Mountain Men and the independent American settlers. The part which the Protestant missionaries early took in establishing American influence, strengthened what would have been at any rate the natural alliance between the Company and the Catholics.¹ With these two went the Canadians, the three elements making one main party variously denominated as the Hudson's Bay, English, or, after the latter had come in under the Provisional Government, the Independent party. On the other side, the independent American settlers, the Protestant missionaries and the Mountain Men represented the American interests. In general these were the two main opposing parties or influences. There was a further division among the Americans into the Mission and American parties, with little local conditions and prejudices coming in from time to time to affect and modify this general alignment. The Missionary party was rather looked upon as representing the aristocracy and vested interests of the settlement from the United States.² The American party, made up of the Mountain Men and independent settlers, opposed the tendencies toward independent government and was strongly nationalistic. Though in a minority, the English or independent party held the balance of power. This is well demonstrated in the election of governors in 1845 and again in 1847. In the first case the candidates of the three parties were: American, A. L. Lovejoy; Independent, Osborne Russell; Mission, also denominated "American," George Abernethy. The Independents, having no hope of success, and wishing to defeat the more aggressive of the American candidates, threw their support to Abernethy, who was elected, though the "American" party won a sweeping victory with its legislative ticket.³ In 1847 Lovejoy and Abernethy again opposed each other and again the English element defeated the former. In the two counties north of

¹Grover, "Notable Things," etc., Ms., p. 90. A. G. Walling, "Southern Oregon," p. 135.

²Thornton, "History of the Provisional Government," pp. 50, 51.

³Bancroft, Vol. 1, pp. 471, 472.

the Columbia, Vancouver and Lewis, the Independent stronghold, Abernethy received 111 votes and Lovejoy but 11. The latter was defeated by 16 votes only, in the whole Territory, which shows what a factor the British or Independent vote was in the result.¹

While the population of Oregon was grouped into parties as above outlined, there was practically no political or party organization and little or no unity of action. Under the caption, "On the Stump," the Spectator of May 14th, 1846, makes the announcement: "On Monday next (18th) the several candidates of Clackamas county will address their fellow citizens *from the stump* in Oregon City. This will be something *new* in Oregon." A report of the innovation is found in the issue of May 28th, from which the reluctance of the political aspirants to appear in the role set for them is apparent. The only strictly party significance found in their informal remarks as reported was the frequent assertion or clever implication of their Americanism as opposed to the interests of the British party. Their remarks were mostly addressed to the local needs in legislation to which little political significance can be attached. This lack of political organization is further indicated in an editorial in the same issue on the immediately forthcoming annual election. "We were never really less able even to guess at the probable result," says the editor, H. A. G. Lee. "Although we have a numerous array of candidates in this county * * * still in the absence of positive party, no regular or territorial ticket having been formed, but each relying on his friends, to succeed the best he may, or in other words 'on his own hook,' the most shrewd conjectures must at best be vague." The political inertia and apathy which seem to exist in the other counties is greatly deplored and a tacit argument is made for political organization as a means of arousing a sense of civic responsibility.

An event of great import in the growth of the new state was the starting of the first newspaper on the Pacific Coast.

¹Election returns found in Spectator, July 22, 1847.

It is its relation to the strictly political life of the community that is of concern here. On February 5th, 1846, appeared the first number of the Oregon Spectator, already referred to, published by the Oregon Printing Association, the latter governed by a written constitution. Article 8 of the articles of Compact of that Constitution as published in the first issue of the Spectator reads: "The press owned by or in connection with this association, shall never be used by any party for the purpose of propagating sectarian principles or doctrines, nor for the discussion of exclusive party politics." In the provision made for the amendment of the various articles, the 8th is expressly excepted. Among the officers the various elements of population are well represented. The policy and attitude of the paper, politically, is clearly set forth by the editor, W. G. T'Vault, in the following very significant salutory:

TO THE PUBLIC.

"The printing press, type and materials are owned by the Oregon Printing Association and that Association has adopted a Constitution to govern the concerns of the Association as well as the publishing of the newspaper; consequently, the Spectator will have to keep within the pale of that Constitution, otherwise it violates the commands of its owners. A large majority of the citizens of Oregon are emigrants from the United States, and for the last twenty years, politics have there been the order of the day. * * * Hence it is to be presumed that a portion of the citizens of Oregon have brought with them their views of policy, entertained while residing in the United States. It might also be expected that the Oregon Spectator would be a political paper; but reason and good sense argue differently. Situated as we are—remote from the civilized settlements of the United States, and at this time having no protection but that which is afforded us by the Provisional Government of Oregon and having but one interest to represent and that interest the welfare of Oregon and the citizens unanimously * * * it would be bad policy to break

open old wounds and in doing so to create new ones, to discuss politics in the columns of the Spectator—notwithstanding we are now, as we have always been, and ever shall be, a democrat of the Jeffersonian school.”

The final self-assertive, half defiant declaration of the old democratic war horse is as significant as it is amusing. As far as the writer has found, here was the first public declaration on national politics and that in an article arguing that all such should be avoided. It was an earnest of how successful the censorship of the press would be in stifling political discussion in a typical American community. That the personal avowal of political allegiance did not appeal to the owners of the paper as a logical conclusion to a declaration of political neutrality, is evident. Within two months appears T’Vault’s defiant valedictory, in which he says: “The political sentiments avowed were at war with some of the present aristocracy of the land notwithstanding the avowal that the columns of the Spectator should be kept within the construction of the Constitution of the printing association.”¹ Having in mind apparently the American population, he continues: “That there is [sic] two distinct parties in Oregon no one will for a moment doubt, differing, however, not upon those great fundamental principles * * * as is the case with our fellow-citizens in the United States, but upon subjects less worthy of name. We have amongst us a class of mungralls, neither American nor anti-American—a kind of foreign hypocritical go-betweens, as we would say in the states—fence men.” T’Vault explains that while the excuse given for his dismissal was that his syntax and orthography were bad (alas, too true) the real reason was that he didn’t boost the aforementioned aristocracy, referring doubtless to Governor Abernethy and the Missionary influence. He warns this “junto of aristocracy in and about Oregon City” who think they have the right to manage matters as best suit their views that they will have to

¹Spectator, April 2, 1846.

reckon with the hardy freemen who are rapidly settling Oregon and who are as independent as the air they breathe. As a parting shot he voices the hope that the next legislature will have nothing to do further than to be convened and to receive the valedictory of the present governor of Oregon and the inaugural of Gov. Atchison or some other good democrat sent by President Polk. Exit T'Vault.

The new editor, H. A. G. Lee, named the subjects which could be discussed in the *Spectator*, including politics, but explained—"Politics, as we understand the term, means the science of government and not the effervescence of fermenting partyism or the noisy froth of spouting demagogues."¹ Lee withdrew in August and in indicating the reason the *Spectator* shows another factor in the situation to have been the English element. "Our paper will yet be edited to the satisfaction of at least a majority of the subscribers—that it will give satisfaction to certain individuals and their friends who are subscribers we do not flatter ourselves. But one thing we do venture to affirm, that, let it sink or swim, the columns of the *Spectator* shall be open for the publication of all matter that shall have for its object the advocating of American interests in this country and their right to the soil, in preference to any other nation on the globe—even to John Bull himself. That a paper published by Americans in Oregon and that paper too the only channel through which the interests and feelings of the Americans in Oregon can be made known to the world, should be restricted in its publications and so conducted as to meet the approbation and save the feelings of some whose principles and views are to all intents and purposes anti-American, is preposterous in the extreme and not to be thought for a moment."²

Editor number three was Geo. L. Curry; his announced policy: "It will be our aim to give this journal a firm and consistent American tone."³ When Nesmith, in the legisla-

¹Ibid., April 16, '46.

²*Spectator*, August 20, '46.

³Ibid., October 1, '46.

ture of 1847 had introduced his resolutions denouncing the secret appointment of Thornton by Gov. Abernethy as agent of the Provisional Government at Washington, Curry secured them for publication in defiance of the Board of Directors and was forced out by the Abernethy following. In his lengthy adieu Curry says he refused to edit a one man paper edited in that man's own interest, as demanded; hence his dismissal. He strongly deprecates the establishment of the censorship of the press in Oregon.¹

So much notice of the early editorial history and difficulties of the *Spectator* has been given for three or four reasons. It gives, through T'Vault, the first evidence of that linking of isolated Oregon with national politics which was to dominate her political future, to the minimizing of her natural local interests. It gives a striking picture of the political situation in Oregon during the period—of the party or sectional jealousies existing. It tells the story of the attempt to enforce the censorship of the press in the new territory and indicates how futile such an attempt would be in a community of typical western Americans whose shibboleth was freedom and who had written "freedom of the press" as a guaranteed right in their fundamental law. It furnishes us the connecting link between two periods, the Provisional Government and the Territorial. The new paper, with all its problems, marks a transition from the old to the new—from the local and the isolated to the expansive and the national.

¹Ibid., January 20, '48.

THE PETER SKENE OGDEN JOURNALS

Editorial Notes by T. C. Elliott

Our last view of Mr. Ogden was on July 18th, 1827, at some point on Snake River near Huntington, Oregon (see *Or. Hist. Quarterly* for June, 1910, p. 222), as he was returning from the expedition of that year, which had taken him into parts of Oregon unknown to white men before that time. We now renew the acquaintance thirty-six days later at Fort Vancouver, when he starts for another Snake Country expedition; this time to regions already familiar to him, in southeastern Idaho. The journeyings this season are quite easily traced as to general direction and often as to particular locality. The Indian trail from the Walla Walla river across the Blue mountain range to the Grande Ronde valley can be quite certainly identified and across southern Idaho from the mouth of Burnt river to the Portneuf many names are yet recognizable. The party keeps to the north of the line of the Oregon Short Line Railroad, up the course of Boise river (then Reed's river) to its source and then across Big Camas Prairie and the various water courses to the sinks of Lost river, and then makes a dash across the lava beds to the Snake and Portneuf. The canyon through which Little Lost river leaves the mountains was then evidently called Day's Defile. The winter of 1827-8 is a very long and severe one, and Thos. McKay, who is in charge of a detached trapping party on the waters of Salmon river, is unable to rejoin Mr. Ogden until May. So many horses are used for food or have died of exposure that Mr. Ogden builds canoes to carry his furs down the Snake river, but evidently abandoned that purpose. Unfortunately the record is silent for a whole month of the return journey. He reaches Fort Nez Percés, or Walla Walla, again on July 19th, 1828, with returns far exceeding his expectations, which must have meant more than three thousand beaver skins. While at Fort Vancouver the following month Mr. Ogden must have become acquainted with Jedediah S. Smith of the American fur traders (who reached there after disaster on the

Umpqua river in southern Oregon) and learn at first hand of the experiences of Mr. Smith with the Mojave Indians, to which reference is made in the Journal for the following year. The chief value to history of this Journal, in connection with the other three, is the further light thrown upon the relations between the American and the English fur trading companies; and the assistance to a considerable degree in clearing the record of Gen. William H. Ashley, a prominent citizen of St. Louis, who for some years represented the State of Missouri upon the floor of Congress, whose rapid progress to wealth has by many been regarded with suspicion. In his valuable "Hist. of the Amer. Fur Trade," published by Harper in 1902, Maj. Chittenden states (p. 277) that the details of Mr. Ashley's transaction with Mr. Ogden "will probably remain unknown until the world hears from Mr. Ogden through the records of the Hudson Bay Company." That is now partly available. We now know the exact date and the nature of Mr. Ogden's disaster that year, and have confirmation of the name of the leader of the American trappers who accomplished it, who was a Mr. Gardner (*) and not Mr. Ashley at all; and that the conduct of this Mr. Gardner was not approved by those in authority in the Rocky Mountain Fur Company; and that the band of trappers under Mr. Gardner may have been free trappers not connected with Mr. Ashley (see entry of Feb. 19th, 1828, *infra*, for this). After the desertion of Mr. Ogden's men with their catch and outfits (which legally belonged to them) for whatever cause that may or may not have been, it may not have been incompatible with human nature on the plains at that time for Mr. Ashley to have acquired their furs, according to the manner they may have reached him; although any contrast with the treatment afforded Jedediah S. Smith as to his furs, by Dr. McLaughlin of the Hudson's Bay Company in August, 1828, is much in favor of the English company.

*See Journal of Nath. Wyeth in "Sources of Oregon History," Vol. 1, p. 74.

Mr. Ogden's fifth and last year (1828-9) at the head of the Snake Expedition takes him into regions unknown to him or to other traders, either American or English, before this time. It is then he discovers the Humboldt river and explores the country to the northwest of Great Salt Lake. By any one not personally conversant with the local topography it is mere speculation to attempt to identify in detail the journey, but his general course is easy to follow; and his record of the hardships calmly endured and the dangers encountered is unusually interesting.

Leaving Fort Walla Walla late in September, 1828, and following the same route as the year previous as far as the mouth of the Malheur river, the party ascends that river and then turns eastward to the waters of the Owyhee, and by the first week of November is upon the streams draining into the Humboldt, or Unknown river as he termed it. There the beaver are plentiful and the trapping much to his liking, but cold weather and scarcity of food compel him to turn eastward toward the buffalo country and by the last week of December he is within sight of Great Salt Lake, but quite to the north of it. Continuing along from there to the familiar valley of the Portneuf about the middle of January he crosses southward to the Bear River valley and for the next two months is in the mountain valleys to the Northeast of Great Salt Lake, just where we do not yet know, except from the names left there in his honor. In April, detaching a party for separate duty and with instructions to return home on their own account, Mr. Ogden with fourteen men only returns to Unknown river and after a narrow escape from death by the Modoc Indians in June and July returns to the Columbia by way of Malheur lake and the John Day river of Eastern Oregon. We miss the name of the veteran Thos. McKay as one of his party this year.

With this Journal before us it is possible to speculate less as to the date when Mr. Ogden first visited Great Salt Lake and the locality bearing his name there. It will be remem-

bered that in a previous Journal (Or. Hist. Quar., Dec., 1909), under date of June 2nd, 1826, is recorded; "Proceeded but a short distance when we met a Snake; this Indian I saw last year on Bear's River." (In the foot-note to that entry the word *probably* might better have read *possibly*); and that Maj. Chittenden independently suggests Cache Valley through which the Bear river flows as the scene of Mr. Ogden's disaster in the spring of 1825. It would seem unusual for so enthusiastic and well equipped a trader as was Mr. Ogden that spring to neglect the inviting streams tributary to Bear river and the Salt Lake valley, when so near at hand. Yet it seems equally unexplainable that, although in the years 1826 and 1828 for months immediately to the north of Great Salt Lake on the Portneuf and other streams, he makes no mention at all in his Journals of Great Salt Lake itself. He refers often to Salt Lake, meaning the headquarters of the American traders on Utah lake, but never to Great Salt lake until this present year. The record of that first expedition, of 1824-5, must be available before the desired fact can be known with certainty; and the strong probability is that after the expedition of 1824-5 and until 1828-9, after the renewal of the treaty of joint convention between England and the United States, the operations of the Snake river party were studiously confined within the limits of the Old Oregon Country, that is to the streams draining into the Columbia river.

Ogden's Hole took its name without doubt in the same manner as did Jackson's Hole and Pierre's Hole and other similarly named mountain valleys of limited area frequented as rendezvous by the trappers. This Journal unfortunately contains no entry between January 17th, and March 29th, 1829, but a rude pen and ink map accompanying the Journal purports to show "Ogden's Track 1829," and this indicates that he followed the valley of Bear river very closely, but to the south of it, and this would have taken him into Cache valley and Ogden valley further to the southward and the stream known as Ogden river when the first settlers arrived in that

region; those settlers took the name from the Indians and the retired trappers who lived here and there along the streams. Local tradition has it that Mr. Ogden had trouble with the Indians when there and that one of his men named Weber was killed in the canyon now so named and through which the main line of the Union Pacific railroad is now built. There is no confirmation of this, however, and the name Weber is American rather than French-Canadian.

The flat valley where the city of Ogden is now located is more likely to have been the site of Ogden's Hole, in the general acceptance of that term. It is there that the Ogden river comes out of a beautiful canyon of the same name—a canyon that was almost impassible until the river was put to commercial use and a fine boulevard constructed through it, connecting the city with the Ogden valley, eight or nine miles away. This canyon is now the pleasure resort of the citizens of Ogden and affords delightful opportunity for the entertainment of their guests. The Ogden valley is a stretch of meadow land rather narrow in width, but opening into other small valleys of the branch streams that form the Ogden river. The trail used by Indians and trappers in passing to and from this valley crossed a divide and followed a smaller and less precipitous canyon opening at North Ogden, a few miles from the city of Ogden, and the early settlers understood Ogden's Hole to mean this smaller canyon and divide.

It may also be remarked that the writer of H. H. Bancroft's History of Utah in a foot note mentions Ogden's Hole as the mountain resort of a *noted desperado* of that name.

The publication of these two Journals completes the set of four, which was begun in the Or. Hist. Quarterly for December, 1909. A sketch of the life and career of Mr. Ogden appears in the Quarterly for Sept., 1910. No one who has not seen the original of one of the Journals used by the trappers and traders when in the field can appreciate the difficulty in reading their contents. They were made of small sheets of beaver skin often indifferently cured and tied with a thong;

and the writing was done with a quill often under very uncertain conditions of weather or comfort. Unless conversant with the French language and with the names and terms common to the country and trade, it is practically impossible to decipher the writing at times, which covers margins and outside as well as inside of the sheets. The wonder is that these journals are so well preserved as to be deciphered at all, and blunders in the copying may well be overlooked, as it is quite often a question of interpretation, especially with proper names.

JOURNAL OF PETER SKENE OGDEN; SNAKE EXPEDITION, 1827-1828

(As copied by Miss Agnes C. Laut in 1905, from original in Hudson's Bay Company
House, London, England)

August 24.

Left Ft. Vancouver for the Snake Country with 28 trappers and hopes far from sanguine. 1st Sept. we reached Nez Perces,¹ on 5th Sept. set off.

Sept. 6, Friday.

left Mr. Black and overtook the party encamped on W. Walow River 12 miles from fort.

Tuesday 10th.

commenced crossing over the Blue Mtns; camped at 11 A. M. drenched in rain and fatigued from windfall. This is the best trail across the Blue Mtns. from the source of the Walla Walla.²

Friday 13th.

All hands employed making poles for leather tents.

Saturday 14th.

Reached Clay River³ or River de Grande Ronde wh. discharges in s. branch of Columbia 2 days march from Nez Perces. A Cayouse reported a party of American trappers are on the way to Nez Perces Fort.

Tuesday 17th.

Crossed over the Fork of Powder River and encamped on main branch.

Wednesday 18th.

encamped on River Brule.⁴

Saturday 21st.

Mr. McKay to explore sources of Sandwich Island River,⁵ with 11 men.

¹Fort Nez Perces or Walla Walla at mouth of the Walla Walla river, Mr. Samuel Black in command.

²Probably the trail from the forks of the Walla Walla river seven miles above Milton, Oregon, across to the Grand Ronde valley, afterward the regular toll gate road.

³Not a very frequent designation for the Grand Ronde river.

⁴Burnt river.

⁵Owyhee river, so named by Mr. Reed or Mr. Mackenzie of the Pac. Fur Company because some Islanders killed there.

Sunday 22nd.

Camped opposite Wayer's (Wazer's)¹ River; commenced guarding our horses.

Wednesday 25th.

Trappers report traps of strangers set along this river. Shortly after an American by name Johnson appeared and informed us he and 5 others were on this stream. Their party consists of 40 men with a band of Nez Perces working in the direction Mr. McKay has taken. My sanguine hopes of beaver here are blasted. I shall send Sylvaille with 5 men to Payette's River; and proceed to Burnt and Day's River. Encamped in company with the Americans. The trappers were in every direction in quest of beaver. The Americans will not part with one.²

Saturday 28th.

Our traps gave but one otter. Before all were raised it was 10 A. M. Advanced south on the fork.³ The Americans informed me it was their intention to follow me to the Columbia. I informed them I could not offer them better terms than my own men had. With this they were satisfied.

Sunday 6th Oct.

Reached Reed's River.⁴ I have little hope as the American trappers are everywhere.

Thursday 10th Oct.

Only 8 beaver, consequently no longer necessary for us to remain. It was from Wazer's, Payette's and this river we expected our returns and they have produced only 140 beaver. I must now reach another quarter after junction with Mr. McKay. Course s. from Reed's River.

Sunday 13th Oct.

reached Prairie de Camasse, a fine stream discharging in Reed's River; course south. It is from near this point the

¹The Weiser river.

²Rather far west to find so many Amer. trappers and Mr. Ogden thinks of turning back in disgust, but decides finally to keep on.

³Snake river.

⁴The Boise river, first called Reed's river after John Reed of the Pac. Fur Company.

Snakes form into a body prior to their starting for buffalo; they collect camasse for the journey across the mountains. Their camp is 300 tents. In spring they scatter from this place for the salmon and horse thieving expeditions. Crossed streams that discharge in River au Malade. Sylvaille and party appeared with only 20 beaver.

Thursday, 17th Oct.

Crossed Camasse plains and encamped at Sunset on fork of Malade River.¹ Here we found a camp of Americans, 5 men of the same party who had joined us on Wazer's River.

Thursday Oct. 24.

The Americans being in want of supplies, applied for trade. They consented to $\frac{1}{4}$ less than Indian tariff. I obtained 13 large beaver, 19 small, 25 musquash; also received from Henry Goddin 35 large beaver in payment of his debt to the company. This man deserted 3 years ago.² Since the Americans have been with us they have taken only 13 beaver and are discouraged.

Sunday 27th Oct.

The trappers had advanced with their traps but gone only half an hour when all returned, having met a trapper who had been pursued by a party of Indians whether Blackfeet or Snakes he could not tell. 6 absent since yesterday; I am uneasy. Course s. e.

November Thursday 1st.

Reached the heights of land that separates Goddin's from Sickly (Malade) River, a steep ascent, most dangerous to man and beast, upwards of a foot of snow on top, the descent very gradual.

Friday 2nd November.

Stormy weather prevented starting. It is my intent to amuse the American party now with us so that McKay's men may have time to trap the beaver where the Americans purpose going. As they are not aware of this, it is so much the more

¹Not the Malade of extreme So. Idaho which drains into Great Salt Lake.

²On May 24th, 1825. Sec. Or. Hist. Quarterly, Dec., 1909, p. 333.

in our favor. Should McKay not appear at the appointed place Day's Defile there will be grass for our horses and buffalo for our support.

Saturday 3rd.

Followed down Goddin's River s. e. Ten buffalo killed this day. It is incredible the herds of antelope seen.

Wednesday 7 Nov.

Reached the Fork of Salmon¹ River called by Mr. Rose Malade () his men having been attacked with beaver illness here. S. E. 10 cows killed.

Saturday 10 Nov.

Reached Day's River at the point where Mr. McKay was to come. There being no buffalo nor a blade of grass I must push on. A camp of Snakes of upward of 300 tents 1500 souls have been here 3000 horses. I must proceed to Snake River for food.

Sunday 11th.

I left a note for Mr. McKay telling him what route to follow. Proceeded along Day's Defile following Day's River to Mr. McKenzie's² winter encampment. Hunters killed 5 cows.

Friday 16th Nov.

Cold severe weather. At dawn we are in motion following Day's River over a barren plain till sunset when we reached the Great Barren Snake Plains in full view of Pilot Knob³ also S. Knob in the centre of the plain, the former dividing the waters of Columbia from Missouri and Spanish River. The waters of Goddin's and Day's River disappear at the entrance of this plain and take a subterranean route to Snake River.

¹Difficult to positively identify these streams, but the river named Malade by Mr. Mackenzie seems to have been the Big Wood river of today, and that so called by Mr. Ross a fork of the Salmon; Goddin's river seems to be Big Lost river and Day's river to be Little Lost river of today's maps.

²Donald Mackenzie trapped here in 1819 and 1820, as member of the Northwest Company of Canada.

³The Three Tetons, and the three buttes of the lava beds of Idaho west of Blackfoot.

Sunday 18th.

At three this morning all were in motion; 2 P. M. reached Goddin's River; see the tracks of a Snake camp. They have no doubt waited for the snow not daring to cross the plain without it. Course s. e.

Wednesday 21st.

At 3 A. M. I gave the call.¹ At 6 A. M. started, At 7 P. M. all reached the fountain. found 7 of the Snake horses standing in the plain exhausted. This plain is not less than 50 miles across E. S. E.

Thursday 22nd.

Reached Snake River at 11 A. M. crossed and camped on an island; 50 Snakes paid us a visit also 7 Nez Perce's lately with American trappers. If the Snakes are not too troublesome we shall remain some days.

Sunday 25th.

The chief of the lower Snakes with 300 followers paid me a visit, by name The Horse. He carries an American flag. I made him the following presents, 1 calico shirt, 2 scalp-ers, 1½ lb. ball, ½ powder, 1 looking glass, ¼ lb. glass beads, 1 half axe, 2 awls, 3 flints. They departed but not without some petty thefts.

Wednesday 28.

Encamped on Fork Portneuf River, which draws its waters from hot springs. We are now 3 miles from Blackfoot Hill,² 2 from Snake camp.

Friday 30th.

This morning the Americans who have been in company with us since 18th Oct. started for Salt Lake.³ The beaver we have traded from them exceed 100. During the time they have been with us, they have trapped only 26, so they lost more by meeting with than we have.

¹Early start for the dash across the lava beds or desert of Idaho to the Snake river near Blackfoot or Pocatello.

²Still so designated on map of Idaho.

³Meaning Utah Lake or Sevier Lake, where Gen. Ashley and his successors had headquarters; some 200 miles by trail to the southward, by way of Portneuf and Green rivers.

[US] Saturday, Dec. 1.

The day and month have begun with a wild storm of wind and snow. 5 Snake tents have joined our camp. I had rather they kept at a distance as they answer as a screen for horse thieves. Our numbers are but 12 men; the Snakes exceed 1500. We are completely at their mercy. I am on good terms with the chiefs and will try to remain so. I feel most anxious in regard to McKay's party, also the man I left on Sickly River. Now 4 inches of snow on the plains which helps our horses' feet. No trapper can do justice to his traps unless he has 4 good horses. My party average this; but the horses too young to endure privations. One died today. Very severe cold. The trappers came in covered with ice and nearly froze.

Tuesday 4 Dec.

The Snake camp in motion towards Blackfoot Hill. A stolen trap restored to me today by the chief. It is the opinion of many that winters in the Snake country are mild; but the bareness of the plains causes us to feel the cold greater than it is. In my leather hut with only willows for fire I find it far from pleasant. We now number 900 beaver. We shall raise camp in quest of buffalo tomorrow.

Saturday 8 Dec.

Followed down the fork to Portneuf River and this stream to its discharge on Snake River south and camped.¹ Have grass for our horses and wood for fires. It was my opinion that a trapper with his family could be fully equipped with a year's supplies for Snake country for £15, but I think now for blankets etc. it should be £25.

Friday, 14 Dec.

It would relieve me to hear of Mr. McKay. Mr. S. McGillvray's party from the east side of the mtns.² if no accident has happened ought to be in the waters of Salmon River. If

¹Not far west of Pocatello, Idaho; Fort Hall built near here by Nath. Wyeth six years later.

²Indicates that the H. B. Company sent trading parties from some Canadian Fort as well as from Vancouver.

the same severe weather exists he will have to remain quiet till April and so lose the hunt. The hunters killed 12 buffalo, the greater part of the meat being left for the wolves and starving Snakes. The Snake camp 12 miles off laying up buffalo meat. Have never seen buffalo so numerous.

Thursday 20 Dec.

At mid-day 2 Americans of a party of 7 arrived and informed me two days since they separated from Mr. McKay and party in Day's Defile with perhaps 500 beaver. He cannot cross the mts. owing to the snow and the weak state of his horses. These Americans traded 49 horses from the Nez Perces at an extravagant rate averaging \$50. They lost 19 crossing the plains from Day's Defile. They were obliged to eat 6. The Americans had 10 stolen by the Snakes; one American remained with Mr. McKay. They had commenced trapping Sandwich Island River when Mr. McKay joined them.

Friday 21st.

The Americans left to join the camp at Blackfoot Hill.

Monday 24 Dec.

Snow again last night. At an early hour, we were in motion ascending Snake River 2 miles and camped. The American party of 6 joined us, their leader a man named Tulloch¹ a decent fellow. He informed me his company would readily enter into an agreement regarding deserters. He informed me the conduct of Gardner's at our meeting 4 yrs.² since has not been approved. Tulloch speaks highly of the treatment he received from McKay. I shd. certainly be shocked if any man of principle approved of such conduct as Gardner's.

Tuesday 25 Dec.

Arrival of one of our men from Sickly River relieves me of anxiety. He reports they have 100 beavers and are not far. Our total number of beaver exceeds my expectations.

¹Samuel Tulloch; mentioned by Chittenden, but little known of him.

²Refers to expedition of 1824-5, concerning which see Or. Hist. Quar. for December, 1909; the Mr. Gardner may have been Johnson Gardner, who is mentioned by Chittenden.

1828 January 1.

The men paid me their respects and were politely received. The Americans followed the example and received the same treatment. The Americans leave for Salt Lake. The hunters are now making snow shoes as the depth of snow keeps increasing. The others pass their time in gambling. No cards are sold to the men at Ft. Vancouver. Still they procure them.

Saturday 5th Jan.

It has ceased snowing but continues to blow a gale from the North. One of the party who accompanied the Americans as far as the source of Portneuf River arrived this A. M. and reported snow not so deep in that quarter numerous herds of buffalo crossing and recrossing. They have hope of succeeding in reaching Salt Lake. If so we may see them again 15 days. It is more than probable one of the chief traders¹ of the company will return with them to arrange about deserters. This would be most desirable. Altho' our trappers have their goods on moderate terms, the price of their beaver is certainly low compared to Americans. With them, beaver large and small are averaged @ \$5 each; with us \$2 for large and \$1 for small. Here is a wide difference. All to their liberty to trade with the natives. It is optional with them to take furs to St. Louis where they obtain \$5½. One third of the American trappers followed this plan. Goods are sold to them at least 150 Pc. dearer than we do but they have the advantage of receiving them in the waters of the Snake country. An American trapper from the short distance he has to travel is not obliged to transport provisions requires only ½ the number of horses and very moderate in his advances. For 3 years prior to the last ones, General Ashley transported supplies to this country and in that period has cleared \$80,000 and retired, selling the remainder of his goods in hand at an advance of 150 P cent, payable in 5-years in beaver @ \$5 P beaver, or in cash optional with the purchasers. Three young men Smith,

¹Jedediah S. Smith, D. E. Jackson, or Wm. L. Sublette, proprietors of the Rocky Mt. Fur Company.

Jackson and Subletz purchased them, who have in this first year made \$20,000. It is to be observed, finding themselves alone, they sold their goods 1-3 dearer than Ashley did, but have held out a promise of a reduction in prices this year. What a contrast between these young men and myself. They have been only 6 yrs. in the country and without a doubt in as many more will be independent men. The state of uncertainty I am now in regarding the absent men and McKay's party and the gloomy prospects for a spring hunt make me wretched and unhappy.

Wednesday 16th.

The Americans are anxious to procure snow shoes, and I am equally so they should not as I am of opinion they are anxious to bring over a party of trappers to this quarter. I have given orders to all not to make any for the Americans. This day they offered \$25 for one pair \$20 for another but failed. 5 men traded leather with the Snakes.

Friday 18 Jan.

I proposed to one of the trappers to set off in quest of Mr. McKay and he consented without hesitation. The Americans continue offers for snow shoes but without success.

Sunday 20th.

Early this morning, Portneuf started to find Mr. McKay. I have given him information of the country with a map of the different streams. If McKay be on Goddin's River or Salmon River, I am in hopes he will find him. He would not consent to any one accompanying him, apprehending loss of time and discovery by Blackfeet. He is well provided with blankets and ammunition. I forwarded a general letter to the Columbia by him asking Mr. McKay to forward it to the Flat Heads. Tullock, the American, who failed to get thro' the snow to Salt Lake tried to engage an Indian to carry letters to the American depot at Salt Lake. This I cannot prevent. It is impossible for me to bribe so many Indians with my

¹On July 18th, 1826; see Hist. Amer. Fur Trade, p. 280.

party. I have succeeded in preventing them from procuring snow shoes. The Indian trade of the Columbia is one third less than it was. In Thompson River district not more than 200 skins were traded at the fort, and the returns not more than 2000. At present not one. These returns were procured by sending traders in every direction.

Tuesday 22 Jan.

A Snake arrived and informed the American trader one of their caches had been stolen by the Plains Snakes. From the manner he describes the place, no doubt remains of its being stolen. In my mind this fellow is one of the thieves. Property in it valued at about \$600. How long will the Snakes be allowed to steal and murder I cannot say. The Americans are most willing to declare war against them and requested if they did in the spring would I assist them. To this I replied, if I found myself in company with them I would not stand idle. I am most willing to begin but not knowing the opinion of the Company it is a delicate point to decide. Acting for myself, I will not hesitate to say I would willingly sacrifice a year or two to exterminate the whole Snake tribe, women and children excepted. In so doing I could fully justify myself before God and man. Those who live at a distance are of a different opinion. My reply to them is: Come out and suffer and judge for yourselves if forbearance has not been carried beyond bounds ordained by Scripture and surely this is the only guide a Christian sh'd follow. A hunter today killed 22 antelope by driving them in a bank of snow and knifing them, not allowing one to escape. 200 of antelope have been killed wantonly in the last week, for not more than $\frac{1}{4}$ of the meat has been brought to camp. No place is more suitable for a large party to winter than this.

Wednesday 23rd.

The American is now very low spirited. He cannot hire a man to go to his cache nor snow shoes, nor does he suspect that I prevented. This day he offered 8 beaver and \$50 for a pair and a prime horse to anyone who would carry a letter

to the American camp. In this also he failed. I have supplied the American with meat as they cannot procure it without snow shoes. The Americans are starving on Bear River according to report, no buffalo in that quarter, they are reduced to eat horses and dogs. We could not learn from Indians if the American traders had come up from St. Louis.

Friday 25th.

Snow and storms continue, a terrible winter. A man who went in quest of lost traps arrived with reports of fearful distress of the Americans. Horses dead, caches rifled. I believe this as a trapper saw calico among the Snakes, traded from the Snakes of the Plains. The Americans are determined to proceed but find it is to no purpose these extravagant offers. They are making snow-shoes themselves wh. they ought to have done 2 wks. ago. I cannot ascertain the motive of their journey south. I dread their returning with liquor.¹ A small quantity would be most advantageous to them but the reverse to me. I know not their intentions but had I the same chance they have, long since I would have had a good stock of liquor here, and every beaver in the camp would be mine. If they succeed in reaching their camp they may bring 20 or 30 trappers here which would be most injurious to my spring hunt. As the party have now only 10 traps, no good can result to us if they succeed in reaching their depot and returning here. We have this in our favor; they have a mountain to cross, and before the snow melts can convey but little property from the depot as with horses they cannot reach here before April.

Saturday 26.

The Snakes have now about 400 guns obtained in war excursions 'against Blackfeet' and from trappers they have killed and stolen caches. In the plunder of Reid's Fort,² they secured 40. Still these villains are allowed to go unmolested

¹This was what caused the trouble in May, 1825, already alluded to, if we understand correctly.

²On what is now Boise river in January, 1814; built by John Reed.

In any other part of the world, the guilty are punished in England a man is executed. Power gives the right. Here we have both power and right, but dare not punish the guilty. Were proper statements sent to England or to the Honuble Hudson's Bay Com. I am confident greater power would be granted to Indian traders; and surely they would not make an improper use of them. This is the plan the American gentlemen adopt with tribes on the Missouri; the Spanish also. The missionaries have done but little: and murders are no longer heard of among the Spaniards. Threats are of no avail among the Snakes.

Sunday 27th.

The Americans expect to start tomorrow. Their snow shoes are poor make-shifts and will give them trouble. It will be a month before they can return. Meanwhile there will be no beaver skins left among the Snakes.

Monday 28.

At midnight we were surprised to see Portneuf make his appearance. This man set out on the 20th to carry despatches to Mr. McKay and since his departure has only reached Goddin's River wh. distance with our weak horses we performed in $2\frac{1}{2}$ camps. On reaching the river he broke the cock of his rifle. Depth of snow, slow progress, sore eyes, he considered it wisest to return. This is a cruel blow to my prospects. I shall make another attempt by sending three men as soon as I can have snow-shoes made. Only 3 men here have ever seen Salmon River. One is next to blind, the other 2 lame. One of the latter must go. Two Americans this day started for Salt Lake. They are not sanguine; as the man I sent out has failed. They have an arduous task, wretched snow-shoes and this is the first time they ever used them. I sent men with them as far as the Indian village, as they intend sleeping there to-night (in case of stray beaver skin). The ice is very weak. One of the Americans had a narrow escape, a minute more and he would have gone. He made a noble struggle for his life.

Wednesday 30th.

I fear the man I sent with the Americans has gone off with them. I sent a messenger to the Indian village after him.

Thursday 31.

The absent man arrived.

February 1.

Men started with express in quest of McKay.

Monday 4th.

The 2 Americans who left on 28th unexpectedly made their appearance. Most agreeable to me but a cruel disappointment to them. They could only reach the sources of Portneuf River, whence they returned.

Wednesday 6th.

The Americans again making preparations to start for their depot. From precautions taken they may succeed and reach Salt Lake. This will be their third attempt, and they will have no time to lose if they are to return for the spring hunt.

Sunday 10.

Men who started in quest of McKay arrived. Again have they failed. Their guide had to return on account of lameness. They reached Day's Defile. I am obliged to make another attempt. It is impossible to make spring arrangements without McKay's party. My men will start again. The 2 Americans again set out for their cache. It is laughable, so many attempts on both sides and no success. Was it not I feared a strong American party here I shd undertake the journey myself and would succeed.

Tuesday 12th Feb.

At dawn of day Payette and 2 men set out in quest of McKay. A war party of Blackfeet has taken the direction of Salt Lake. The Americans left here are alarmed at the news not only on account of the two men but for their camp in that quarter. The Americans have only 24 horses left, the rest dead from cold & of the 50 they brought I have no

hope one horse can escape, though covered with robes each night. It will be difficult to reach Nez Perce's without them. The distance from this place to Burnt River is 400 miles, with the exception of 80 the navigation is good and with time we could pack our property over this distance.

Saturday 16th.

The 2 Americans arrived this afternoon accompanied by one of their traders¹ and 2 men they met on Portneuf River near the source. They report a fight with the Blackfeet and old Pierre the Iroquois who deserted from me 4 yrs. ago was killed and cut in pieces. Pierre owes a debt to the company but as we have a mortgage on his property in Canada we shall recover. Their traders from St. Louis did not arrive last fall owing to the severe weather in Salt Lake region. All except the freemen of the Flat Heads reached the depot safely. The loss in horses by Blackfeet has been 60. It was a novel sight in this part of the world to see a party arrive with dogs and sleds; for seldom are 2 in. of snow to be found here. They informed me His Royal Highness the Duke of York was dead, and of course the old story that we shall soon be obliged to leave the Columbia. At all events tho' they have later news than I have, the treaty² does not expire before November. Then we shall know what to expect.

Monday 18th.

By the arrival of the Americans we have a new stock of cards in camp, eight packs. Some of the American trappers have already lost upwards of \$400 equal to 200 beavers, or to the Americans 800 beavers. Old Goddin who left me in the fall is in a fair way of going to St. Louis having sold his 8 horses and 10 traps for \$1500. He has his fall and spring hunt equal to 600 more wh. makes him an independent man. In the H. D. service with the strictest economy barring accidents in the course of 10 years he might collect that sum. Is

¹Robert Campbell; see entry of Feb. 19th infra and Hist. of Amer. Fur Trade, p. 260.

²The treaty of Joint Occupation between England and the U. S. agreed to in November, 1818. Mr. Ogden did not know that it had already been renewed.

it surprising men give preference to the American service and pay extravagant prices for beavers?

Tuesday 19th.

More rain. The Americans are making preparations to go to the Flat Heads. Their trader, Mr. Campbell, informed me 2 of their trappers Goodrich and Johnson who joined my camp last fall are heavily indebted to his concern. I replied I had no knowledge of the same and that it was his duty to secure his men and debts also. I said my conduct to them was far different from theirs to me four years since.¹ He said it was regretted; that there was no regular company otherwise I shd. have received compensation. It may be so. At all events, dependent on me, they cannot acknowledge less. I have acted honorable and shall continue so.

Wednesday 20th.

The 2 trappers are to return to the Americans. 30 tents of Snakes are starving near us. Stormy weather prevents the Americans attempting to cross the Barren Plains.

Saturday 23rd.

American party left for the Flat Heads and perhaps the Kootenays. They have a long journey but are well provided, tho' very silent regarding the object of the journey. I believe they intend trapping the forks of the Missouri for which they are strong enough in numbers. Two of our horses dying a day from cold.

March 1828.

Cloudy cold weather. Scarcely risen when Payette made his appearance with 2 of McKay's men. He found McKay camped on the forks of Salmon River. He had sent 3 times in quest of us, but without success. He reports beaver 350, loss of horses 8. They found snug winter quarters, buffalo numerous, only 6 inches of snow. The men arrived snow blind.

¹In the spring of 1825; see introductory notes.

Monday 3rd March.

Two Americans off for Salt Lake. They do not intend to return. The Indian who started last fall with my express for McKay, and did not reach him, and I concluded he is dead. I wish my letter could reach the Columbia before the spring express starts for York.

Monday 17.

The Americans now 5 in number more or less starving do not attempt to take beaver but gamble from morning to night. May they continue. My trappers are not idle. One canoe is finished; preparations for 2 more. Will take beaver with our canoes.

Wednesday 26 March.

Americans with us since December departed for Salt Lake. We separated on good terms.

Thursday 27.

Two Americans arrived from Salt Lake surprised not to find their party here, whom they came to assist across the mountains. They intend going to the Utahs and started for Portneuf River. Two of McKay's men arrived with a letter. He cannot reach Day's Defile owing to the great depth of snow. He despairs of joining me. It will be impossible for us to go to Henry's Fork. Our numbers are too weak to face the war tribes. I have ordered McKay to try and join me.

Saturday 30th.

Moved to Portneuf River opposite the American camp.

Tuesday 1st Ap.

Encamped at Snake River.

8th Tuesday.

I have appointed Sylville to trap Sickly River with 6 men to be at Nez Perces by end of July.

Tuesday 17 April.

Encamped Snake River 100 yds. from Benoit's grave. I warned the trappers to on guard against the Blackfeet. I

have doubled day and night guard owing to the Blackfeet across the river.

Wednesday 23rd.

Encamped on Blackfoot Hills.

Thursday 24th.

Have completed our 2nd M of beaver, independent of McKay's success. If no accident happens Sylvaile's part, I might reach Vancouver with 4000. I have only 16 men and dare not go to the source of these streams.

Friday 25th Ap.

Fine weather at last, 2 of the trappers arrived having narrowly escaped the Blackfeet. I wish to God McKay's party would make their appearance, and relieve my anxiety. Shd. an accident happen us all is lost.

Sunday 27 Apr.

Crossed Blackfoot Hills and camped opposite side Blackfoot River near to discharge in south branch. From the top of Blackfoot Hill I could see plainly the Barren Plains of Three Knobs and entrance of Day's Defile no appearance of snow. At a loss to account for McKay's delay.

Tuesday 6 May.

Began retracing steps for Ft. Vancouver from entrance of Blackfoot River. Heard 5 shots across river, sent to reconnoitre and found 5 of McKay's men who reported that gentleman 5 miles distant. They have been detained by snow.

Thursday 8th.

McKay and party arrived with 440 beaver. This strengthens us against the Blackfeet.

Saturday 10th May.

Fine weather; saw the track of a large band of horses and suspect the Blackfeet have stolen them from the Americans. The day guard called to arms and at a distance we saw an armed party on horseback making for our camp. In a second we were in readiness and having secured horses advanced to

meet them but in lieu of Blackfeet they proved to be Plains Snakes returned from Henry Forks. They report 2 days since raiding a party of Blackfeet. In the loot were clothes, hunters hats shoes etc horses belonging to the Americans who wintered with us. The furs were left on the plains. A convincing proof the Americans have been murdered and pillaged, knowing how blood thirsty the Bl. are and how careless the Americans. The sight of this caused gloom in camp. We may be doomed to the same fate. God preserve us. The Snakes are on the way to Salt Lake to find Americans there and obtain reward for restoration of property.

Saturday 24.

Again a stormy night of rain. Trappers started at an early hour and soon 2 arrived with the alarm Blkft! that Louis La Vallé was killed within half a mile of camp. I gave orders to secure the horses and sent McKay with 12 men to rescue 4 trappers in the same direction fearing they were also killed. At mid day he returned with the body of the deceased wh. he found naked on the plains but not scalped. The absent trapper also came in with him. After the Blk. had killed La Valle they were discovered by the trappers, who hid. The war party 60 in number have come from Salt Lake. They had a bale wrapper with the Am. Co's name on it. I had the body interred—valuable smart loss. He leaves a wife and 3 children, destitute.

(The month of June spent in crossing back over the mountains.)

Tuesday 8 July.

At dawn of day Mr. McKay left with a man preceding us to Sandwich Island River to find Sylvaille whom he found at the Indian Fish Pen. Two had gone to Nez Perce's and they had been attacked by 150 Blkft. on May 20 one woman killed, one Blkft. killed all horses lost but 650 beaver concealed in a cache on Sickly River.

Monday 14 July.

Left South Branch of Snake River and reached Burnt River; joined by 40 Indians on the way to the fort.

Thursday 17 July.

Reached powder River were met by 20 men sent from Nez Perce's by Mr. Black. The interior brigade¹ has not yet reached Fort Nez Perce's. Leaving the brigade in charge of F. Payette, I shall to-morrow leave for the fort.

Saturday 19th.

Reached Nez Perce's—all well.

Tuesday 22nd July.

Brigade arrived safe. Mr. McKay's party will join us at Ft. Vancouver. So ends my 4th trip to the Snake Country and I have to regret the loss of lives. The returns far exceed my expectations.

¹Carrying the furs from Thompson river and Kootenai and Flathead districts down the river to Fort Vancouver.

JOURNAL OF PETER SKENE OGDEN; SNAKE EXPEDITION, 1828-1829

(As copied by Miss Agnes C. Laut in 1905, from Original in Hudson's Bay
Company House, London, England.)

September Monday 22nd.

This day at 8 A. M. I took my departure from Fort Nez Perces once more for the Snake Country. at 3 P. M. I joined my party at the foot of the mountains¹ waiting my arrival. We are well provided regarding horses and traps but of indifferent quality. I am confident if we find beaver we shall always find ways of conveying them to Columbia River.

Tuesday 23rd.

At sunrise horses were assembled two found missing as we have a long days march and hard roads, I gave orders to start, remaining in the rear to look for the strays, one of the men requested to return to the fort for medicine this I granted. At 10 we found the lost horses and I overtook camp in the middle of the mountain, 9 of our horses gave out.

Wednesday Ag. 24.

Our horses were soon found. At 7 A. M. we started and reached the entrance of Grand Rondeau² at sunset all safe with the exception of $\frac{1}{2}$ bg of pease lost by a horse taking fright.

Thursday 25th.

Late in the night, the sick man arrived from the fort. He obtained some relief. I recd a few lines from Mr. Black. He has no complaint. We remained to make our tent poles³ beyond this is no wood fit for the purpose. Two of the trap-pers started with traps. Hunters also started in pursuit of game but returned without success.

¹The same place as the year before, probably near Milton, Oregon.

²Near Summerville, Union county, Oregon.

³These lodgepoles were destined to be dragged a long way and their marks across the plains and mountains served to mark the track of future wagon and stage and railroads.

Friday 26th.

Started at an early hour 6 A. M. and encamped on the Grand Ronde at 2 P. M. our horses fatigued, 8 in the rear—wild horses are very unfit for a long journey. Two trappers joined us with 4 beaver.

Saturday 27th.

Started at 7 A. M. crossed the Grand Ronde, ascended high stony hills advanced 6 miles, encamped on a small creek, 12 trappers started with their traps. They are to join us in 2 days.

Sunday Sept 28th.

Reached the fork of Powder River. Trappers came in with 9 beaver.

Monday Sept 29.

Encamped on Powder River; heat very great; 7 beaver.

Tuesday 30th Sept.

Sent off 6 men with lodges to Burnt River from thence to go up River Malheur where we shall meet. Also sent off 5 men across country to rejoin us on the forks of Malheur. It is only by dividing that returns can be made. Encamped at the Fountain.¹ One trap gave us 11 beaver.

Wednesday 1st Oct.

Encamped on fork of Burnt River.

Thursday 2nd Oct.

Encamped half way down Burnt River, a hilly country; 10 beaver.

Sunday 5th.

Appointed Payette and 7 trappers and 3 Indians to proceed to north and south branches. In case of seeing Americans I gave Payette a small trading assortment.

Monday 6th.

did not reach unfortunate Malheur River till 4 P. M. At this point a Snake Indian was to assist as guide but so far no sign.

¹Query: Where was this fountain or spring on Powder river?

Thursday 9th Oct.

One of the 5 men who started on the 20th arrived with word 8 of their horses were stolen 2 nights ago, and success in beaver is not great. In three days I shall join this party.

Saturday 11th Oct.

At dusk reached a small fall of River Malheur a stony hilly road.

Friday 17 Oct.

One of the party who separated from us on Powder River arrived. I shall proceed to Sandwich Island River. Our trip gave us 7 beaver.

Sunday 26th Oct.

Started at day break. Advanced six miles. Reached a long lake¹ not suspecting the water was salt we advanced, when discovering it, we were obliged to retrace our steps to a small brook and camped at 4 P. M. having travelled all day to little purpose. Course S. E.

Monday 27th.

Started at 7 A. M. following the banks of Salt Lake 9 miles long 4 wide without a discharge. We passed a hot spring in a boiling state strong smell of sulphur, tracks and huts of Indians. All have fled.

Saturday 1st November.

Started at 7 A. M. our tracks this day between mountains on both sides over a plain covered with worm wood. The men saw 2 Indians whom they secured and brought to camp. More stupid brutes I never saw nor could we make him understand our meaning. Gave him a looking glass and his liberty. In less than 10 minutes he was far from us.

Monday 3rd.

Had not advanced 3 miles when we found 3 large lakes covered with wild fowl. The water's have the taste of Globular salts.

¹Evidently now on waters draining toward the south, and in a region not known to have been explored before this time.

Tuesday 4th Nov.

The three men in advance discovered 4 Indians one of whom directed them to follow the trail to a large river and he advanced some distance with them, then deserted. A cold night. Reached a bend of the river and camped. Indians are most numerous, their subsistence grass roots and wild fowl. They fly in all directions. We are the first whites they have seen and they think we have come with no good intentions.

Wednesday 5th Nov.

Sent out 6 men to ascend the mountains in the highest parts and reconnoitre, followed the Indian back to the sources of the river. Passed the night without supper or sleep unable to come back to camp.

Friday 7 Nov.

At 7 A. M. we crossed over the river wh. from running thro' a number of lakes I have named River of the Lakes, although not a wide stream certainly a long one.

Saturday 8 Nov.

Crossed a plain and reached a stream similar in size to the River of the Lakes. The banks of the river are lined with huts and the river has natives most numerous.

Sunday 9th Nov.

One of the hunters in advance returned with word this river discharges into a lake no water or grass beyond only hills of sand. Reached the lake and camped. Surprised to find tho' the river discharges in the lake and takes a subterranean passage it appears again taking an easterly course. Had not advanced 4 miles when a large stream appeared lined with willows. So glad was I to see it that at the risk of my life, over swamps, hills and rocks, I made all speed to reach it and the first thing I saw was a beaver house well stocked.

Monday 10th Nov.

Long before dawn of day every trap, trapper was in motion. As dawn came the camp was deserted, success to them. I

gave orders for all to ascend the river as the season is now advanced we may expect the river to be frozen. Should this river flow to Sandwich Island River I trust we shall have full time to trap it.

Tuesday 11th.

To ascertain if possible what course this river takes, I started at daylight and continued down the river till one P. M. As far as I could see, it must return from whence it came. Found trappers had arrived at night with 50 beavers.

Thursday 13th.

Had a cold night. Half our trappers absent. Those that came in brought 30 beaver. 6 Indians paid us a visit and traded 3 beaver. On asking what they had done with other skins, they pointed to their shoes and examination showed them to be made of beaver. This accounts for beaver being so wild. They told us toward the sources we shall find beaver more numerous.

Monday 17th Nov.

Started with the camp to find grass for the horses. Advanced 6 miles 6 of the trappers came in with 41 beaver. The river is scarce of wood.

Tuesday 18 Nov.

At this season last year, we were surrounded by snow and ice. Weather is mild as September and the rattlesnakes have not yet gone. This gives us hope the winter will be mild.

Wednesday 19 Nov.

At 8 A. M. we started following the stream advanced 10 miles and encamped as usual on the banks of the river lined with deserted Indian villages, no less than 50 tents. 150 Indians paid us a visit, miserable looking wretches, with scarcely any covering, the greater part without bows and arrows without any defence. They were fat and in good condition. Six trappers came in with 58 beaver, and 10 traded from the Indians make 68. They report the river lined with Indians. On our arrival, they took us for a war party but are now con-

vinced we war only on the beaver. They annoy us and have stolen 2 traps. By following us they make the beaver very wild.

Thursday 20th Nov.

Again 60 beaver to skin and dress. I wish the same cause may often detain us. Recovered one trap. 300 Indians around our camp: very peacable. This river takes a southern course.

Saturday 22nd.

52 beaver; the river still fine; dead water and willows in abundance: gale of wind from the south and appearances of rain.

Sunday 23rd.

Rain: three Snake Indians arrived and informed us they were from the Twin Falls¹ of the Snakes and that 2 mos. since 6 Americans had been killed there, by the Snake camp. I am confident it is not Payette's Party, as they were not to go in that direction. Course south, mountains visible in all directions. We need 200 to complete our 1st thousand beaver.

Tuesday 25th Nov.

stormy night: 2 inches of snow. Bad weather and the arrival of one of the trappers late last night dangerously ill prevented us raising camp. This poor man stands but a slight chance of recovery.

Wednesday Aug 26th.

The sick man dangerously ill. On requesting if we could raise camp he replied he could not move and requested us as an act of charity to end his sufferings by throwing him in the river. I am not of opinion he will recover. Yet he may linger for days.

Saturday 29th.

Trappers started at dawn of day. I wish it was in my power to follow them but the sick man cannot stir.

¹Twin Falls is a more prominent locality now than then.

Thursday 4 Dec.

Cold severe. Sick man no better. If the weather would moderate I would make an attempt to move. It is the general opinion he cannot survive. At all events by care and attention we shall not hasten his death, nor prevent recovery; but are in a critical situation, our horses starving, our provisions low. Granting it may hasten the death of our sick man, we have no alternative left. God forbid it should hasten his death. At the same time the interests of the others who are now becoming most anxious from the low ebb of provisions must be attended to. So long as they had food, there was no murmur. Now it is the reverse and I cannot blame them.

Saturday 6th Dec.

With 2 men to assist the sick man, we raised camp, had a fire made and place cleared for his arrival. He did not suffer more than usual. One Snake tells us we shall soon reach buffalo.

Monday 8th.

At 9 A. M. we started. I gave the sick man 2 men to assist him and lead his horse, taking every precaution to have him well covered with robes and blankets as from the cold and our having a long point of land to cross over, we had a hilly road, snow 2 ft. deep, camp 3 P. M. Shortly after one of the men in charge of the sick man arrived and reported the horse had become so fatigued they could not advance. I sent off 2 horses to their aid. About 7 P. M. they arrived. He does not complain of having suffered. Course S. E.

Tuesday 9th.

From the sufferings of the man during the night, it was impossible to raise camp. Cold most severe. The river fast bound with ice. Provisions very low. Not a track of an animal to be seen.

Wednesday 10th.

Cold. 2 men came forward this A. M. and volunteered to remain with the sick man as the latter requested I would

consent to go on without him in quest of provisions and not apprehending danger from natives, I gave my consent. In fact there was no alternative. It is impossible for the whole party to remain here and feed on horse flesh for four months. 100 would scarcely suffice, and what would become of us afterwards? I secured an Indian to accompany us as guide, informing them of our intention to return and not to molest those I left behind, otherwise I would not only retaliate on them, but on the one who accompanied us. I gave the men a bag of pease and a 3 yr. old colt and strict orders of every precaution for their safety. At 10 A. M. we started along the banks of the River: crossed over on the ice and camped at sunset.

Thursday 18 Dec.

At 9 A. M. we started. Travelled over a level country until 2 P. M. when we crossed over a large range of high hills and descended a very high hill where we reached a fine level plain with scarcely any snow. Here we found a small lake and encamped at dusk. Course east. Our guide informed us we were near the Utas Country not far distant from Salt Lake. I am fully aware we shall find nothing but salt water not palatable in our starving state.

Friday 19th Dec.

10 A. M. started north east over a barren plain covered with worm wood at a good pace till night when finding snow in abundance I camped. 2 horses killed for food. A gloomy barren country. Except for tracks of wolves no other animals seen.

Sunday 21st.

Our guide informed me by starting at an early hour we would find water for camp, which our horses stand greatly in need of. Tho' we travelled as fast as our worn out horses could, it was night ere we crossed the plain and reached a small brook and piercing the ice found the water too salt to drink but by melting the ice it was tolerable. This day the —— killed an antelope. A large herd seen but very wild.

Monday 22nd.

Our horses appeared to relish the salt water for we had difficulty driving them from it. At 2 P. M. fell on a large Indian track of not long since Snakes wh. appear to be traveling in the same direction as we, no doubt in pursuit of the same object.

Tuesday 23rd.

It was fortunate we had a track. Otherwise from the fog we should have been obliged to remain in camp.

Wednesday 24th.

Our guide quarrelled over horses and deserted.

Friday 26th.

Had a distant view of great Salt Lake. heavy fogs around it. Country is covered with cedars. From the tracks, buffalo must be abundant. At present none. On the eve of camping we were surprised to see our guide come in with a cheerful countenance. He informed us he had seen an Indian who reported buffalo, not far off. I trust this is true, as we are wretched reduced to skin and bone. Hunters killed 3 antelope. This will assist, tho' poor food at this season, but far preferable to horse flesh that die of disease.

Sunday 28th.

With my consent 8 men started in advance in quest of food, the party having been three days without food. Here we are at the end of Great Salt Lake having this season explored one half of the north side of it and can safely assert as the Americans have of the south side that it is a barren country destitute of everything. Continued over a barren plain. Seeing it was impossible to reach the mountains we encamped.

Monday 29th.

Late ere our horses were found. Had not advanced more than half a mile when we found 2 springs of fresh water for our poor horses. We continued till 3 P. M. When we reached the mountains and camped. Here again disappointed, no

water. One of our horses fell down so weak and reduced he could rise no more. I had him killed and the meat gave those most in want. To be reduced to food of diseased horses is not desirable.

Tuesday 30th.

Descended into a level plain and found 2 camps of Snake Indians who can give little assistance in provisions. The men who started on the 28th succeeded in killing 2 buffalo. There was no appearance of any herd. Indians numerous but not troublesome.

1829 Thursday 1 Jan.

One of the trappers left in charge of the sick man arrived with his horse fatigued and informed me that our sick man Joseph Paul died 8 days after we left suffering most severely, a young man only 29, steady and a first rate trapper. There remains now only one man of all the Snake men of 1829.¹ All have been killed with the exception of 2 who died a natural death and are scattered over the Snake Country. It is incredible the number that have fallen in this country. I sent 2 horses back to assist the remaining man to camp.

Saturday 3rd.

This day kept by all as a feast and I gave all a dram and a foot of tobacco per man. I purpose remaining to rest our horses. They would require a month to have their feet healed.

Sunday 4 Jan.

Two men in the rear arrived but a woman two children and one pack of beaver 9 traps and 6 horses have been lost for 3 days. Among so many Indians I apprehend the worst and sent 4 men to the place she was last seen. Four Indians arrived well armed. Traps gave 11 beaver as good fur as in the Columbia.

¹Evidently a mistaken figure and the year 1819 intended, which was the first year the Northwesters, predecessors of the H. B. Co., sent a trapping party to the Snake Country.

Monday 5th Jan.

Truly glad to see the lost women with all the property. She blames herself for having gone astray. Day after she lost our tracks she fell in with 2 Indians who behaved most kindly towards her, defended her property from other Indians who attempted to molest her and rendered her every assistance. It is strange there should be beaver here as the Americans have been in this country for 4 years. I cannot ascertain if this stream¹ discharges in Salt Lake or in Bear River. 14 beaver. I omitted to assert that I sent 10 Indians to Snake River with a letter addressed to Mr. C. Grant intimating I could not form a union with him owing to the low state of my horses recommending him to the South Branch,² sending this letter by a Snake Chief, but they inform me there are no traders in that quarter. So I suppose the York Factory³ Snake expedition has been retarded; and the accounts they give of the Americans corresponds with the traders here—they had all gone towards the Flat Head Country probably to the Blackfeet; no buffalo in the Snake River; but Blackfeet numerous.

Monday 12th.

A stormy night. Crossed over the height of land and camped on the forks of Portneuf River. We must cross to the waters of Bear's River and if there be no Americans I expect to find buffalo. On the lower part of this river, the Snake camp is starving.

Thursday 15th.

We have commenced our 2nd thousand of beaver. I do not despair of completing 2 more before reaching Nez Perces. From Payette's party no accounts have come.

Tuesday 17 Jan.

The cold has not moderated for a month but on the increase: a sick man still complaining. I have given him all the purges

¹Probably the Malade river in Northern Utah.

²That is, Snake river.

³See entry of Dec. 14th, 1827, in next previous journal.

I have and it is his duty to recover ; for he can expect no more assistance from me.¹

Monday 29th March.

In sight of Salt Lake again. As there appears to be a defile for crossing the mountains, I proposed for our men to fish and follow by track of 1826. The Blackfeet and Snakes are now scattered in quest of fish and roots. I am in hopes the party will collect 400 beaver. This leaves me only 14 men and if I may judge from what I saw last fall an unknown River, we shall require to be on our guard against Indians. It being the first year we have had any intercourse with the Indians they are very shy. Since starting from Fort Nez Perces my party is divided into three. God prosper us all ! To the separating party I gave directions to reach the Columbia by the 30th of July, gave the charge to Plante.

Tuesday 30th.

This morning 12 men 24 horses and all our traps started for Unknown River. They will reach the river 8 days before me. I wish them success. All is now in motion. Reached Foggy Encampment,¹ the weather being clear had a good view of Salt Lake and Mountain Island² prom. point which from its snow must be very high. On both sides of the Salt Lake is high land surrounded by mountains. Beyond these mountains west tho' the lake has no discharge, there must be a large river in a barren country.

Thursday 8 Ap.

At 11 A. M. we reached the forks of Unknown River, and found trappers awaiting with 43 beaver. Our trappers being at the upper part of the river and finding no beaver have gone down. Crossed over the river still very low and descended down the stream finding Indians fishing salmon trout.

¹Mr. Ogden should have been called Doctor Ogden.

¹Their camp on Dec. 23rd last.

²Promontory Point?

Sunday 11 Ap.

Reached the place where we left this river last fall. Three of the absent trappers arrived with 57 beaver.

Tuesday 13 Apr.

Continued our course down the river to within a mile of Paul's Grave where we found the other trappers with 50 beaver. We shall steer our course in quest of Sandwich Island River 4 days travel from Unknown River. All the Indians say we shall find beaver there. Paul's grave examined. All safe.

Thursday 15 April:

Crossed mtns. and plain and reached the junction of the forks of Sandwich Island River. Trappers took 32 beaver.

Sunday 2nd May:

Sandwich Island River has disappointed us in beaver. I must retrace our way to Unknown River.

Saturday 7th May:

Before starting this day, I learned 2 Indians who accompanied us from the Columbia started last night on a horse thieving expedition. Hunting to-day they discovered tracks of horses and are gone in pursuit to rejoin us in 4 days. They stand a chance of losing their lives.

Sunday 8th.

Followed down Unknown River. Keep most strict watch day and night on our horses. The Snakes on this river dress in beaver skin. Trappers brought in 41 beaver. We require 300 to complete our 2nd M. The horse thieving Indians have come back, having been pursued and compelled to abandon the 5 horses they stole. Country is level as far as the eye can see. I am at a loss to know where this river discharges.

Sunday 15th May:

Started at dawn to escape the heat, the journey over beds of sand the horses sinking half leg deep, the country level tho' at distance hilly—course S. W. The Indians are not

numerous in this quarter, but from the number of fires seen on the mountains are fully aware of our presence, and we must look out for our horses. 75 traps produced 37 beaver. This is tolerable; for we usually receive only a third. In no part have I found beaver so abundant. The total number of American trappers in this region¹ at this time exceeds 80. I have only 28 trappers, 15 in 2 parties, and shall be well pleased if one of the 2 parties escapes. The trappers now average 125 beaver a man and are greatly pleased with their success.

Tuesday 17th May.

large tracks of pelicans seen indicate a lake. If it prove salt; beaver will be at an end. Two Indians seen at a distance.

Thursday 21st May.

Remained in camp to dry our beaver. One of the trappers in the rear visiting his traps had his horses stolen before he could come out of the bushes the Indian was nearly out of sight. Another trapper who had been to the lower part of the river to set traps was on his return when 4 Indians seized his gun and would have taken his life had he not escaped, 3 arrows being sent after him. This is a strong tribe of natives probably the same branch as in Pitts River very daring.¹ I have ordered the trappers to go out only in twos and to be strictly on their guard.

Friday 27th May.

Encamped within a mile of a large lake.² The river is not half the size it was, no doubt spreading in the swamp we have passed. It is 2½ ft. deep and only 10 yds. wide. We may now think of retracing our steps. It is too far on in the season to proceed on discovery. Course S. W.

Saturday 28th May.

3 of the trappers came in with word of more traps stolen. He pursued the thieves and punished them but could not recover the traps. A man who had gone to explore the lake at

¹Modoc Indians.

²Marked Unknown Lake on Ogden's map, and the place where 280 Indians attacked him and he turned back.

this moment dashed in and gave the alarm of the enemy. He had a most narrow escape, only the fleetness of his horse saved his life. When rounding a point within sight of the lake, 20 men on horse back gave the war cry. He fled. An Indian would have overtaken him, but he discharged his gun. He says the hills are covered with Indians. I gave orders to secure the horses, 10 men then started in advance to ascertain what the Indians were doing but not to risk a battle as we were too weak. They reported upwards of 200 Indians marching on our camp. They came on. Having signalled a spot for them about 500 yards from our camp, I desired them to be seated. This order was obeyed.¹ From their dress and drums and the fact only one elderly man was with them, I concluded it was a war party. If they had not been discovered, they had intended to attack us, weak as we were in guns—only 12—they would have been successful. It was a narrow escape. They gave us the following information through the Snake interpreter: this river discharges in a lake which has no outlet. In 8 days, march (westward) there is a large river but no beaver, salmon abundant. There is also another river which must be Pitt's River. We saw rifles ammunition and arms among them and I think this must be the plunder of Smith's² party of 10, who were murdered here in the fall. They requested to be allowed to enter the camp. I refused. A more daring set I have not seen.

Sunday 29 May.

The night dark and stormy, but this morning all safe. The Indians had fires all night. As I do not wish to infringe on McLeod's territory, I gave orders to raise camp and return. McLeod's territory is the water discharging in the ocean.³

¹Proves very conclusively that Mr. Ogden was a man of nerve. He had only fourteen men with him.

²Must refer to the experience of Jed. S. Smith with the Mohave Indians further to the south on his way to California in the Fall of 1827.

³The Mr. McLeod who was afterward a familiar figure in the Snake Country, representing the H. B. Co. at the annual rendezvous and showing kindness to the Amer. missionaries en route to Oregon.

If Mr. McLeod has succeeded in reaching Bona Ventura he must have crossed this stream. We have only 50 traps remaining and my party are too weak to advance. I told the Indians in three months they would see us again.¹

Thursday 2nd of June.

We are directing our course to Sylvaille's River Day's Defile and Snake River, Unknown River is known as Swampy River or Paul's River,² as he must remain here till the great trumpet shall sound.

Sunday 5th June:

Left Unknown River in the rear.

Saturday 25th June:

we are now across the Blue Mountains reaching a small fork of Day's River. Hope to reach Nez Perces in 12 days.

Tuesday 5 July:

As the track to Nez Perces is now well known, and no danger to be apprehended, I shall to-morrow leave with 2 men for the fort. Thus ends my 5th trip to the Snake Country. We have no cause to complain of our returns.³

¹Mr. Ogden kept his appointment. The following fall he passed this way on the way to California, of which journey we have no record.

²A few more names for this river, which should rightly be designated the Ogden river, instead of the Humboldt. Maj. Chittenden and others speak of it being called Mary's river, which evidently was merely a trapper's story similar to another told by Jos. V. Meek to Mrs. Victor; see *Or. Hist. Quarterly* for Nov., 1909.

³According to previous entry on the 15th of May the catch amounted to 125 beaver to the man or over 3500, with the two detached parties to hear from as to later success. The responsibility of getting these valuable furs to the Columbia in safety must have been considerable. One authority (John Keist Lord) states that they were transported in packs of sixty pounds each and two packs to the horse.

CORRECTIONS

To the Editor:—

Two very minor inaccuracies have come to my notice in the "Peter Skene Ogden Fur Trader," article printed in Vol. XI. No. 33, (Sept., 1910) number of the *Quarterly*, as follows:—

Page 253, line 15 should read thirty MILE instead of thirty *league* limit.

Page 274, line 7, should read AT LAKE instead of *of Fort Stuart*.

The second paragraph of page 262 also is rendered more valuable historically by an excerpt from a letter dated at Waiilatpu Oct. 26th, 1845, written by Marcus Whitman to the Sec. of the Amer. Board of Com. of Foreign Missions and now on file in their archives at Boston and copied there by the late Wm. I. Marshall and printed by him in his H. B. Co. Archives pamphlet at page 26, as follows:

"Mr. Ogden passed down in August last, but was not able to visit us. But Mr. McKinlay, his son-in-law, came up immediately and gave us his kindest assurances, together with much interesting information. Mr. Ogden comes back to become the General Superintendent of the Company's business in this country and vicinity, and is to travel most of his time from Post to Post, while Mr. Douglas is to remain at Vancouver and succeed Dr. McLoughlin, who soon retires on his own private account and settles at the Falls of the Willamette on the S. side of which he is the proprietor."

This letter indicates clearly the relative positions in the H. B. Co. held by Mr. Ogden and Mr. Douglas after the retirement of Dr. McLoughlin from Fort Vancouver, which was the only Factory (where Factors resided) of the Company on the Columbia. Mr. Ogden's appointment as Chief Factor antedated that of Mr. Douglas by some five years.

T. C. ELLIOTT.

Walla Walla, Dec. 1, 1910.

DOCUMENT.

The following is the text of a letter that was written by Peter Skeen Ogden to Rev. Elkanah Walker just subsequent to Ogden's effecting the rescue of the survivors of the Whitman Mission massacre. The original is in the possession of Mr. S. T. Walker, who kindly made the copy for publication :

Nez Perce, Dec. 31, 1847.

Rev. E. Walker,

My Dear Sir:—

Mr. Stanley has promised you a recital of the melancholy massacre of the worthy Doctor his wife and nearly all of the inmates of the Mission. Receiving this account at Vancouver and that many unfortunate Individuals were still surviving the following day I started with 16 men and reached there on the 12 inst and since that period have been employed in rescuing the Captives and have succeeded in securing all that were taken prisoners and shall now take my departure for Vancouver in effecting this humane object I have endured many an anxious time and for the last two nights have not closed my eyes but thanks to the Almighty I have succeeded during the captivity of the Prisoners they have suffered every indignity but fortunately now all are provided with food. I have been enabled to effect this object without compromising myself or others and it now remains with the American Govt to take what measures they may most beneficial to sustain to sustain tranquility to this part of the Country and this I apprehend cannot be finally effected without blood being made to flow freely. So as not to compromise either party I have made a heavy sacrifice of goods but these are of indeed trifling value compared to the unfortunate beings I have rescued from the hands of these murderous wretches and I feel truly happy but let this suffice for the present.

On my arrival at the Dalles Mr. Hindman's (Alanson Hinman—S. T. W.) mission the previous day had been plundered of four Horses in open day and in the presence of all the Inmates of Mission and on consulting me on the propriety of re-

maining or removing under the present distracted state of the country I advised him to remove leaving a party of Indians on whom he could rely and who speak the English language to remain in charge of the Establishment and he would have started the same day I left it. I trust this arrangement will meet with your approbation under existing circumstances could not conscientiously give any other.

I duly received your friendly letter per Mr. Stanley but at present my thoughts are not sufficiently composed to make a suitable reply. The measles and dysentery were raging at Vancouver when I took my departure. 210 were on the sick list but fortunately not a death in other respects all quiet may I request you will give this every facility to reach Colville and with my kind regard to all the inmates of your hospitable Mission I remain yours truly

(Signed) PETER SKEN OGDEN.

From Dr. Whitman's mission, 6 men, 8 women, 37 children.
From Mr. Spaulding's mission, 4 men, 2 women, 3 children.¹

¹This statement of numbers of the rescued, if written by Mr. Ogden, was written with a different pen and in much smaller letters.—S. T. Walker.

Part V

Use of Public Credit by the State of Oregon

Chapter I

INDEBTEDNESS DUE TO THE NEEDS OF PUBLIC DEFENSE

Once only has Oregon dealt with the bond broker, and then the amount of bonds sold was but sixty thousand dollars.¹ Several issues of state bonds have been authorized; but they have been made over directly either to the individuals whose claims upon the state's bounty or relief were recognized, or to an agency undertaking a work of public improvement.

The narrow limits within which the state has held itself in its use of its public credit have been justified on the ground that there has been no pressing exigency in its history warranting the shifting of any considerable burden upon a succeeding generation; neither has any public work or public building been constructed of such monumental character as to make it seemly to share the cost with the generation that followed.

Bond Issues to Volunteers During the Civil War Period— Bounty Bonds.

Oregon was admitted as a state on the eve of the opening of the Civil War, but the mountainous mass of indebtedness that the meeting of this crisis brought upon other northern states Oregon to a large degree escaped. Its remote and lonely location in the Pacific Northwest for once was an advantage; participation in the fierce struggle between the states was denied it through the fact that a two-thousand-mile stretch of wilderness, unspanned by any iron way, lay between it and the scene of conflict. Furthermore, in the composition of its people it was essentially a border state. Neighborhoods were made up almost equally of sympathizers with the opposing sides. Sectional feelings were tense. The only safety lay in mutual restraint.²

¹Laws of Oregon, 1880, pp. 13-16.

²The anomalous state of the public mind in Oregon at this time is evinced in the history of the first attempt to raise federal troops in 1861. As the regulars had been called East so that only seven hundred remained to garrison the eight forts and temporary posts in Oregon and Washington, Colonel George Wright, commanding the district of Oregon and Washington, made a requisition upon Governor Whiteaker in the summer of 1861 for a cavalry company to be enlisted for three years, unless sooner discharged. Hostile demonstrations of the Indians east of the Cascades was the special reason given for the call. The Governor had been openly and consistently opposed to "political views" of the party in power, but disavowed any intention of "trammeling the action" of the Government. When the Governor essayed through a recruiting officer, cherishing like sentiments with himself, to raise the troops there was little alacrity of response. The cause of reluctance to enlist might have been economic rather than political. Nevertheless, the national authorities after a few weeks ignored the Governor. The few men that had been enrolled were ordered disbanded and the War Department authorized Colonel Cornelius to raise a regiment for the Oregon District.—*Governor's Message and Executive Correspondence, Appendix to House Journal*, pp. 4-25.

There was, however, need for an effective marching and fighting force in the Pacific Northwest to discourage the Indians from indulging their marauding propensities. The isolated settlers east of the Cascades, the miners pushing their prospecting activities far in all directions towards the Rockies, the scattered groups of immigrants trailing in on the last stretches of an exhausting season's march across the plains—all these were suffering as victims of savage cruelties. Reports of massacres were frequent. The work of patrolling the vast area of country between the Cascades and the Rockies was a responsibility that belonged to the national government.

To insure effective protection against the treachery of the Indians of this region a force was needed quite as large as the quota due from the fifty thousand people who comprised the population of Oregon. The First Oregon Cavalry that had been recruited by Colonel Cornelius in the fall and winter of 1861 were putting in their three years' term of enlistment in this Indian watching-and-fighting service. It had meant privations and hardships with none of the compensations incident to participation in real fighting at the front in the South. By the summer of 1863 their ranks had become thinned and additional companies were called for. The efforts of Governor Gibbs, a most loyal Union sympathizer, to secure recruits were even less successful than had been those of Governor Whiteaker a few years before. Six additional companies were needed and some forty men in all were secured. Neither the prospective service in the Indian country nor the pay was a sufficient inducement.¹

In the fall of 1864, when the terms of enlistment of the men of the First Oregon Cavalry were about to expire, there was still no prospect of securing their re-enlistment, or new recruits to take their places; yet troops for this Northwest service must

¹"I am sorry to say that the recruiting for the six new companies of the Oregon Cavalry goes on slowly. The out-place and out-of-business population who were expected to fill up the ranks, have their eyes on the mines, more than the stripes and stars. True, we are an adventurous people, but equally commercial, and between the bayonet and the pick, we prefer to take the chances with the latter. The company recruiting at this point now numbers about 25, but I believe the recruiting officers at other places have so far made a waterhaul. There are a good many who offer to enlist as captains, and some few as lieutenants, but below that their aspirations do not descend. The progress in this respect may be well illustrated by the following anecdote: Not long since a little son of Gov. Gibbs was met on the street by an acquaintance of his father's, and was asked what the Governor was doing. The lad promptly replied that he was trying to raise volunteers. 'With what success?' says the patronizing friend. 'Oh,' says Willie, with a face full of juvenile irony, 'he is doing very well; he has one captain, and thinks he knows where he can find another.'"—*San Francisco Bulletin*, Letter from Portland, February 25, 1863.

be had. On October 20, 1864, Governor Gibbs was called upon by Major General Irwin McDowell,—commanding the Department of the Pacific, and acting under the authority of the War Department,—for a regiment of infantry, to be mustered into the service for three years, unless sooner discharged. This meant a draft with the alternative of raising the quota by enlistment.

A state bounty as an inducement to secure enlistments had been suggested to Governor Gibbs by Brigadier General Alvord, commanding the District of Oregon. The legislature was in session, though just about to adjourn. The Governor immediately on receiving the telegram from General McDowell sent in a special message announcing this call for a new regiment of infantry and suggested the passage of an act for the payment of a bounty for enlistment. There was no hesitation on the part of the legislature. A bounty of \$150 to each volunteer enlisting for a term of three years was provided. This sum was to be paid in three installments of \$50 each; the first at the time of enlistment; the second at the end of the first year of service; and the third at the expiration of service. The payment of each installment was in the form of a state bond issued to the claimant, due in twenty years and bearing interest at seven per cent, payable semi-annually. The principal and interest were to be paid in coin. A state tax of one mill was to be levied annually for securing funds to pay interest and principal. Whenever a surplus of \$10,000 was thus accumulated from this tax it was to be used in redeeming bonds offered at rates not exceeding par value.¹

¹The following are the quotations from the letter of General Alvord used by the Governor in his special message of Oct. 20, 1864, asking for the passage of a bounty law:

"For the defense of the frontier against Indians, it is necessary that the present military force in the district of Oregon should be maintained. I have been compelled to reduce Forts Colville and Lapwai to one company each, which is too small a force. The 1st Oregon Cavalry has performed the past summer efficient and admirable service in that part of Oregon south of the Columbia river and east of the Cascade Mountains. Traversed in every direction by thousands of miners the last summer, the presence and activity of the troops has been of the utmost importance, in protecting that region against the Snake Indians. . . . I feel that it is very important for the public service, as I have continually represented to you for a long time, that the legislature of Oregon should pass a law giving bounty to volunteers. Every state has passed such laws."

Judge M. P. Deady, the Oregon correspondent to the San Francisco Bulletin, in his letter of October 22, made the following comment on this matter:

"A few days since the Governor of this state received a telegram from Gen. McDowell calling for 1,000 men to take the place of the Oregon Cavalry, now about being mustered out of service. In other words, the draft was ordered in Oregon with the alternative of raising the quota by enlistment. The Governor at once sent a special message to the Assembly recommending the passage of a law for paying bounties for enlistment. The military committees went to work, and by midnight of the next day an act was passed appropriating \$200,000 and offering a bounty of \$150 to the man."

See text of this act, "Acts and Resolutions, 1866, Appendix, "Unpublished Laws of 1864," pp. 98-104.

A statistical abstract of the administration of this bounty bond issue is given herewith:

SOLDERS' BOUNTY BONDS

Authorized October 24, 1864

Date of Treasurers' Report	Total Amount of Bonds Issued to Date	Amount of Bonds Outstanding at the Beginning of Period	Debt Reduction During Period	Outlay in Payments of Principal	Interest Payments	Payment for Advertising Call	Total Payments on Debt During Period
18661	131,100	.....	.....	.....	4,606.752	.....	4,606.75
1868	137,650	137,650	49,600.3	43,635.00 4	17,134.20	.....	60,769.20
1870	137,700	88,100	39,700	38,712.52 5	9,740.50	80.00	48,533.02
1872	137,700	48,400	1,600	1,593.50 6	7,463.75	199.50	9,256.75
1874	137,700	46,800	18,300	18,300.00 7	6,644.75	202.10	25,146.85
1876	137,700	26,500.8	.....	.....	3,824.259	.....	3,824.25
1878	137,700	26,500	100	100 00	3,578.7510	.....	3,678.75
1880	137,700	26,400	700	700 00	4,110.7511	.....	4,810.75
1882	137,700	25,850.12	.....	.....	3,542.75	.....	3,542.75
1884	137,700	25,850	18,200	18,200.0013	4,940.50	.....	22,140.50
1886	137,700	7,950	7,850	7,850.0014	1,386.00	.....	9,236.00

SOLDIERS' BOUNTY BONDS NOTES.

(1) The amount of Bounty Bonds authorized to be issued was \$200,000. "Up to August 15, 1866, \$131,000 of such bonds have been prepared and placed in the hands of the State Treasurer for payment to the soldier or his authorized agent. To meet the entire obligation will require an issue of \$4,000 more."—Report of Secretary of State, 1866, pp. 4-5.

(2) Estimated amount of coupons outstanding and due, \$4,591.00.—State Treasurer's Report, 1866, p. 35.

(3) Treasurer's Report, 1868, p. 35.

(4) Secretary of State's Report, 1868, p. 16. The Secretary states that the "bonds redeemed" amounted to \$43,635.00. He confused the sum paid out in buying up bonds at varying rates of discount with the amount of the par value of the bonds redeemed.

(5) Treasurer's Report, 1870, pp. 24, 28, and 33-35. The list of the sixty bonds issued, but not delivered, is given on page 35. Twenty-six of the sixty are designated as "deserters."

(6) Treasurer's Report, 1872, pp. 130-1, 138. Thirteen additional bonds had been delivered since the preceding reports. Cash on hand applicable to interest and redemption, \$69,095.48.

(7) Treasurer's Report, 1874, pp. 102-108. Seven additional bonds had been delivered. Cash on hand in fund available for interest payments and redemption of bonds was \$21,613.97.

(8 and 9) Treasurer's Report, 1876, pp. 116, 121. The forty bonds filled out, but not delivered, are not in this report, nor in the subsequent reports, included as "state indebtedness."

(10) Treasurer's Report, 1878, pp. 149-150, 174.

(11) Treasurer's Report, 1880, pp. viii, 82. The itemized statement of disbursements from the "Soldiers' Bounty Fund" includes items of bond redemption amounting to 14 bonds. The list of "Liabilities" of the state gives the sum of bounty bonds outstanding as \$25,850. There is thus a discrepancy of \$150. The delivery of three additional bonds would be a natural surmise, but the list of undelivered bonds later given does not admit of this surmise.

(12) State Treasurer's Report, 1882, p. 85.

(13) State Treasurer's Report, 1885, pp. 10 and 103. The itemized statement of disbursements from the "Soldiers' Bounty Fund" includes items of bond redemption amounting to 364 bonds. The "List of Liabilities of the State of Oregon" gives the sum of bounty bonds outstanding as \$7,950. This again could be harmonized with the statements of the two preceding reports only on the basis of the delivery of six additional bonds. The State Treasurer, however, forestalls

such an explanation by saying that "a careful and complete revision of the condition of the Soldiers' Bounty Fund, that is, a comparison of bonds redeemed by former Treasurers and myself, with bonds issued, shows that there are still outstanding 159 bonds of this issue. . . . The apparent discrepancy between this and my report for 1882 arises from the fact that the report for that year, together with the report of 1880, was made upon the basis of the reports of former Treasurers, in each case the amount of bonds redeemed by myself being deducted from the amount of bonds reported as outstanding at the time the several reports were made." This statement still leaves the report of 1880 in a bad light and proves nothing as to the source of the discrepancy.

(14) The Treasurer's Report, 1887, p. 129, shows that 157 bonds were redeemed, but the debt statement, p. 10, shows only one bond outstanding at the close of this period—one bond having been lost sight of. On page 161 of the report occurs the list of 40 persons for whom bounty bonds were issued but which had not been called for.

1890. The Treasurers' reports from 1887 to 1899 retain unchanged the item of "Soldiers' Bounty Bonds, \$50." From 1893 on there stands in connection with it the announcement that "forty soldier bounty bonds of \$50.00 each (exclusive of interest) still remain uncalled for, the same being issued under date of January 1, 1866." However, without explanation in 1899 the announcement reads: "Thirty-eight soldier bounty bonds of \$50 each," etc.

In 1899 a bounty bond (Face \$50.00, Interest \$68.25) was paid, p. 17 of report of 1901. The same report gets the interest due on the 38 bonds wrong, giving it as \$2,612.50. The following report states it correctly as \$2,593.50, making total liability on these 38 bonds to be \$4,493.50. And so the matter still stands.

Relief Bonds.

It was eminently fitting that as a companion act to that granting bounties for future enlistments for the Indian fighting service should be one making similar substantial provision for the men of the First Oregon Cavalry whose terms of service were just expiring. An act known as "the Relief Act" was passed on the same day with the Bounty Act. It provided for the payment by the state of five dollars per month to each commissioned officer and enlisted soldier "of the companies of Oregon Volunteers raised in this state for the service of the United States to aid in repelling invasions, suppressing insurrection, enforcing the laws and protecting public property, in addition to the pay allowed them by the United States." This "relief" was due after the term of enlistment had been served, or an honorable discharge granted. The payment took the form of a state bond due in ten years, bearing seven per cent interest, payable semi-annually; interest and principal payable in coin. A tax of one-half mill was to be levied annually to meet payments of principal and interest. A provision, similar to that with the bounty fund, regarding the use of any accumulated surplus of ten thousand dollars or more, directed the application of such surplus towards the redemption of bonds so as "to redeem the greatest number of bonds, until the amount of cash on hand for redemption is exhausted."

¹Acts and Resolutions, 1866, Appendix, "Unpublished Laws of 1864, pp. 104-108.

A statistical abstract of the administration of this issue of "relief bonds" follows:

SOLDIERS' RELIEF BONDS

Authorized October 24, 1864

Date of Treasurers' Report	Total Bonds Issued to date	Amount of Bonds Outstanding at the Beginning of Period	Debt Reduction During Period	Outlay in Payments of Principal	Interest Payments	Payments for Advertising Call	Total Payments
1866	81,474.00	.....	.....	.....	5,633.63	.....	5,633.63
1868	92,395.00	81,474.00	11,395.00	10,255.50	12,815.49	.....	23,070.99
1870	93,637.00	82,242.00	21,059.00	19,936.21	9,353.31	72.00	29,361.52
1872	93,637.00	61,183.00	15,156.00	14,935.28	8,669.25	89.00	23,693.53
1874	93,637.00	46,027.00	25,280.00	25,250.00	6,675.67	193.10	32,148.77
1876	93,637.00	20,747.00	19,986.00	29,986.00	1,597.85	.....	21,583.85
1878	93,637.00	761.00	.....	.....	.....	.....	.....
1886	93,637.00	761.00	141.53	141.53	.....	.....	141.53

SOLDIERS' RELIEF BONDS NOTES.

1866. Secretary of State's Report, pp. 4-5. "The amount of bonds issued under the second, denominated 'Relief,' to Sept. 1st, 1866, is \$81,484.00, and I am informed by the Adjutant General that two thousand dollars in addition will be required, exclusive of the amount due to the officers and soldiers who were in the service more than thirty-six months and hence entitled to pay."

1868. Treasurer's Report, 1868, p. 40. Amount of bonds redeemed is given as \$11,395.00. The Secretary of State's Report, 1868, p. 16, gives the amount issued as \$92,395.00. In computing the amount outstanding the Secretary subtracts \$10,255.50, the sum paid in redeeming these bonds during this biennium, from \$92,395.00. The outlay for redemptions is confused with face value of bonds redeemed. The bonds were redeemed at varying rates of discount.

1870. Treasurer's Report, 1870, p. 26.

1872. Treasurer's Report, 1872, pp. 132-8. "Cash on hand, applicable to interest and redemption, \$14,370.96."

1874. Treasurer's Report, 1874, pp. 100-108.

1876. Treasurer's Report, 1876, p. 121. An error of 10c, making Outstanding Soldiers' Relief Bonds \$761.10, instead of \$761.00, is brought forward from this time on.

1886. Treasurer's Report, 1886, p. 129. A payment of \$141.53 to W. H. Judson, "1 bond, 20 coupons," was made from Soldiers' Relief Fund, but the debt statement, p. 10, shows no reduction. Evidently this bond held by W. H. Judson had been lost sight of in the Soldiers' Relief Bonds account.

1901. The Treasurers' reports from 1876 on to 1901 give in their debt statement the item \$761.10 as the amount due on the Soldiers' Relief Bonds. In the report for 1901, p. 105, and later ones the names of four holders of bonds outstanding are given and the whole amount due as \$551.00. There is no explanation of disappearance of \$210 of account.

The essential character of the state's indebtedness represented by the "bounty" and the "relief" bonds can probably be best brought out through a reference to the congressional policy of reimbursing states for all outlays incurred in securing the "common defense." It has become the rule of Congress to reimburse the states for all such military expenses. These payments originated with compensations for special expend-

itures of the states connected with their raising their respective quotas for the Union armies during the progress of the Civil War. But notably in the cases of Texas, Minnesota and Nevada the reimbursements were for expenditures upon troops mustered into service for the suppression of Indian outbreaks. The procedure in making a settlement with a state has been in several instances, first, to request the secretary of war to determine the actual outlay of the state; compensation then followed through an appropriation by Congress of the amount reported. So far Oregon has not received a cent on account of outlays for bounties and relief granted in 1864. Certainly, if any reimbursement is due for bounties and additional pay granted by a state to its citizens mustered into service for affording protection against Indian atrocities, Oregon's claim against the nation should be a valid one.

Modoc War Bonds.

In the fall of 1872 the fierce and wary tribe of Modoc Indians began to commit depredations and even to take the lives of the settlers of Klamath country. The Governor took steps to suppress the outbreak and to protect the inhabitants. No provision was made for the payment of the soldiers enlisted and the other claims arising out of this war until the meeting of the legislature in the autumn of 1874. An issue of bonds was then ordered to the individual claimants as in the sixties. These bonds were "payable at the option of the state, on or before the first of January, 1880, with interest thereon, at the rate of seven per cent, payable semi-annually"¹

¹General Laws, 1874, pp. 35-36.

A statistical abstract of this "Modoc War Bonds" issue is given herewith:

MODOC WAR BONDS

Authorized October 22, 1874

Date of Report	Debt at Opening of Period	Debt Reduction During Period	Interest Payments During Period	Total Payments			
1876	.....	.....	10,632.901	10,632.90			
1878	130,991.301	.....	21,794.402	21,794.40			
1880	132,858.762	.....	15,670.863	15,670.86			
1882	132,921.003	132,288.10	14,127.78	146,415.884			
1884	632.904	294.72	142.38	437.105			
1886	338.185	134.77	.....	134.77			
1888	203.416	.....	.....	.....			

(1) Treasurer's Report, 1876, pp. 89-90, 121.

(2) Treasurer's Report, 1878, pp. 127-8, 174.

(3) Treasurer's Report, 1880, pp. 72, viii.

(4) Treasurer's Report, 1882, pp. 72, 8.

(5) Treasurer's Report, 1885, pp. 99, 10.

(6) Treasurer's Report, 1887, pp. 10, 161. From this on a Modoc War Bond is listed among "Unclaimed Bonds." It is in favor of Charles Sherlock. Warrant is filed with bond. Face of bond, \$75.90; interest coupons, \$27.52; interest on bond, \$10.05.

"Modoc War Bonds Outstanding" remained \$203.41 until 1895, when it was raised to \$317.75 without explanation. On Sept. 26, 1895, Frank O'Hara was paid on a Modoc War Bond, principal \$13.85, interest \$10.69; total \$24.34. On August 5, 1897, John Ingram was paid on a Modoc War Bond \$118.25. These payments did not affect size of "outstanding bonds" item. However, in 1901 report, without any payments on bonds given, the amount outstanding was reduced to principal, \$103.84; interest, \$11.48.

Indian War Bonds.

Again in 1878, because of trouble with various tribes of Indians east of the Cascade Mountains during the years 1877 and 1878, sums were due volunteers that had been called into the service of the state and to others for supplies needed to carry on the campaigns. The legislature had recourse to the customary procedure for satisfying the claimants. An issue of bonds was authorized, "payable at the option of the state on or before the first day of January, 1890, with interest thereon at the rate of seven per cent per annum, payable semi-annually . . ."¹

¹General Laws, 1878, pp. 33-36.

A statistical abstract of this "Indian War Bonds" issue follows:

INDIAN WAR BONDS

Authorized October 7, 1878

Date of Report	Debt at Opening of the Period	Debt Reduction During the Period	Interest Payments During the Period	Total Payments
1880	.....	.....	5,137.83	5,137.83
1882	45,475.51	14,565.51 ¹	7,083.64	21,649.16
1885	30,910.00	30,206.11 ²	6,442.83	36,648.94
1887	704.89	8,670.23 ³	.....	.....
1889	650.89 ⁴	4,212.28	.....	.....

(1) In the statement of disbursements from "Indian War Debt Fund," pp. 74-5, the total is \$21,649.16. By adding items of principal payments and of interest payments of this account separately they are found to total, respectively, \$15,391.99 and \$6,257.17. The figures in the table are obtained through subtracting amount of debt at close of period from amount at opening and counting as interest payments the difference between the debt payment so secured and the total payments for the period.

(2) The payments of interest and of principal are not segregated. The figures of the table were secured by method indicated above in (1).

(3) Treasurer's Report, 1887, p. 118, gives as "Indian War Fund" disbursements the sum of \$8,670.23, though the total indebtedness on account of "Indian War Bonds" (principal) outstanding at opening of the period was only \$704.89. In like manner the Treasurer's Report of 1889, p. 141, gives the sum of \$4,212.28, though the total Indian War Bonds outstanding at the opening of the period was only \$650.89.

(4) Treasurers' Reports regularly list all outstanding bonds under the caption "Liabilities of the State of Oregon," but no item of "Indian War Bonds" appears in the reports for periods, 1889-1890 and 1891-1892. From 1893 to 1901 and item of \$700.94 is given. From then on it is \$393.43.

Oregon War Debt Bonds.

As no provision had been made to meet the payment of the Modoc War bonds when they became due, January 1st, 1880, the legislature at its meeting in the fall of that year provided for the securing of funds for the payment of the sums due on these bonds through an authorization of an issue of bonds of such an amount which, with the surplus accumulated from a special tax levy for current indebtedness, would suffice to liquidate the matured bonds. The bonds of this last issue were "to be sold, but for not less than their par value." They were "to bear interest at a rate not greater than seven per cent," payable semi-annually, and were "payable on the first day of January, 1890, or sooner, at the option of the state . . ."¹

¹General Laws, 1880, pp. 13-16.

The statistical abstract of this "Oregon War Debt Bonds" issue follows:

OREGON WAR DEBT BONDS

Authorized October 25, 1880

Date of Report	Amount of Debt at Beginning of Period	Debt Reduction During Period	Interest Payment During Period	Total Payments	
1882	.....	.....	\$4,812.50	\$ 4,812.50	
1885	\$60,000.00	\$15,000.00	8,785.00	23,785.00	
1887	45,000.00	45,000.00	5,302.50	50,302.50	

It has no doubt been noted that on the different occasions when it was necessary to incur public defense indebtedness a strong predilection was shown by the state for tendering its creditors what amounted to an interest bearing warrant, the payment of which was deferred for a term of years. This was the invariable practice down to 1880.

If these so-called "bonds" had found the recipients of them in position to hold these long term credits until maturity this policy would no doubt have been salutary. But the creditor, who was more commonly a volunteer, had neglected his farm and crops for the service of the state and when on returning home he received in hand a deferred payment order, his need of cash was most urgent. The inevitable happened. He had to subject himself to the tender mercies of the bond broker. He had risked his life and property to protect the public, but it shirked its fair responsibility of protecting him from the bond speculator. The state surely would have been in a much better position to drive a good bargain with him than the individual claimant of a sum due for services or supplies furnished during an Indian war. This regular procedure in connection with the first four war-debt bond issues smacks strongly of the usual lame ultra-individualistic attitude and methods that have characterized the state's activities throughout.

That the bonds of these several issues that went directly to the individual creditors were regularly sold to bond brokers

is fully attested by the records of their redemption, and through several corroborative sources. The legislative investigating commission of 1872 found a scandalous state of affairs existing with reference to participation by several of the officials at the capital in this bond speculation. Inside information on the conditions of the surplus available for redemption, as well as cash on hand in the general fund, were being utilized.¹ The redemption items in the biennial reports of these funds exhibit clearly to whom the individual claim-holders had taken their bonds to realize cash. What rates of discount they had been compelled to accept do not appear.²

II. Internal Improvement Indebtedness.

Oregon, like other American commonwealths, would be likely to have only two general classes of occasions for contracting bonded indebtedness: War, invasion or the suppression of an insurrection would be one; the other would arise in connection with the undertaking of, or the participating in, a large enterprise of permanent public improvement. The occasions of the first class, and the use of its credit in meeting them, have been referred to.

From a glance at the article of the state constitution on "Corporations and Internal Improvements" one would suppose that the history of Oregon's use of public credit for the promotion of internal improvements would be very brief. The disposition of the framers of the state constitution with regard to state aid towards, or state participation in, the work of internal improvement was there unmistakably declared. All possibility of the use of public credit in Oregon for any internal improvement would seem to have been forestalled. For the constitution enjoins that the "legislative assembly shall provide for the raising revenue sufficient to defray the expenses of the state for each fiscal year, and also a sufficient sum to pay inter-

¹Report of Investigating Commission, 1872, pp. 48-73. Treasurer's Report, p. 103.

²319 bonds were redeemed for one bank in 1887.

est on the state debt, if there be any.”¹ Also, “Whenever the expenses of any fiscal year shall exceed the income, the legislative assembly shall provide for levying a tax for the ensuing fiscal year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expense of the ensuing year.”² And again, “The legislative assembly shall not loan the credit of the state, nor in any manner create any debts or liabilities, which shall singly or in the aggregate with previous debts or liabilities exceed the sum of fifty thousand dollars, except in case of war, or to repel invasion, or suppress insurrection; and every contract of indebtedness entered into or assumed by or on behalf of the state, when its liabilities and debts amount to said sum, shall be void and of no effect.” And finally, “The state shall never assume the debts of any county, town, or other corporation whatever, unless such debts shall have been created to repel invasion, suppress insurrection, or defend the state in war.”³

Notwithstanding these comprehensive constitutional restrictions it seemed difficult for the successive legislative assemblies to refrain from pledging the credit of the state in the aid of railroads and other enterprises of public improvement. In 1866 an act was passed pledging the state to pay the interest on the bonds of a railroad to connect the state with the trade centers of California.⁴ This law was repealed at the following session of the legislature on the ground that it was in conflict with the constitution of the state.⁵

This same legislative assembly, however, came to the aid of the “Willamette Falls Canal and Lock Company,” organized for the purpose of constructing a canal and locks around the falls of the Willamette river at Oregon City. The faith of the state was pledged to pay this corporation \$150,000 in annual installments of \$25,000 in gold coin, after the satisfactory completion of the work. The money for this aid was to be taken

¹Article IX, Section 2.

²Article IX, Section 6.

³Article XI, Sections 7 and 8.

⁴General Laws, 1866, pp. 1-5.

⁵General Laws, 1868, pp. 44-45.

out of the fund arising from the five per cent of the proceeds of the sales of public lands within the state; should this fund prove insufficient, the proceeds from the sales of the "internal improvements" grant should be used.¹

The proffered subsidy that was not to be available until after the "satisfactory completion" of the improvement did not secure the construction of the canal and locks. So at the next session of the legislature in 1870 it was enacted that state bonds to the amount of \$200,000 should be issued and delivered to this corporation on its giving surety to the amount of \$300,000 that it would have the canal and locks completed at a date that gave about two years for the construction of the works. As with the preceding pledge, the means for the payment of the interest and principal of the bonds were to be taken from the five per cent net proceeds fund and from the proceeds of the internal improvement grant. As these resources of the state were received from the national government for internal improvement purposes, and as this bond issue merely anticipated moneys that were certain to be forthcoming, the "canal and locks bonds" issue was not counted as indebtedness and hence not in violation of the restrictions of the constitution. These bonds were payable in ten years, bearing interest at seven per cent, payable semi-annually, principal and interest payable in gold. These bonds were disposed of by the canal and lock company for some \$160,000. The act granting the subsidy specified the rate of toll and provided as "the express condition" on which the subsidy was granted that the corporation should pay ten per cent of its net profits into the common school fund of the state. The sum actually paid back into the state treasury in fulfillment of this provision of the grant was \$435, a payment made in 1873. So much did the state realize out of its "express condition." When recently the claims of the state in this matter were pressed, the courts decided that they had lapsed. There was a stipulation, too, in the grant giving the state the right to appropriate the works

¹General Laws, 1868, pp. 46-49.

at the end of twenty years on payment to the company of their actual value.¹ The state did not avail itself of this privilege, but in 1907 an appropriation of \$300,000 was made—renewed in 1909—conditioned on an equal appropriation being made by Congress, for purchasing the canal and locks or constructing another passage on the opposite side of the river.

The constitutional inhibition of the use of state credit for projects of internal improvement has no doubt been salutary. When emergencies arose so that it was necessary to secure the release of trade along natural channels from the throttling grasp of a monopoly the state has found itself able to intervene. It has through taxation secured the funds sufficient for portage railways, first at the Cascades of the Columbia and again more recently at The Dalles of the same river. It is very doubtful if the conditions as yet developed are such as to make any participation by it in public improvements with credit financiering advisable. Appreciation of the need of careful administration, of the wisdom of using the best expert service, is still an uncertain quantity. Then, too, the conditions are changing so rapidly that any work adequate for today would in a few years need replacement with a structure on a much larger scale, or one adjusted to a more economic process.

¹General Laws, 1870, pp. 14-17.

WILLAMETTE FALLS CANAL AND^W LOCK BONDS

Authorized October 21, 1870

Date of Report	Amount of Debt at Opening of Period	Debt Reduction During Period	Interest Payments During Period from State Land Fund	Interest Payments During Period from 5 per cent. Receipts U. S. Land Sales Fund	Cost of Administration of Fund	Total Payments
1872	200,000.00	.....	23,572.00	.....	Currency, 130.46 Coin 3533.91	Currency, 130.46 Coin 27,105.91
1874	200,000.00	.....	26,425.00	.....	Currency, 67.00 Coin 9,222.25	Currency, 67.00 Coin 35,647.25
1876	200,000.00	40,000.00	29,575.0	.....	Currency, 8.00 Discount on Currency 6041.60 Coin 6930.83	Currency, 8.00 Discount on Currency, 6041.60 Coin 76,505.83
1878	160,000.00	.....	21,455.00	945.00	Discount on Currency, 785.12 Coin 4246.21	Discount on Currency, 785.12 Coin 26,646.21
1880	160,000.00	8,500.00	16,660.00	5,460.0	1,752.97	32,372.97
1882	151,500.00	83,500.00	11,246.44	.....	2,947.14	97,693.58
1885	68,000.00	68,000.00	15,347.50	.....	1,070.01	84,417.51

1872. Treasurer's Report, pp. 126-129, 138. "Drainage Warrants" to the amount of \$14,732.17 were paid out of this fund during this period.

1874. Treasurer's Report, pp. 85-87, 108. Appropriation of \$50,000 towards payment of exhausted; \$1,575 of interest due July 14 unpaid.

1876. Treasurer's Report, pp. 101-103.

1878. Treasurer's Report, pp. 154-156.

1880. Treasurer's Report, p. 83.

1882. Treasurer's Report, p. 86. The interest item of \$5,302.50 is placed with payments of principal and administrative warrants. The five per cent U. S. Land Sales Fund does not appear as a separate account.

1885. Treasurer's Report, p. 100. Principal and interest payments and administrative cost are bunched.

TABULATED DIGEST OF STATE BONDED INDEBTEDNESS THAT HAS EXISTED IN OREGON

Name of Debt	When Authorized	Amount Authorized	Amount Issued	Loan	Rate of Interest	Provision for Payment
Soldiers' Bounty..	Oct. 24, 1864, 1st Ore. Infantry.	\$200,000 00	\$137,700 00	20 years. Bonds matured and int. ceased July 1, '84	7%	.001 tax on all property.
Soldiers' Relief....	Oct. 24, 1864, 1st Ore. Cav-	100,000 00	93,637 00	10 years. Bonds matured and interest ceased July 1, '78	7%	.0005 tax on all property.
Willamette Falls Canal and Lock	Willamette Falls Canal and Lock Co., Oct. 21, 1870.	200,000 00	200,000 00	Bonds matured Jan. 1, 1881.	7%	5% U. S. Land sales and proceeds 500,000- acre grant.
Modoc War	Oct. 22, 1874.	131,000 00	130,991 30	Bonds matured Jan. 1, 1880.	7%	Appropriations from genl. fund.
Indian War 1877-8 ...	Oct. 17, 1878.	To amount due claimants.	45,475 51	On or before Jan. 1, 1890.	7%	Appropriations from genl. fund.
Oregon War Re-funded...	Oct. 25, 1880.	Enough with surplus current funds to pay matured.	60,000 00	On or before Jan. 1, 1890.	Not greater than 7%	.0005 tax and surplus current funds.

REVIEW

British Columbia Coast Names, 1592-1906; Their Origin and History

By Captain John T. Walbrah (of Victoria)

Published by authority of the Minister of Marine and Fisheries for the Geographic Board of Canada at
the Government Printing Bureau, Ottawa

This book offers a standard that would be difficult to attain unto, but an example which may well be followed. Would that some one would perform as good a service concerning the nomenclature along the coast line of Washington and Oregon, or the Columbia river and the waters of Puget Sound!

Encyclopaedias of biography and reference books of the "WHO IS WHO" class are useful and in many ways of value, but the scholar learns to use them in research work with great caution, for the reason that the information contained in them is usually contributed and not searched after or verified. Here, however, is a book of reference compiled with great care during a period of twelve years of personal research by the author and giving not only the names common to the entire Coast of British Columbia and its islands, but many biographical facts concerning the persons or events or places from which the names arise; a book that may be supplemented but will be very little amended; a book that will be used by children of the next generation, and later.

Moreover, there is a certain charm to the text. For it is quite infrequent that a sea captain has enjoyed carrying in his cabin the records left by the early navigators and explorers and consulting them as he entered harbors, channels and inlets under perhaps the same conditions of wind, weather and current. The book actually smells salty. Careful examination by competent scholars shows the errors of fact so few as to be hardly noticeable, and where the Captain has intruded upon general conclusion his opinion is worthy of new attention; for instance, the reference to Juan de Fuca. In a few instances only do the authorities seem to suggest lack of the most positive foundation.

The book was not heralded by advance notices and appears in very quiet and even plain covers, with some fitting illustrations; for the Canadian Government recognized its worth and did Captain Walbrah the honor of publication as a government document. A few copies are held for private purchase and another edition will undoubtedly have to follow.

T. C. ELLIOTT.

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