

nish such evidence, and in such manner, of the character of these lands as the Department of the Interior shall prescribe.

All the swamp and overflowed lands have been listed in duplicate and reported in that form to the Surveyor General of Oregon, authenticated in manner as prescribed by that office. One of these lists has been by him forwarded to the General Land Office. The magnitude of this interest is greater than at first supposed. The southeast quarter of the State, not yet surveyed, and but very little explored, appears, by latest information, to be occupied between its mountain ranges by a succession of ridges, hills, lakes, and marshes, all productive and valuable. The securing of these lands, is the more important for the reason that the residue of their proceeds after paying the Wagon Road warrants is devoted to one of the most important public projects which has attracted notice in this State. I refer to the construction of the Portland, Dalles and Salt Lake Railroad.

Tide Lands.

The title of the State to the tide lands upon her sea coast and rivers was first brought to public attention in this State in my last biennial message. I then stated that "these lands belong to the State by virtue of its sovereignty, or the right of eminent domain, independent of any title from the General Government." But in the public mind these lands are confounded with the swamp lands. The titles of the two classes of property are essentially distinct and different. The former does not depend upon a grant by Congress; the latter does. The title to lands between the ebb and flow of the tide has been in controversy in other States, and final adjudications by the highest tribunals have determined the right to be originally in the States. In the case of Pollard et al vs. Hagan, reported in 3d Howard, 212, the plaintiffs held a tract of tide land in Alabama by patent from the United States, which, after controversy, was specially confirmed by two several Acts of Congress. The defendant held under a deed from the State, and proved that the premises were covered by water at common high tide. The case was a leading one, and was ably argued and fully considered. The Supreme Court of the United States held:

"First. The shores of navigable waters and the soils under them were not granted by the Constitution to the United States, but were reserved to the States respectively.

"Secondly. The new States have the same rights, sovereignty and jurisdiction over this subject as the original States.

"Thirdly. The right of the United States to the public lands, and the power of Congress to make all needful rules and regulations for the sale and disposition thereof, conferred no power to grant to the plaintiffs, the land in controversy."

"In this case a United States patent was set aside, and two acts of Congress touching the title to the premises were declared void, and the right of the State to the tide lands by virtue of her sovereignty was sustained.

This doctrine was recognized and enforced by the Supreme Court of California in the case of *Farrish vs. Coon*, 40 California Reports, 33. In this case salt marshes had been selected and approved to the State as a part of the five hundred thousand acres granted by Congress by Act of September 4, 1841, for Internal Improvements. The land had been sold by the State to private parties and had been improved at great expense, and had been held in private possession nearly twenty years. But the Court set all the conflicting rights aside, and awarded the property to the custody and disposal of the Board of Tide Land Commissioners as lands held by the original title of sovereignty.

I have thus suggested the tenure by which the State holds the tide lands, in order to give a clear idea of the power of the Legislature over them, and of the propriety of distinct and complete enactments for their disposal.

The Tide Land Act passed two years ago is very defective. Its force is limited to land abutting or fronting upon or bounded by the shore of any bay, harbor or inlet on the sea coast of this State. This limit should be extended to all lands within this State abutting or fronting upon the Pacific Ocean, and upon all waters confluent thereto, and lying between the ebb and the flow of the tide.

The body of the act also requires careful revision, embodying more explicit authority for the Board of School Land Commissioners to make disposal of these lands.

The Five per Cent. Fund.

The total amount derived from the five per cent. of the net proceeds of sales of the public lands within the State enuring under provisions of the Act of Congress of February 14, 1859, admitting Oregon into the Union is \$23,956 69.

In my last biennial message it was stated that the sum of \$5,424 25, belonging to this fund, had been withdrawn by the former Secretary of State. Suit has been instituted on the part of the State, against the late Secretary and sureties on his official bonds, to recover all moneys on account of which that officer was in default. A final judgment has been recovered in the premises amounting to the sum of \$10,558 94, for which execution is now out against said sureties. It is probable that the whole amount will be paid

into the State Treasury. This will include the said Five Per Cent. fund of \$5,424 24 and will restore the fund complete. The accumulations into this fund will continue until sales of the public lands within the State shall cease.

Thus far the account of this fund rendered to the State, by the Department of the Interior, has included the sales only made for cash. It has been urged by several States, interested in like manner as our own, that a percentage of all lands disposed of for a consideration should be included in the account of sales. The State of Iowa has made a special effort before the Commissioner of General Land Office to secure a ruling to this effect upon existing law. but thus far without success. It would appear but just after having pledged to the several new States five per cent. of the net proceeds of sales of all the public lands within their borders, for the purpose of Internal Improvements, that in all cases where the public lands mentioned have been disposed of for a consideration to the United States, not immediately beneficial to the State, as in case of Soldiers' Bounty Lands, Agricultural College Land scrip from other States, permanent Indian Reservations and like permanent disposals of the public domain, the five per centum allowance should be made to the State on their minimum value.

A proper presentation of the subject, by memorial of the Legislature to Congress, might facilitate the passage of an Act recognizing the just right of this State to be allowed five per centum of the net proceeds of all public lands disposed of within her borders wherein the State was not interested.

Common School Fund.

The Irreducible Common School Fund arising from the sales of the sixteenth and thirty sixth sections in each township of the public lands, and from those taken in lieu thereof, had reached, two years ago, the sum of \$450,000. The sales of the public lands of the State have been slow during the last two years, owing to the stringency of the money market during that period. But a fair progress has been had in these sales, indicating a healthy growth of the State, and steady increase in the Common School Fund. The whole fund now in the hands of the Board of School Land Commissioners and of the local agents of the Board in the several counties, amounts to the sum of \$504,216 46.

In relation to the management of this, I would repeat my recommendation of two years ago, which was as follows:

"The efficient work of the Board is swelling the amount of educational funds to such importance that more complete provision should be made for the custody and control of funds in the hands of local agents, and particularly in reference to the collection and return of interest for distribution to the schools. Local agents should be required to give bonds to the Board for the safe custody of the moneys in their hands, and for the faithful performance of their official trusts."

University Fund.

The total grant of public lands to the State for the support of a University is 46,080 acres. Of this amount there have been sold by deed and bond, 19,905.55 100 acres—There consequently remain unsold, 26,174 80-100 acres.

Agricultural College Fund.

This fund has but just begun to accumulate for the reason that it has been but a short time since the lands belonging to this fund were approved at the General Land Office. There have been but 257.92-100 acres deeded and 480 acres bonded. The fund arising therefrom is \$1,844 80.

Litigant Law.

The enactment of the law for the protection of litigants, by the Legislative Assembly of 1870, has given rise to much discussion as to the necessity and propriety of the Act.—There are manifest good reasons why there should be some specified journals authorized to publish all legal advertisements, and that the rates of publication should be fixed by law. Two years ago a bill was passed repealing this Act, but the repealing bill was vetoed on the ground that the original Act, requiring a specific undertaking to do the litigant publishing; and, upon the filing of such undertaking, the statute declared that the publisher should hold the privilege during the term of the appointing power. Deeming that this created a vested franchise for the term named, I declined to approve the bill. But the term specified in the Act having expired, the Act is now subject to repeal.

Portland Police Bill.

The best method of governing American cities is an unsolved problem. Great abuses have been suffered both in general management and in the administration of Police Departments. To meet an evident necessity, four years ago a law was passed by the Legislature reorganizing the Police Department of the City of Portland. In the new system the Governor of the State is required to appoint the Police Commissioners, who have full control of the subordinate organization and working of the Police force. This law is in contravention of the general principle of local self government, and should be changed as soon as practicable. I think the time has arrived when the change can safely be made. Peace and good order have been maintained in Portland since the adoption of the present system. No change should be made without making the Police force responsible

to some controlling authority, otherwise it will be ineffective and injurious to the city.

Governor Hoffman, of New York, who had great opportunities of observation, remarking upon the government of the City of New York, said in his annual message of 1872: "No good government can be secured to any great city unless it shall have one responsible head, in whom shall be vested all executive power and to whom, as the elected representative of the people, all departments charged with executive duties shall be directly and summarily responsible and accountable."

I recommend that the Portland Police Law be so amended as to make the Mayor the responsible head of the Police system of the city.

The Code.

It is customary in other States and has been the practice in this State to provide by law for a compilation of the statutes, at least once in ten years. Such a compilation has been made in pursuance of the Act of last Assembly providing "for collecting, compiling and printing the laws of Oregon," approved Oct. 22, 1872.—Upon the completion of the work by the Commissioners, and after its examination by the Governor, and the Secretary of State, and its acceptance by the Governor as required by the statute, the State Printer appeared and demanded the manuscript compilation for printing. The Act referred to required the Governor to advertise the work of printing and binding, and to let the same to the lowest responsible bidder and contract with such for the doing of the work.

The State Printer insisted that he was entitled that he was entitled to do the printing, notwithstanding this provision of law, on the ground that by the 1st Section of Article 12, of our State Constitution, it is provided that the State Printer "shall perform all the public printing for the State which may be provided by law.

Deeming it my province to execute the laws as I find them upon the statute book, I declined to deliver the manuscript to the Public Printer, but proposed to advertise for the printing, as by said Act directed. At this juncture a proceeding of mandamus was instituted by the State Printer before Associate Justice (now Chief Justice) Bonham asking an order that the Governor deliver said copy to him, the State Printer, to be printed.

The Governor accepted service, and agreed to a stipulation of facts, and that the Court should determine the law. On full consideration of the subject, on the 26th day of January last, the following conclusion was reached and made a record in the case:

"The Court finds that the act of the Legislative Assembly, approved Oct. 12, 1872, entitled an act for collecting, compiling and printing the laws of Oregon, so far as the same requires the Governor to let the printing of the laws therein provided for to the lowest bidder, is in contravention of Section 1 of Article 12 of the Constitution of the State, and so much thereof is void. Therefore it is ordered and adjudged by the Court that the plaintiff herein is lawfully entitled to the possession of the manuscript or an authenticated copy thereof, of such compiled laws, for the purpose of printing the same as required by the Constitution of this State."

Upon this adjudication, which was consonant with the views of the Commissioners the manuscript was delivered to the State Printer to be printed.

The binding was advertised and let to be done by the lowest bidder, at \$1.15 per volume; a price much lower than any public work of the kind has ever been before done in this State.

The three thousand volumes required by the Act to be printed have been completed and bound, forming a complete volume of 922 pages.—The work was carefully executed under the personal supervision of Judge Matthew P. Deady, one of the Commissioners, and is of intrinsic value to the State and to the legal profession.

The State Printer has not allowed the publishing of any copies of this Code, except the number authorized by law, so that the State can derive the full benefit of the sale of the work.

The cost of Code printing by the State Printer will, I am informed, be about \$18,000. The rates of sale of this work should be fixed by law at a price which will reimburse the State for the expenditure.

An impression has prevailed to some extent that the decision of the Court pronouncing one clause of the recited Act to be void, annuls the whole Act. This is an error. The body of the Act is as valid, and as operative, as though the condemned clause had never been inserted therein.

Board of School Land Commissioners.

The labors of the Board of School Land Commissioners have been continued with efficiency. This Board is constituted directly by provision of the State Constitution, and is composed of the Governor, Secretary of State and State Treasurer, and charged with the duty of selling the School and University Lands, and investing the funds arising therefrom. By Section 6 of the Act of October 28, 1868, regulating the sale of these lands and providing for the management of these funds, it is enacted "that the Board of School Land Commissioners shall pay over all moneys now in their hands, or that

may arise from the sale of said School and University Lands to the County Treasurers of the counties in which the lands are located, and shall be loaned by said Treasurers," etc., etc.

This section came under the adjudication of the Supreme Court of this State at its present session and was held by the Court to be void, for the reason that it was in direct conflict with Section 5 of Article VII of the Constitution, which devolves upon the Board of School Land Commissioners solely the duties here specified to be done by County Treasurers. The Code Commissioners have arrived at the same conclusion, any have so stated in a note to the text of the new Code.

Anticipating such a result whenever the question should be raised, the Board has uniformly required all transactions by County Treasurers touching these funds, to be in the name of the Board, so that the State might not suffer for the want of proper and sufficient securities, and an effort has been made to carry out the letter and spirit of this unconstitutional section of said Act as near as circumstances would permit.

I would recommend that an Act be passed providing for agents in the several counties, to be appointed by the Board, who should act under its direction. Bonds should be required for the faithful performance of duties and compensation be provided for services.

This interest is too grave a one to be lightly or inconsiderately disposed of. The report of the Board, showing specifically the amount of land sold and bonded, and the name of each purchaser, and minutely all its transactions for the past two years, prepared by the Clerk, Thomas H. Cain, is herewith submitted. The Board has held monthly sessions to hear and determine all conflicts of right between applicants for land, and between settlers claiming the same land. Full records have been kept of all proceedings, as in a Court of Record, and duplicate originals have been preserved, in bound volumes, of all deeds executed.

As the extra duties of segregating and disposing of the Swamp Lands, and of the Tide Lands, as other duties, have been also devolved upon this Board by statute, in addition to the duties created by the Constitution, it is probably the most laborious organization in the State. The work done by the Board of School Land Commissioners, in Oregon, is done in other States by Surveyor Generals, State Land Office, Board of Swamp Land Commissioners, Tide Land Commissioners, and the School Fund Commissioners—all separate and distinct officers, having compensation as such.

It has been found necessary to employ a Recording Clerk of this Board, under authority of Section 12 of the Act of October 28, 1868, and the special provision of the law of last session making appropriation for that purpose.

Previous to 1868 the members of this board were compensated for their services at the rate of four hundred per annum. The provision making this allowance was repealed at the session of that year for the reason that the Board was inoperative. All the arrearages of work have been brought up during the past four years, together with the multiplied duties of that period, in addition to the legitimate duties of the chief offices of the State; and all without compensation as a Board.

Salmon Fisheries.

The salmon fisheries of the Columbia River are assuming such importance that I take occasion to call your attention to the subject. The product of these fisheries was scarce ly noticeable four years ago, but last year it approximated one million dollars in export value, and for the season of 1874 exceeds a million and a half.

This river bearing to the ocean a volume of water hardly less than that of the Mississippi, pure, cool, and generally unobstructed by ice in its lower extent at all seasons, is doubtless the best salmon producing river in the world. We have been accustomed to think that this fish product was inexhaustible. But the river fisheries of all countries, where the laws have not intervened for their preservation, have one uniform history—first decimation, then destruction.

At one time the salmon frequented all the rivers of Great Britain, but have been driven out of many of them by the turbid, poison waters from the sewers of manufacturing towns.

By the construction of fish ways and by stringent regulations of law limiting fishing to certain seasons of the year, days of the week and hours of the day, in which it shall be lawful to take fish, the run of salmon, much diminished, has of late years been increased in several of the rivers of Scotland and Ireland.

The Shad of the Middle States, a fish which, like the salmon, makes its annual excursions from the sea, has been lost to several rivers once filled with their roving millions. They were destroyed by reckless fishing, and cut off from their spawning grounds by mill dams. A lively interest is now manifested throughout the States bordering on the Atlantic sea board, seeking by fish culture, not only to recover lost fisheries, but to create new ones, and to introduce species of fish valuable for food, not before known in those waters.

In Oregon we have, in great abundance, two of the best river fishes in the world, the salmon and the trout. To preserve these is worthy of care-

ful legislative enactments. Pilotage and Tonnage on the Columbia and Willamette Rivers.

Your special attention is called to the necessity of more suitable and certain regulations of pilotage and tonnage on the Columbia and Willamette rivers. It is most important to our rapidly increasing commerce that these regulations should be just, discriminating and efficient.

Harbor Masters.

The number of foreign vessels destined to arrive in ballast, at the ports of Portland and Astoria, for the purpose of transporting the surplus products of this State, suggests the necessity of enactments providing for the regulation of these harbors and the appointment of harbor masters. No considerable compensation will be necessary.

[Conclusion next week.]

Bedrock Democrat.

J. M. SHEPHERD, EDITOR.

Baker City, Sept. 30, 1874.

THE BEDROCK DEMOCRAT as the Largest Circulation of any Paper Published in Eastern Oregon.

Circulation 1,050 copies.

OFFICIAL PAPER

For the Counties of

Baker and Grant.

The BEDROCK DEMOCRAT has MORE BONA FIDE, paying subscribers in Baker County, than has any other two papers published in the State. We put no man's name on our subscription list unless we have orders to do so.

A Correspondent of the Oregonian, writing from Salem, says the railway is beginning to boil vigorously. The Eastern members, and others especially engaged in promoting the Portland and Salt Lake route, had a meeting last night but did not come to any very definite understanding. The new Company organized over Col. Chapman's Company seems to have given rise to a considerable feeling in some quarters. I am informed, and have reason to believe, the new organization is misunderstood by those who think it hostile to the Colonel's enterprise; but it is going to be difficult to get the matter understood in that way. I am afraid the result will be damaging to the whole cause.

The Winnemucca scheme finds little opposition of an open character. It conflicts with none of the rest, is disposed to be friendly to all.

We are under obligations to Hon. C. G. Chandler for favors from the Capital. Mr. Chandler has introduced, and is pushing through the House, of which he is a member, a Homestead Law. Hon. J. W. Wisdom has introduced a bill to incorporate Baker City, in accordance with a petition from our citizens to that effect. Our members are all doing their duty. Mr. Reynolds, of Grant County, did not omit Bart Curl.

HARD PUSHED.—Some of the official third terms are now trying to face the aspirations of Grant for a third term by the statement that Gen. Andrew Jackson once had made up his mind to run for a third term. Of course this is a lie out of whole cloth and an awkward one, too. They might with as much plausibility accuse Jackson of having fought for the English at New Orleans. The old hero loved his country and her free institutions far too much to make himself an instrument in the hands of scoundrels and monarchists for the establishment of a monarchy on the ruins of the Republic.

THE MAINE ELECTION.—Eastern papers just come to hand with the returns of the Maine election show an increased vote over that of last year of 22,000. Yet with all this increase in the aggregate vote the Republican majority is 3,000 less than it was last year on the gubernatorial vote. The Republican vote is only 30 per cent and the Democratic vote 50 per cent larger than in 1873. It also appears that, as in the late Vermont election, the vote for local officers was not strictly partisan, but much split up and scattered, with a profusion appalling to the Federal Brigade among Independents and Democrats who are believed to be honest.

GOVERNOR'S MESSAGE.—We this week give to our readers one half of the Governor's Message, and will next week give them the balance of it. We know our readers wish to see and read it, therefore we give it to the exclusion of all other matter.

We will attend to Confidence Nelson's case next week.

JAS. W. VIRTUE,

BAKER CITY, OREGON,

BROKER AND ASSAYER

DEALER

In Gold Dust,

—AND—

GOLD AND SILVER BARS,

—ALSO—

EXCHANGE IN GREENBACKS.

Office—First door north Odd Fellow's Hall [n49v2tf]

NEW ADVERTISEMENTS.

T. P. HENDERSON,

MAIN STREET, BAKER CITY,

Manufacturer and Dealer in

HARNESS and SADDLERY

OF EVERY DESCRIPTION, CHEAP FOR

CASH.

Repairing done with neatness and dispatch, at Reasonable Prices.

Baker City, Sept. 30, 1874. n21tf

Grand Raffle.

The Celebrated Trotting Stallion, BELFOUNDER,

Also the very promising four year old son of Belfounder,

Stonewall,

Will be disposed of at Raffle.

Tickets, Legal Tender, \$10.00.

Belfounder is a dark bay, 15 1/2 hands high, weighs 1,025 pounds, and for symmetry of form cannot be excelled. As a trotter, he is noted on the turf, having trotted against George Wilkes on Long Island, in 2:23 1/4. His colts are of the most promising character for first class Roadsters and Trotters.

PEDIGREE.

Belfounder was sired by Tattersall's Belfounder, he by Imported Belfounder, his dam by Abalah. Belfounder's dam is by Engineer, her dam by Plato. Engineer and Plato are by Imported Messenger.

CERTIFICATE.—I certify that I am well acquainted with Dr. Mack's Horse, Belfounder; have had the care of him this season, near Walla Walla. He is active, vigorous, and a very sure foot getter.

LAFÉ GRIFFIN.

Stonewall is a beautiful Iron Gray Gelding, nearly 16 hands high, of fine proportions and high style; has been driven double and single enough to show superior action as a roadster or trotter; has not been trained.

The horses will be delivered free of charge at Boise City, I. T., or to the parties winning them. The highest number thrown in the Raffle wins Belfounder; the lowest number wins Stonewall.

As a guarantee of fairness, Hon. John Bailey will act as umpire at the Raffle, which will come off as soon as the tickets, 200 in number are sold.

C. H. MACK.

Boise City, I. T., Sept. 14, 1874. n20tf

Examination of Teachers.

THERE WILL BE A PUBLIC Examination of Teachers held at the Court House, in Baker City, on

Saturday, October 3d, 1874.

Teachers wishing to teach in the Public Schools of this county are requested to attend. The public respectfully invited to be present.

W. F. PAYTON,

School Superintendent

Baker City, Sept. 17, 1874. n20tf



What is this Great Remedy, and what are its effects? These are questions which the American public has a right to ask, and it has also a right to expect a candid and satisfactory reply. The preparation is a mild and gentle saline cathartic, alterative and tonic, and is most carefully prepared in the form of a snow white powder, containing all the wonderful medicinal properties of the far-famed Seltzer Springs of Germany.

Of its effects, those who have tested the preparation are the best judges, and they declare, over their own signatures, that the preparation will promptly relieve indigestion, regulate the flow of the bile, cure every species of headache, tranquillize the nervous system, refresh and invigorate the weak, mitigate the pangs of rheumatism, neutralize acid in the stomach, cleanse and tone the bowels, assist the failing appetite, cure the heartburn. If you are a sufferer, give this remedy one trial, and it will convince you of the above facts. Sold by all druggists.

TIN-SHOP!

J. H. PARKER,

WHOLESALE AND RETAIL DEALER IN

Copper, Tin and Sheet-Iron Ware.

Main Street, Baker City, Oregon.

HE KEEPS CONSTANTLY ON HAND a full assortment of all articles in his line, such as

Miner's Hydraulic Pipe, Nozzles, Butts and Tin Ware.

Also, Every Pattern and Style of

STOVES.

The Celebrated Buck's Patent Cooking, and the Onward Parlor Stove are kept on hand, together with all other styles.

JOB WORK

Done upon short Notice, and at reasonable Prices.

n26tf

J. H. PARKER.

Jas. H. Koontz,

Forwarding & Commission Merchant,

CORNER OF FIRST AND G STREETS,

Umatilla, Oregon.

All Freight and charges paid and advances made on Commission. I have a Stone Warehouse for Storage of Goods. Mark goods, Care J. H. K., U.

Umatilla, Aug. 5, 1874. n13n24.