

Can the Governor Appoint?

Since the adjournment of the Legislature without electing a U. S. Senator the question as to whether the Governor has the right to appoint is being freely discussed both by papers and citizens. The Act of Congress of July 25, 1866 so often quoted in this discussion and construed into making it the duty of the Governor to appoint, has nothing to do in the matter. It is an act of Congress and can change no constitutional right the Governor had before its enactment. The Oregonian argues that under this act the Governor must appoint or the place will remain vacant the entire term of six years, holding that the Legislature to be elected in 1886 will have no power to fill the vacancy unless the Governor shall first fill it by appointment. And the Benton Leader quotes this view approvingly. The act referred to says, "the legislature of each State which shall be chosen next preceding the expiration of the time for which any senator was elected, shall on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in congress." Now, to a mind not struggling to extricate itself from an unpleasant dilemma, this would appear very simple and reasonable. Perhaps the editor of the Oregonian will always enjoy the exclusive honor of putting that construction on the act. Which shall be chosen next preceding the expiration of the time for which any Senator was elected." To illustrate: This means that the legislature which elected a successor to Senator Grover, was not competent to elect a successor to Senator Slater, whose term of office expired two years later, within which time another legislature would be elected, whose duty it would be, and was, to elect a successor to Senator Slater. Any legislature is competent to fill existing vacancies, or such vacancies as may occur before a succeeding legislature is authorized to act. This is and has been the practice since the organization of the U. S. Senate.

Whether the act of congress above referred to be directory or mandatory, it is very clear it cannot be enforced. It provides that the legislature in joint convention shall meet from day to day until a Senator shall be elected. In the present case this has not been done. The legislature has adjourned without electing, nor is it meeting in joint convention at 12 M. each day and taking at least one vote for U. S. Senator; and whose business is it, and what is anyone going to do about it? It would be foolish for the Governor to call the same body together to elect a Senator, when they have just refused to elect.

The authority for the Governor to appoint a Senator is found in Article I, Section 3, of the constitution of the United States and is so frequently misquoted that I give it here. "And if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the Executive thereof may make temporary appointments until the next meeting of the legislature which shall then fill such vacancies." But by whom are these Senators chosen? The first clause of this section tells us that "the Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote." There is no co-ordinate power, no residuary power, no contingent power hinted at in these words. This is plain language. There is no room for misunderstanding it. Unless there is a wish to pervert it. If vacancies happen by resignation or otherwise, the Executive may make temporary appointments. Now, can something happen which has already taken place which already exists? Can a man resign an office without being first elected or appointed to that office? Can he resign that which he never had? Can a vacancy occur in an office that is already vacant and that never had an incumbent? But what does otherwise mean in the language quoted? Death would mean otherwise in this connection, and there are other possible occurrences which might cause a vacancy and would come under the head of "otherwise," as used in the constitution. The constitution says the legislature "shall" elect without any qualification as to time, place or circumstance. It says the Executive may appoint when certain contingencies arise which make it impossible for the legislature to elect. The legislature has full and

original power, and is commanded to exercise it. The power of the Executive is limited to an accident, or misfortune, and he may then act, or he not, just as he sees fit. The case from New Hampshire, cited by the Oregonian, is not a parallel case, and cannot be drawn into precedent.

The editor of the Benton Leader seems to be ignorant of the history of his adopted State. He says this case is new. Not so—it is old in Oregon. There was a case precisely similar in 1859. The legislature at that time refused to elect a successor to the Hon. Delazon Smith, whose term had expired on the 3d of March of that year, and the place remained vacant until the Fall of 1860, when Col. Baker was elected to fill the unexpired term, and Col. Nesmith was elected to fill a full term, commencing the 4th of March, 1861. Of course, there was no test as to whether the Senate would admit if an appointment had been made by the executive at that time, for the Governor steadily refused to appoint, notwithstanding he was urged to do so by political friends, who were anxious to try the experiment, whether successful or not. We conclude that the constitution of the United States does not grant to the Executive of the State the power to appoint a Senator when the legislature of that State says it does not want a Senator. We believe the Executive has no right to usurp the powers of the legislature or to defeat its wishes in the matter of the election of a United States Senator. We believe Gov. Moody to be an honest, conscientious man, and doubt his making an appointment. Still he may feel like trying the experiment, and give some ambitious gentleman an opportunity to visit Washington.

No one can say what the U. S. Senate would do in case the Governor should appoint, but there are many able, honest and fair minded men in that body, who would not be likely to stultify themselves and outrage decency by admitting a man appointed under such circumstances.

If the Oregonian has, by its course in the past, been instrumental in bringing about the present condition of things, it should have manhood to meet the consequences of its own teaching, by trying to lead the Governor into an error, and thereby bring him into contempt, as it has already brought the Legislature.

Secretary Lamar has already stopped one grand steal, known as the "Back Bone Grant," amounting to nearly 1,000,000 acres of land. The administration means business judging from the excellent start made already.

The Cabinet gives entire satisfaction to such papers as the N. Y. Times, Harper's Weekly, Post, World, Sun and most of the Independent and Democratic papers throughout the United States.

Cleveland has discharged useless officers connected with the White House and thus effected a saving of \$20,000 per annum in expenses. The pensioners in all the departments will have to go.

President Cleveland strong utterance on the Chinese question in his inaugural address, gives the greatest satisfaction to the people of this coast.

Those razors will be turned out now, remarks the Chicago Times, and burglar alarms and reliable bulldogs will be in demand.

War is imminent between England and Russia, if the dispatches are to be relied on.

For Sale. One house with five rooms, large barn, two lots, with fruit of all kinds; in pleasant part of city. Also one new family carriage that has never been used, for sale cheap. For further particulars inquire of Mrs. M. E. PAKE, Eugene City.

Last Notice. County taxes will be delinquent April 1, 1885, after which per cent and mileage will be charged for collection of the same. Heed this notice and save costs. Dated March 5, 1885. J. R. CAMPBELL, Sheriff.

For Sale. By Geo. H. March, of Eugene City, a choice lot of brood mares, mostly with foal, and ten or twelve two and three years old geldings and fillies. Residence opposite Dr. Harris'. G. H. MARCH.

Fire. All persons indebted to E. W. Whipple & Bros., either by note or book account will please call and settle the same. Our store is burned and we must collect the money due us. E. W. WHIPPLE & BROS. Cottage Grove, Feb 25, 1885.

I HEREBY ANNOUNCE MYSELF AS a candidate for the office of City Marshal of Eugene City. A. C. BRIGGS.

WILL BE SOLD AT COST!

Having purchased the entire stock of Furniture & Underakers Goods

Of J. R. Bean, I will sell them at cost for the next Ninety Days.

All desiring to purchase furniture CHEAP will find it to their advantage to call before purchasing elsewhere.

Take Notice. The furniture will be closed out within the next Ninety Days without fail. M. S. Wallis.

To Stock Raisers.



Young Sampson. This fine horse will be allowed to serve mares the ensuing season, commencing April 1st and ending July 4th, 1885, at Stearns stable, in Eugene City, and at Creswell, Oregon, on the following terms: Single service, \$10; season, \$15; insurance, \$20. Leap payable when service is rendered; season, at the end of the season; insurance, when the mare is known to be with foal, or if sold or traded before this is known, the insurance is forfeited. Care is taken to prevent accidents, but responsible for none that may occur. Mares can be pastured on reasonable terms.

DESCRIPTION AND PEDIGREE. Sampson is a beautiful bay, 7 years old April 25, 1885, weighs about 1800 lbs. is 18 hands high and well proportioned, and is considered by most men that see him as being one among the finest horses in the State of his age. He was sired by Adventure, he by Emperor, the first thoroughbred Clydesdale ever imported to Oregon. Adventure's dam was a fine Henry mare. Sampson's dam is well known in Marion county, being formerly owned by Mr. John Orchard, and as a fine mare and good breeder, has but few if any superiors in the State. For further particulars inquire of the owner. T. J. DUNTON, Owner and Keeper.

GO TO BECKWITH'S STORE Eugene City, Oregon.

For your Boots and Shoes—Fine Goods and Low Prices. O. BECKWITH & SON.

Pengra, Wheeler Co SPRINGFIELD, OREGON.

Lumbermen, Country Merchants, and Millers.

Cash and other ready pay buyers will consult their own interests by giving us a call.

Dr. A. W. Prather.

OFFICE SOUTH SIDE OF NINTH Street, opposite the Star Bakery. Calls promptly attended to night or day. Chronic diseases a specialty.

ADMINISTRATOR'S NOTICE.

NOTICE IS HEREBY GIVEN THAT the undersigned has been duly appointed by the County Court of Lane County, Oregon, administrator of the estate of Thos. H. Elder, deceased, and all persons having claims against said estate are hereby required to present them, with their proper vouchers, to the undersigned administrator at Cottage Grove, in Lane County, Oregon, within six months from the date hereof. Dated March 6, 1885. L. M. YEATCH, Administrator of said Estate. J. E. FENTON, Atty for Estate.

Dissolution Notice. The firm of S. Washauer & Co, doing business under the name of the I. X. L. Store, has been this day dissolved by mutual consent, S. Washauer retiring. Parties owing the firm are requested to settle immediately. Those holding bills against the firm are requested to present the same. S. WASHAUER, J. WASHAUER, H. WASHAUER.

We, the undersigned, will continue the business as formerly, and hope for a continuation of the liberal patronage heretofore extended. February 26, 1884. Syrup of Figs.

Nature's own true laxative. Pleasant to the Palate, acceptable to the Stomach, harmless in its nature, painless in its action. Cures Habitual Constipation, Biliousness, Indigestion and kindred ills. Cleanses the system, purifies the blood, regulates the Liver and acts on the Bowels. Breaks up Colics, Chills and Fevers, etc. Straightens the organs on which it acts. Better than bitter, nauseous Liver medicines, pills, salts and drugs. Sample bottles free, and large ones for sale by F. M. Wilkins, Eugene, W. S. Lee, Junction.

Summons. In the Circuit Court for the State of Oregon, for Lane County.

S. D. Holt, Plaintiff, vs. Atwood Dunham, Eliza A Dunham, W. R. Cartwright, Saml May and J. G. Sanders, partners in business, Defendants.

To W. R. Cartwright, defendant above named, IN THE NAME OF THE STATE OF Oregon, you are hereby required to appear and answer the complaint filed against you in the above entitled suit, on or before the 20th day of April, A. D. 1885, that being the first day of the next regular term of said Court following the expiration of the publication of this summons, or in default thereof the relief prayed for in the complaint herein, to-wit: For a decree foreclosing a certain mortgage executed by said Amos Dunham and Eliza A Dunham, on the 12th day of January, 1884, to S. D. Holt, to secure the payment of a certain promissory note dated January 2, 1884, payable to the order of S. D. Holt, upon which there is now due plaintiff the sum \$2,500 00 together with interest thereon from January 2, 1884, at ten per cent per annum, and the sum of \$250 00 attorneys fees, and for a decree for the sale of said premises, described as follows, to-wit: Beginning at a point one hundred and eighteen rods east of the S. E. corner of Sec. 7, T. 16, S. R. 3 West, Will. meridian, running thence North 160 rods, thence East 72 rods, thence South 160 rods, thence West 72 rods to the place of beginning, containing seventy-two acres. Also beginning at a point 80 rods West from the S. E. corner of section 8, T. 16, S. R. 3 West, Will. meridian, thence West 50 rods, thence North 160 rods, thence East 50 rods, thence South 160 rods to place of beginning, containing fifty acres, all in Lane County, Oregon. And that the proceeds of said sale be applied to the payment of said sums above named, and the costs and expenses of said sale and this suit, and for a decree forever debarring all said defendants from setting up any claim or title to said mortgaged premises, and for such other and further relief as is prayed for in plaintiff's complaint. This summons is directed to be published in the EUGENE CITY GUARD for six successive weeks by an order made by Hon. R. S. Bean, Judge of said Court, on the 5th day of March, A. D. 1885. J. E. FENTON, and FENTON & FENTON, Attorneys for plaintiff.

Summons. In the Circuit Court of the State of Oregon for Lane County. Estella A Wurtsbaugh, Plaintiff, vs. J. D. Wurtsbaugh, Defendant.

To the above named defendant, J. D. Wurtsbaugh, IN THE NAME OF THE STATE OF Oregon, you are hereby required to appear and answer the complaint of plaintiff, filed against you in the above entitled suit, by the first day of the next regular term of said Court, to be begun and held in Eugene City, Lane County, Oregon, on Monday, the 20th day of April, 1885. In case you fail so to appear and answer said complaint as herein required, the plaintiff will apply to the Court for the relief demanded therein, to-wit: For a decree dissolving the bonds of matrimony now existing between plaintiff and defendant, for the change of plaintiff's name, and for her costs and disbursements. This summons is published by order of Hon. R. S. Bean, Judge of said Court. Dated March 5, 1885. J. E. FENTON, Attorney for Plaintiff.

J. DAVIS, General Tailor.

ALL KINDS OF WORK DONE IN THE best of style at reasonable rates. Pants from \$7 up. Shop and residence on Olive street between Sixth and Seventh.

RHINEHART, J. B.—House, sign and carriage painter. Work guaranteed first class. Stores sold at lower rates than by anyone in Eugene.

Notice. TWO CONSUMERS OF LUMBER IN Springfield and Eugene City. From and after this date, bills for all lumber delivered by mill teams will be due and payable as follows:

Bills will be delivered through the postoffice or otherwise on or before the 5th of each month, for all lumber delivered during the previous month, and customers will be waited upon for payment at their residences or places of business on the 10th.

On all bills met promptly as indicated or paid at our office in Springfield on or before the 10th, a discount of 50 cts per thousand will be made, but positively no discount will be made unless paid as above provided. P. PENGRA, WHEELER & Co. SPRINGFIELD, Feb. 18, 1885.

\$5,000 Wanted, And to get it I will sell

11 lbs sugar for \$1.00; 10 cans oysters, \$1.00; 7 lbs No 1 Costa Rica coffee, \$1.00; Glass Set (very nice), 40 cts; Glass Set, (beautiful), 50 cts; Set Glasses, 35 cts; set sauce plates, 25 cts; Bread and Cake Plate, 20 cts; Wash Board, 25 cts; Wash tub, \$1.00; Broom, 25 cts, and other goods in proportion.

CALL AND GET PRICES. Bargains in Crockery, Glass, Wood and Willow Ware and Groceries.

A. GOLDSMITH, Cash Grocer. Cash paid for HIDES, FURS and Country Produce. Goods delivered to any part of city free of charge.

Dissolution Notice. The partnership heretofore existing between J. B. Rhinehart and E. F. McCallum, has been dissolved by mutual consent. Mr. Rhinehart will continue the business at the old stand.

Dated Jan 1st, 1885. J. B. RHINEHART, E. F. MCCALLUM.

Dissolution of Partnership. THE FIRM OF CHERRY & DAY HAS been this day mutually dissolved, and the business heretofore to be conducted by R. M. Day & R. B. Henderson, under the firm name of Day & Henderson.

All parties indebted to the old firm are requested to call and settle their accounts. J. W. CHERRY, R. M. DAY. Dated Jan 29, 1885.

A. STINIT & CO.

Real Estate Agents,

EUGENE CITY, LANE COUNTY, OREGON.

PARTIES wishing to locate, by Pre-emption or Homestead, upon Government Land, or to purchase School or Railroad Lands, will do well to call upon or address us as we are thoroughly acquainted with such lands throughout the entire Willamette Valley, on either side of the river, and can show parties the most valuable lands and desirable locations, from 5 to 3200 acres in a body. Also vacant lots, business and dwelling houses for sale and to rent. Parties having money to invest in property will do well to call at this office as we have about 200 bar gains.

LOOK HERE. We have six ten acre lots, and four five acre lots, on Eighth street west of Eugene on county road. A rich garden soil, which we can prove has raised 40 bushels of wheat to the acre. It can be bought for one-half what land across the street has been sold for.

What is fifteen minutes walk from the COURT HOUSE DOOR, for a nice little home. Ten acres of level land—6 acres which will cut from 2 to 3 tons of hay per acre; one acre for garden, one acre for orchard, and two acres for lawn around your house. You can see that EUGENE CITY went ahead of any town in the valley in improvements last year. What do you think this year—\$80,000 appropriated to build an addition to the State University, and other valuable enterprises that we can tell you about if you will address us. Lane County at close of last fiscal year was out of debt and had a surplus of \$8,000 in the Treasury.

E. R. Luckey & Co

DRUGS, PATENT MEDICINES,

Toilet Articles, Paints, Oils, Brushes, Etc., Etc.

We will keep a full assortment and sell at living fixture. PRESCRIPTION DEPARTMENT

In hands of a competent druggist. To Luckey & Bristow at the old Ellsworth Store.

BLANK BOOKS,

Pass books, butcher books, memorandums, ledgers, day books, etc., of all kinds. Ordrs taken for special size

School and Miscellaneous Books. All the standard authors by the volume and in sets. Juvenile books, Seaside and Waverly Library, Harpers Magazines, etc.

Bible Depository For Lane County. We have been getting a large stock of new goods and we have everything found in a first-class Book Store. We also have a full stock of

GROCERIES AND PROVISIONS! McCORNACK & COLLIER. Successors to CALLISON.

Pritchett & Forkner,

Hardware and all kinds of Agricultural Implements.

STORE—On Willamette Street, opposite "Guard" Office

Harness & Saddles.

Fine Harness Made to Order. J. H. Klem,

Eight Street, Eugene City.

DR. L. F. JONES, W. V. Henderson, Physician and Surgeon, DENTIST.

WILL ATTEND TO PROFESSIONAL calls day or night. OFFICE—Up stairs in Hays' block; or can call at E. R. Luckey & Co's drug store. Office hours: 9 to 12 m., 1 to 4 p., 6 to 8 p. m. HAS RESUMED PRACTICE with office in Hays' block. My operations will be first-class and charges reasonable. Old patrons as well as new ones are invited to call.