A. C. R. Shaw

Rec 577

IN THE SENATE OF THE U. STATES.
JANUARY 29, 1847.
Recommitted to the Committee on the Judiciary.
FEBRUARY 10, 1847.
Reported with amendments, viz: Strike out the parts within [brackets,] and insert those printed in *italics*.

AN ACT
To establish the Territorial Government of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all that part of the territory of the United States which lies west of the summit of the Rocky mountains shall be organized into and constitute a temporary government, by the name of the Territory of Oregon: [*Provided*, That nothing in this act contained shall be construed to impair the rights of person or property now pertaining to the Indians in said territory, so long as such rights shall remain unextinguished by treaty between the United States and such Indians; or to affect the authority of the government of the United States to make any regulation respecting such Indians, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never passed: *And provided, further*, That nothing in this act contained shall be construed to inhibit the government of the United States from dividing said territory into two or more territories, in such manner and at such times as Congress shall deem convenient and proper, or from attaching any portion of said territory to any other State or Territory of the United States.]

Sec. 2. *And be it further enacted*, That the executive power and authority in and over said territory of Oregon shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States.—The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve of all laws passed by the legislative assembly before they shall take effect; he may grant pardons *and respites* for offences against the laws of said territory, and reprieves for offences against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, *where by law such commissions are required*, and shall take care that the laws be faithfully executed.

Sec. 3. *And be it further enacted*, That there shall be a secretary of said territory, who shall reside therein, and hold his office for [four] *five* years, unless sooner removed by the President of the United States; he shall [record and] preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and *record* all the acts and proceedings of the governor in his executive deparment; he shall transmit one copy of the laws *and journals of the legislative assembly within thirty days after the end of each session*, and one copy of the executive proceedings [on or before the first day of December] *and official correspondence, semi-annually on the first days of January and July*, in each year, to the President of the United States, and [at the same time] two copies of the laws *to the President of the Senate, and* to the Speaker of the House of Representatives for the use of Congress. And, in case of the death, removal, resignation or [other necessary] absence of the governor from the territory, the secretary shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor, during such vacancy or [necessary] absence, or until another governor shall be duly appointed *and qualified* to fill such vacancy.

Sec. 4. *And be it further enacted*, That the legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of [thirteen] *nine* members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of [twenty-six] *eighteen* members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of representatives may be increased by the legislative assembly from time to time, in proportion to the increase of [population] *qualified voters: Provided*, That the whole number *of the house of representatives* shall never exceed thirty-[nine.] *And* an apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the council and representatives, giving to each section of the territory representation in the ratio of its [population, Indians excepted] *qualified voters* as nearly as may be. And the members of the council and of the house of representatives shall reside in and be inhabitants of the district *or county or counties* for which they may be elected respectively. Previous to the first election, the governor shall cause [the] *a* census or enumeration of the inhabitants *and qualified voters* of the several counties and districts of the territory to be taken, *by such persons and in such mode as the governor shall designate and appoint, and the person so appointed shall receive a reasonable compensation therefor*, and the first election shall be held at such time and places, and be conducted in such manner, *both as to the persons who shall superintend such election and the returns thereof*, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts shall be entitled under this act. The [number of] persons [authorized to be elected] having the highest number of *legal* votes in each of said council districts for members of the council shall be declared by the governor to be duly elected to the council; and the [person or] persons [authorized to be elected] having the [greatest] *highest* number of votes for the house of representatives [equal to the number to which each county or district shall be entitled] shall be declared by the governor to be duly elected members of the [house of representatives] *said house: Provided*, That, in case [of a tie between] two or more persons voted for *shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the legislative assembly*, the governor shall order a new election [to supply the vacancy made by such tie.] And the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor shall appoint; but, thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation, in the several counties or districts, to the council and house of representatives, according to [population] *qualified voters*, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: *Provided*, That no one session shall exceed the term of sixty days.

Sec. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have [been a resident of] *resided in* said territory [at the time of the passage of this act] *thirty days previous to said first election*, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the [first] *said* election; but the qualifications of voters at all subsequent elections shall be such as shall be prescribed by the legislative assembly, *except only that such voters shall be citizens of the United States at such first and at all subsequent elections: Provided*, That the right of suffrage shall be exercised only by citizens of the United States, and those who shall have declared, on oath, before some court of record, their intention to become such, and shall have taken an oath to support the constitution of the United States and the provisions of this act] *That no officer, soldier, seaman, or marine, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote at any election by reason of being in service therein, unless said territory be and has been otherwise his permanent domicile, residence, habitation, and home, for the period required to entitle him to vote at such election, and no longer residence in said territory than one year previous to an election shall be required.*

Sec. 6. *And be it further enacted*, That the legislative power of the territory shall extend to all rightful subjects of legislation; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the congress of the United States, and if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank, or any institution with banking powers, or to borrow money in the name of the territory, or to pledge the faith of the people of the same for any loan whatever, either directly or indirectly, *and no charter granting any privilege to any association of making, issuing, or putting into circulation any notes or bills in the likeness of bank notes, or any bonds, or scrip, drafts, bills of exchange or obligations, or granting any other banking powers or privileges, shall be passed by the governor and legislative assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said territory; nor shall said governor and legislative assembly authorize the issue of any obligation, scrip, or evidence of debt by said territory, in any mode or manner whatever, except compliance for interest to said territory; and all such laws shall be utterly null and void; and all taxes shall be equal and uniform, and no distinction shall be made in assessments between different kinds of property, but the assessments shall be according to the value thereof.*

Sec. 7. *And be it further enacted*, That all township, district, and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Oregon. The governor shall [nominate, and, by and with the advice and consent of the legislative council] appoint all officers not herein otherwise provided for; [and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the legislative assembly.]

Sec. 8. *And be it further enacted*, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term: *Provided, That this prohibition shall not extend to the members of the first legislative assembly which may be elected in said territory;*, and no person holding a commission or appointment under the U. States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

Sec. 9. *And be it further enacted*, That the judicial power of said territory shall be vested in a supreme court, district court, [probate courts,] and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually; and they shall hold their offices during the period of four years, *and until their successors are appointed and qualified*. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law *for the trial of all cases*

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"Westward the Star of Empire takes its way."

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[illegible] that [illegible] power, [illegible] the power shall be [illegible] vided, That justices of the peace have jurisdiction of [illegible] ty when the title to land may be in dispute, or where [illegible] ed shall exceed one hundred [illegible] said supreme and district courts respectively, shall possess [illegible] common law jurisdiction. [illegible] court, or the judge thereof, [illegible] clerk, who shall also be the [illegible] cery, and shall keep his office where the court may be held; [illegible] court in and for each of the [illegible] ly, in which said court shall [illegible] to be held, who shall also be [illegible] cery, and shall keep his office [illegible] said county be held; and [illegible] clerk of such court in and for [illegible] the place where his office is held [illegible] ror, of certiorari, bills of exceptions, appeals, and all other legal remedies [illegible] and revision, shall be allowed in [illegible] [from] as to the final decisions of [illegible] courts, to the supreme court, under [illegible] ulations, as may be prescribed [illegible] in no case removed to the supreme [illegible] trial by jury be allowed in [illegible] supreme court, or the justices [illegible] appoint its own clerk, and every [illegible] hold his office at the pleasure [illegible] which he shall have been [illegible] of error and appeals from the [illegible] of said supreme court shall be [illegible] may be taken to the supreme [illegible] United States, in the same manner [illegible] der the same regulations as [illegible] suits courts of the United States [illegible] value of the property or the [illegible] troversy, [to be ascertained by [illegible] firmation of either party, or [illegible] witnesses,] shall exceed [illegible] dollars; and each of the said [illegible] shall have and exercise the same [illegible] in all cases arising under the [illegible] and laws of the United States [illegible] the circuit and district courts [illegible] States, and also of all cases [illegible] laws of the said territory and [illegible] the first six days of every term [illegible] or so much thereof as shall be [illegible] be appropriated to the trial of [illegible] under the said constitution [illegible] writs of error and appeals in [illegible] shall be made to the supreme [illegible] territory, the same as in other [illegible] said clerk shall receive, in all [illegible] the same fees which the clerks [illegible] courts of Wisconsin territory [illegible] similar services; and each of the [illegible] district courts and the clerk of [illegible] court shall, respectively, give [illegible] two or more sufficient securities, [illegible] ted States and one to the territory [illegible] the penal sum of two thousand [illegible] tioned for the faithful discharge of [illegible] of his office; which bond shall be [illegible] one of the district judges; and [illegible] of the condition thereof, shall be [illegible] the use of any party or person [illegible] by.

Sec. 10. *And be it further* [illegible] there shall be appointed an [illegible] territory, who shall continue [illegible] years, *and until his successor shall be* [illegible] *ed and qualified*, unless sooner [illegible] the president, and who shall [illegible] same fees and salary as the [illegible] United States for the [illegible] Wisconsin. There shall also be [illegible] for the territory appointed, who [illegible] office for four years, and until [illegible] *shall be appointed and qualified*, unless [illegible] removed by the president; and [illegible] cute all processes issuing from [illegible] when exercising their jurisdiction [illegible] and district courts of the United [illegible] shall perform the duties, be [illegible] same regulations and penalties [illegible] *bond and security*, and be entitled [illegible]