

Dec 9, 1851

He is engaged, it is said, in the lawful prosecution of a constitutional right. All resistance, then, by whomsoever made, or in whatever form, must be illegal.

As vain as to suppose that the present assembly is weak enough to be flattered by a compliment so hollow as that proposed to be paid by the body that framed this act!

Will it be better satisfied to have the law pronounced invalid at Salem rather than at Oregon City? Is there any magic in the place where such opinion shall be given?

Have thus freely expressed my views on this question, not because it involves in my judgment any serious difficulty, but because the principle at stake is one of high importance.

On motion of Mr. Hembree, Mr. King was appointed Chairman. On motion of Mr. Avery, B. P. Harding was appointed Clerk, pro tem.

On motion of Mr. Curry, that the Speaker appoint a Committee of three, to examine the credentials of members.

Dec 9, 1851.—Pursuant to an act passed at the last session of the Legislature of Oregon, a majority of the members elect met at this place, (Salem) in said Territory.

Chair, and Richard J. White, appointed Clerk, pro tem. The following members appeared, and took their seats, viz: Saml. Parker, of Marion and Clackamas counties; A. L. Humphries, of Benton, Lane and Umpqua counties; M. P. Deady, of Yamhill county; W. B. Meely, of Linn county; A. L. Lovejoy, of Clackamas county; and Jos. M. Garrison, of Marion county; who, after being qualified took their seats.

On motion of Mr. Lovejoy, the Council adjourned until to-morrow, 2 o'clock, P. M. Wednesday, Dec. 2, 2 o'clock, P. M.—The Council met pursuant to adjournment. Mr. Parker, chairman, being unwell, Mr. Hall was appointed Pro. tem.

On motion of Mr. Deady, the Council proceeded to elect a President, which resulted in the choice of A. L. Lovejoy. Mr. Lovejoy upon being conducted to the chair, declined the Presidency. His reasons being satisfactory, his declination was accepted.

On motion of Mr. Deady, the rules of the last session were adopted for the government of the Council. The officers elect being duly qualified entered upon the discharge of their duties.

On motion of Mr. Hall, the Clerk was directed to procure stationery for the use of the Council. On motion of Mr. Lovejoy, the Council adjourned until to-morrow, 9 o'clock, A. M.

Thursday, Dec. 4, 9 o'clock, A. M.—The Council met pursuant to adjournment. An message was received from the House in the effect that Messrs. Curry, Anderson and Riden, were appointed a Committee on the part of the House, to act in conjunction with a like Committee of the Council to procure suitable rooms and other conveniences for the sitting of the Legislative Assembly at its present session.

On motion of Mr. Simpson, the Speaker was requested to appoint a Committee of three members to act in conjunction with a like Committee of the Council to procure suitable rooms and other conveniences for the sitting of the Legislative Assembly at its present session.

On motion of Mr. Wilson, the Speaker was requested to appoint a Committee of three to prepare and report rules and regulations for the government of the House. Messrs. Wilcox, Cole and Carry, were appointed said Committee.

On motion of Mr. Ford, the House adjourned until to-morrow, 9 o'clock, A. M. Wednesday, Dec. 3, 9 o'clock, A. M.—The House met pursuant to adjournment. Present—same as yesterday, except Mr. Anderson, member for Clatsop and Pacific counties, appeared, was qualified and took his seat.

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But again it has been said that inasmuch as the Legislative Assembly had the right to act upon the subject matter of the act, it is to be presumed good; and that it is the duty of the court to go to Salem, and there it is, by vicarious, pronounces it bad. It is true that we are not to suppose, without clear evidence to the contrary, that the Legislature has transgressed its powers. We are to presume everything in favor of the correctness of its acts, but if upon comparison of its doings with the law under which it derives its powers, we discover a failure to conform to the will of its superior, it is the duty of the court to declare the mandate of the law. Now, how are we to ascertain that the Legislative Assembly had jurisdiction of the subject matter? We shall be answered, by an examination of the act of Congress. But does not the same act of Congress require every law to embrace but one object, and that to be expressed in the title? It will thus be seen that while we are looking for the source of the Assembly's power to legislate, we at the same time discover a provision that kills the act. The Assembly has no more right to pass a law that embraces more than one object, than it has to legislate upon a subject on which it is forbidden to act.

On motion of Mr. Deady, the Council proceeded to elect a President, which resulted in the choice of A. L. Lovejoy. Mr. Lovejoy upon being conducted to the chair, declined the Presidency. His reasons being satisfactory, his declination was accepted. The election of Chief Clerk was next proceeded with, and B. P. Harding declared duly elected. E. F. McCormick was elected Assistant Clerk. W. L. Frazier, was elected door keeper. Hon. O. C. Pratt administered the oath of office to the members elect, who thereupon entered upon a discharge of their duties. Notice was then given to the Council by the House that that body was ready to proceed to business.

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Oregon Spectator.

TUESDAY, DECEMBER 9, 1851.

C. P. Culver, Associate Editor.

WE publish to day the opinion of Hon. Thomas Nelson Chief Justice of the Supreme Court, upon the question as to the validity of the act of the Legislative Assembly locating the public buildings—and also the opinion of Hon. Wm. Strong one of the Associate Justices, upon the same subject. The question upon which they treat, is one of vast importance, and much interest having hitherto been manifested in the consideration of it, we would invite the attention of our readers to their opinions, and request an attentive perusal of them.

WE learn that the Legislative Assembly convened at Salem, and an order to this city for the Territorial Library. We have not learned what action has been taken upon the matter here. This is a very exciting question, that is now dividing public opinion to a very great extent, throughout the entire "length and breadth" of our Territory. It is to be hoped that a decision may be had at an early day that will put the matter at rest, and restore again to us that harmony of action and sentiment, for which Oregon has been hitherto so justly celebrated.

APPOINTMENTS BY THE GOVERNOR.—Territorial Treasurer—W. W. Back, Esq., Vice Judge L. A. Roe, resigned. Territorial Librarian—Allen P. Miller, Esq. This latter appointment was made to fill a vacancy in the office, occasioned by the effect of the act of the Legislature, J. B. Turner, Esq., leaving the Territory some time in April last, since which time the office has been vacant. The above appointments are excellent ones, and cannot fail to give general satisfaction.

WE are informed that about one-third of the mill dam belonging to Mr. James M. Moore, on the Tuahiti river, some three or four miles from Linn City, was carried away by high water on Sunday last. We have learned none of the particulars that caused the misfortune. The loss of his dam at this season of the year, is particularly unfortunate, from the fact that difficulty must be met with in building a new one during the rainy season, on account of the continual high water.

EXECUTION OF TURNER.—The unfortunate man sentenced to be hung for the murder of E. A. Bradbury, was executed at H. Block's on Thursday, Dec. 4th, at 11 o'clock, a. m. We understand that upon attending the scaffold he addressed a few remarks to the large assemblage of people present, in which he expressed no regret for the act he had committed. He was understood to say that he had left a manuscript which would explain whatever now seemed criminal in his conduct.

THE case of A. M. Shurt, vs. F. Ermatinger, on trial before the Supreme Court, their Honors Judges Nelson and Strong presiding, which was brought up from Justice Court by appeal, was disposed of yesterday. Judgment below reversed.

ON account of the recent rains the river has been unusually high during the past week. The fair weather at present will probably check its further rise.

SEVERAL communications on file, are unavoidably crowded out of this week's paper.

Setting up for a critic is dangerous business.—Statesman.

Your own experience has proved the truth of the assertion.

Proceedings of the Council.

Pursuant to an act passed during the session of the last Legislature, a majority of the members of the Council met at Salem, Marion County, on Monday, Dec. 1st, 1851; and the session was commenced by Geo. L. Curry, former Clerk, calling the Council to order.

Mr. Saml. Parker was called to the

Chair, and Richard J. White, appointed Clerk, pro tem.