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THE "BLACK LAWS" OF OREGON

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A Thesis

Presented to

the Faculty of the Department of History

University of Santa Clara

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In Partial Fulfillment

of the Requirements for the Degree

Master of Science

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by

Franz M. Schneider

June 1970



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## I. Introduction

For a state whose Negro population has always been tiny, Oregon has devoted a surprising amount of political energy to the question of what the status of Negroes in the state and the nation should be. The actions and arguments of its legislative bodies have more or less followed the national patterns, reflecting the ebb and flow of the United States' concern as a whole with Negroes' place in this society. Before the Civil War, and again during Reconstruction, whites in Oregon were preoccupied with the "Negro Problem," as was the rest of the country. During the establishment of the system of segregation in the South, between 1890 and 1920, the matter came up again in the state. More recently, legislative action has mirrored the Civil Rights movement.

One of the ways in which white Oregonians attempted to deal with the question of Negro status prior to the Civil War was by avoiding Negroes. This was the idea behind a series of proposals in the 1840's and 1850's to exclude Negroes from the region. The movement culminated in the establishment, by popular vote, of a clause in the state constitution prohibiting free Negroes from residing in Oregon, owning property there, or making contracts or maintaining legal actions in the state. Such enactments were not peculiar to Oregon; several states in the Mississippi Valley and the

Old Northwest tried similar measures.<sup>1</sup> Oregon's situation was unusual, though, in that there were so few Negroes in the territory and no large number of either free Negroes or slaves within 2,000 miles. Since most of Oregon's white settlers lived in the Mississippi Valley before migrating to Oregon, it has been assumed that they were expressing attitudes formed before migration. Local situations, however, also played an important part in the development of the territory's black laws.

This study proposes to trace the history of Oregon's legislation concerning Negroes, with particular reference to the exclusion laws, from the first such proposal in 1843 to the final repeal of the anti-Negro provisions of the state constitution in 1926-27.<sup>2</sup> The causes, development, nature, and effects of such legislation will be examined and compared with Oregon's expressions of opinion on national matters such as the Reconstruction amendments and the development of Jim Crow laws in the South. From this investigation some conclusions will be drawn about the nature of white Oregonians' attitudes toward Negroes.

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<sup>1</sup>Illinois adopted the first free Negro exclusion law in 1813. Laws prohibiting Negro residence were also adopted by Iowa and Indiana in 1851. See Eugene H. Berwanger, The Frontier Against Slavery: Western Anti-Negro Prejudice and the Slavery Extension Controversy (Urbana, Illinois: University of Illinois Press, 1967), pp. 22-43.

<sup>2</sup>It is felt that the situation in Oregon vis-à-vis Negroes since 1940 is a very different one, having no relevance to the earlier period. Legislative and political concern with Negroes since World War II has been a product of the migration of Negroes into the state during the war, when the Negro population of the state rose from just over 3,000 to just under 20,000. Oregon had no correspondingly dramatic increase in Negro population during World War I; the number of black residents rose from 1492 in 1910 to 2144 in 1920.



## II. Legislating for Local Conditions

The treatment of Negroes, whether slave or free, was a matter of recurrent concern to Oregon's legislative bodies before statehood was achieved in 1859. In four sessions of the Legislative Committee, under the Provisional Government (July 5, 1843 to March 2, 1849), laws were passed specifically affecting Negroes. The territorial legislature (March 3, 1849 to February 14, 1859) took up the question of Negro status at all but three of its ten sessions. This concern over Negroes was not totally academic. It is true that there were few Negroes in Oregon, but there were some; the census of 1850 shows 207 (although later analysis has demonstrated the number to be closer to 50), and 128 were counted in 1860.<sup>1</sup> Moreover, even though Negroes never amounted to as much as one per cent of the total population, legislative action concerning them during the territorial and early statehood period was governed at least as much by immediate experience in Oregon as it was by theoretical considerations and personal prejudices brought by white settlers from the States. In 1857, when Oregon was preparing its constitution and applying for admission to the Union, the national debate over slavery

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<sup>1</sup>Jesse S. Douglas, "Origins of the Population of Oregon in 1850," Pacific Northwest Quarterly, XLI (April, 1950), 95-109. The criteria used for determining race in the 1850 census are unknown, but apparently many Indians and other non-whites were counted as Negroes.

seized the territory and greatly minimized the importance of local conditions, but before that time Oregonians were conscious of their isolation from the concerns of the nation and interested only in legislating for themselves.

There was some concern over Negroes as a competitive labor force among white Oregon farmers. The identification of Negroes with slavery and the opposition among small farmers to slavery in the territory has led some historians to the conclusion that anti-Negro legislation was basically economic in its origins.<sup>2</sup> I believe, however, that racial prejudice among the whites derived at least as much from the social stigma attached to slavery as from fear of slave labor competition. Occasional mention of the economic aspect in private correspondence is more than offset by the fact that economic considerations were almost never mentioned in the legislative or convention debates on the Negro exclusion laws.

The first organic law of the Provisional Government of Oregon, written in July, 1843, contained a prohibition of slavery or involuntary servitude in the wording of the Northwest Ordinance of 1787. It also extended the franchise to "every free male descendant of a white man, twenty-one years old."<sup>3</sup> The reason for the peculiar wording of the suffrage clause was a practical and immediate one: many of the early

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<sup>2</sup>See, for example, Berwanger, Frontier Against Slavery, pp. 93-94.

<sup>3</sup>Horace Sumner Lyman, History of Oregon: The Growth of an American State (New York: North Pacific Publishing Co., 1903), IV, 374.



white settlers, including at least one member of the Committee that adopted the law, had taken Indian wives (there being a shortage of white women). Not wishing to exclude their own recognized offspring, but at the same time wanting to exclude non-whites in general, they chose their phrasing carefully. A similar provision was urged on Congress in 1850 by Oregon's Territorial Delegate, Samuel I. Thurston, for the Donation Land Act of that year.<sup>4</sup>

Elections held in May, 1844, reflected the fact that the composition of the American colony had changed drastically as a result of the 1843 migrations. Of the members of the 1843 Legislative Committee, only two were returned to the 1844 Committee, along with six newcomers to the territory.<sup>5</sup> One new arrival, Peter H. Burnett, dominated the legislature in its June and December meetings that year, and he with others was dissatisfied with the previous Committee's organic law. They decided to amplify it.

In the June, 1844, meeting of the legislature, Burnett introduced a "bill to prevent slavery in Oregon."<sup>6</sup> The first section of his bill repeated the earlier provision that "slavery

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<sup>4</sup>T. C. Elliot, "'Doctor' Robert Newell: Pioneer," Oregon Historical Quarterly (hereafter cited as OHQ), IX (June, 1908), 113; Oregon Spectator, September 12, 1850, 1.

<sup>5</sup>Charles H. Carey, A General History of Oregon (Portland, Oregon: Metropolitan Press, 1935-36), I, 341; H. O. Lang, History of the Willamette Valley (Portland, Oregon: Himes & Lang, 1885), p. 282.

<sup>6</sup>Oregon, The Oregon Archives: Including the Journals, Governors' Messages, and Public Papers of Oregon, to 1849. Lafayette Grover, Code Commissioner (Salem, Oregon: Asahel Bush, Territorial Printer, 1853), p. 47.

and involuntary servitude shall be for ever prohibited in Oregon." Other sections, however, provided that all slaves not removed from the territory within three years would be freed, and that all free Negroes who did not leave the territory within two years (if male) or three years (if female) would receive twenty to thirty-nine lashes on the bare back, repeated at six months' intervals as long as they stayed.<sup>7</sup> The bill was introduced under a suspension of the rules June 25, 1844, and passed the next day by a vote of six to two.<sup>8</sup>

There are various explanations for Burnett's introduction of such a harsh piece of legislation. The most common assumption is that the bill was prompted by an incident which had taken place the preceding March in Oregon City (then known as Willamette Falls), referred to as the Cockstock Incident. Cockstock was an Indian with some standing among other Indians and a bad reputation among the whites. In 1843 he had been hired by George Winslow, a Negro who had come to Oregon in 1834, to clear some land, in payment for which he was to receive a horse. Before he was paid, however, the claim and the horse were transferred

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<sup>7</sup>The text of the law is not in the State archives, but may be found in Peter H. Burnett, Recollections and Opinions of an Old Pioneer (New York: D. Appleton & Co., 1880), pp. 213-14.

<sup>8</sup>Voting for the bill were Burnett himself, M. Gilmore, T. D. Keizer, Daniel Waldo, Robert Newell, and M. M. McCarver. Opposed were A. L. Lovejoy and David Hill. Newell and Hill were the holdovers from the previous Committee. See J. Henry Brown, Political History of Oregon (Portland: Wiley B. Allen, pub., 1892), p. 132; Oregon Archives, p. 47.



by Winslow to James Saules, also a Negro, and Saules refused to give up the horse. Cockstock made threats, which prompted Saules to write to the only official representative of the United States government then in the territory, the Indian sub-agent Elijah White, demanding protection or "I shall consider myself justified in acting as I shall see fit." White had no love for Cockstock, who had recently broken every window in his house, and, acting on Saules' complaint, he offered a reward for the Indian. On March 4, 1844, Cockstock came to Oregon City with several companions on what the Indians later insisted was a peaceful negotiating mission. A riot broke out in which Cockstock killed George Le Breton (Secretary of the Provisional Government) and was in turn killed by Winslow.<sup>9</sup>

The incident caused a considerable sensation among both whites and Indians, bringing the region to the brink of war. White was kept busy for the next few months pacifying the Indians; he finally settled things with them by means of a gift of blankets to Cockstock's widow.<sup>10</sup> In the meantime, Saules was apparently put under arrest for fomenting anti-white sentiment among the Indians in May, and White prevailed upon him to leave the vicinity after his release. White

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<sup>9</sup>Elijah White, Ten Years in Oregon (Ithaca, New York: --, 1848), pp. 229-34; George Fuller, A History of the Pacific Northwest (New York: A. A. Knopf, 1931), p. 199; Marie M. Bradley, "Political Beginnings in Oregon: The Period of Provisional Government, 1839-1849," OHQ, IX (March, 1908), 58. George Winslow is also referred to as Winslow Anderson or Winslow Armstrong.

<sup>10</sup>White, Ten Years, p. 237.



thereupon wrote to Robert Moore, a justice of the peace, that Saules in particular and Negroes in general caused trouble among Indians and should be kept out of the territory.<sup>11</sup>

This letter has been presumed to have brought about the law.

Another explanation of the appearance of the law ignores the Cockstock Incident, and credits it to the initiative of Burnett. He, like many early Oregon settlers, was a Tennessee anti-slavery man who had emigrated from Missouri. One contemporary of his lays the cause of the legislation at the feet of Southern womanhood: "P. H. Burnett, in his law . . . represented the just fears of girlhood and womanhood of slaves fleeing for life and liberty."<sup>12</sup> Burnett himself, in his memoirs, did not go into his reasons, contenting himself with the argument that immigration into a state or a community was a privilege and not a right and that therefore the residents of Oregon had a perfect right to exclude any class of people they chose. He also noted that if some people were not to be allowed to vote in a state it might be wise to deny them residence as well, because otherwise their inferior position would kill their incentive to be good citizens and make them a burden to the community.<sup>13</sup> He wrote to a correspondent at the time that "the object is to keep clear of

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<sup>11</sup> Berwanger, Frontier Against Slavery, pp. 81-82.

<sup>12</sup> John Minto, "Antecedents of the Oregon Pioneers and the Light These Throw on Their Motives," OHQ, V (March, 1904), 45.

<sup>13</sup> Burnett, Recollections, pp. 219-20.

that most troublesome class of population . . . in a new world."<sup>14</sup> It is interesting to note that both Burnett and M. M. McCarver of the 1844 Legislative Committee were in California at the time of its organization as a state, and that both the latter, as a delegate to the constitutional convention, and the former, as California's first governor, proposed comprehensive Negro exclusion laws for that state.<sup>15</sup>

When the Legislative Committee reconvened in December, 1844, the Executive Message presented to it contained a recommendation that the exclusion law be amended so as to permit free Negroes to remain on posting of bonds for good behavior and without fear of corporal punishment. Burnett could not accept the idea of free Negroes living in Oregon under any circumstances, but he did have second thoughts about the whipping clauses in the law. He submitted and got passed an amendment repealing the whipping provision, substituting a section for hiring out violators at public auction, the hirer to be responsible for removing the Negro from the territory when his service was ended.<sup>16</sup>

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<sup>14</sup> Burnett to unknown correspondent, December 25, 1844, quoted in William E. Franklin, Jr., "The Political Career of Peter Hardemann Burnett." (PhD., Stanford, 1954). Cited in Berwanger, Frontier Against Slavery, p. 81.

<sup>15</sup> Berwanger, Frontier Against Slavery, p. 66; Oregon Spectator, April 4, 1850, p. 1.

<sup>16</sup> Oregon Archives, pp. 58, 60; Burnett, Recollections, p. 215; Laws of a General and Local Nature, Passed by the Legislative Committee and Legislative Assembly, 1843 to 1849, LaFayette Grover, Code Commissioner (Salem: A. Bush, 1853), p. 82.



The migrations of 1844 brought another upheaval in the personnel of the Legislative Committee, as a result of elections held in May, 1845. The Committee was expanded to thirteen members, of whom only three (Burnett not among them) were holdovers. Burnett had not run for re-election. The new Committee proceeded to another complete overhaul of the organic law, this time putting it into the form of a constitution to be referred to a vote of the people. Two bills were introduced by J. M. Garrison on July 1, 1845: the first flatly repealed both the act of the previous June and its December amendment, and the second provided that "this government can recognize the right of one person to the service of another only upon bona fide contract, made and entered into, and equally binding upon both parties." Both were passed with the assistance of Jesse Applegate, who dominated the 1845 Committee as Burnett had dominated that of 1844.<sup>17</sup> Applegate had come to Oregon from Missouri, but like several other major political figures of territorial Oregon, he had been born in Maine. He succeeded in getting a ten to three majority for Garrison's second bill. All three men from the 1844 Committee, all of whom had voted for Burnett's bill, also voted for Garrison's.<sup>18</sup> Thus the exclusion law was repealed before it could have taken effect.

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<sup>17</sup> Provisional and Territorial Government Papers (hereafter cited as P&TG Papers), #1166, Oregon State Archives; Oregon Archives, pp. 83, 85; Brown, Political History, p. 163; Harvey W. Scott, History of Portland, Oregon (Syracuse: D. Mason & Co., 1890), p. 312; Charlotte Odgers, "Jesse Applegate, Study of a Pioneer Politician," Reed College Bulletin, XXIII (January, 1945), 14.

<sup>18</sup> Lafayette Grover, "Notable Things in a Public Life in

An event took place in the fall of 1844 which probably was the cause of the Executive plea in December for amendment of the act of June 26, 1844, and perhaps of the repeal of the law in 1845. It may well, in fact, have been a major factor in the Anglo-American boundary agreement of June, 1846, fixing the international boundary at the forty-ninth parallel all the way to the ocean instead of at the Columbia River. This was the arrival in Oregon of the party of Michael Simmons and George Bush. Bush was a well-to-do Negro, who had financed many of the others of his party for the trip from Missouri. He had been apprehensive about the attitude of Oregonians toward Negroes and had told another immigrant before they reached the territory that if he were not well received he would go to California, then still a part of Mexico, where he would have no problems.<sup>19</sup> Bush could not have known about the exclusion law passed that year, since he was on the trail when it was passed, but he had no illusions about white attitudes toward Negroes, especially those who, like him, had white wives.

On the arrival of the party in Oregon, they were informed of the law, and even though it allowed Bush two years' grace, he had no desire to submit to such indignity. He was informed by John McLaughlin of the Hudson's Bay Company that the Provisional Government's law did not run north of the Columbia, and

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Oregon." Unpublished manuscript, Bancroft Library, University of California, p. 99; Lyman, History of Oregon, III, 403f., & IV, 133f.; Odgers, "Jesse Applegate," Reed Bulletin, p. 7.

<sup>19</sup>Lyman, History of Oregon, IV, 401-02; John Minto, "Reminiscences of Experiences on the Oregon Trail in 1844," OHQ, II (September, 1901), 212-13.



although others claimed it did, all admitted that the sheriff was not required to cross the river to enforce it. Up to that time, the Hudson's Bay Company had strongly discouraged immigrants from the United States from settling north of the river, and none had in fact done so. However, McLaughlin was sympathetic to Bush, having been the recipient of some racial slurs himself on account of his Indian wife, so Michael Simmons went north to scout. The following spring the entire group moved up to the south end of Puget Sound, in the neighborhood of present-day Olympia, Washington. They were the first United States settlers north of the Columbia River, and their presence added weight to the United States' claim to that region which is now western Washington.<sup>20</sup>

No further legal action was taken in the Oregon country itself relating to Negroes under the Provisional Government. Between 1845 and 1849, attention was turned toward securing organization of a territorial government under the protection of the United States Congress. Territorial organization was delayed in the national capital, however, by the intervention of the Mexican War and by a Congressional debate over the anti-slavery clause in the Oregon bill.<sup>21</sup> The first territorial legislature returned to the subject. Organized on July 16, 1849, it included among its members Jesse Applegate

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<sup>20</sup> Fuller, Pacific Northwest, p. 205; Carey, General History, p. 488. See also "George Bush" in Oregon Historical Society Vertical File.

<sup>21</sup> Thomas Hart Benton, Thirty Years' View (New York: D. Appleton & Co., 1874), II, 711-12.

of the 1845 Legislative Committee and Michael Simmons of the Simmons-Bush party.<sup>22</sup> A bill for the exclusion of Negroes was not presented until September 5, and it and later drafts in subsequent sessions, made no reference in its provisions to the status of Negroes as slave or free but applied in theory to both cases.

The bill began with a preamble citing the danger of allowing free Negroes to reside in a territory with such a large Indian population. It was assumed that free Negroes would habitually associate with Indians, that these free Negroes would be hostile to whites, and that this hostility would be communicated to the Indians, thus seriously endangering the white population. The provisions of the bill as originally submitted stated that "Masters and Owners of vessels having Negroes and Mulattoes in their employ on board of vessels may bring them into Oregon," but that these master or owners would be liable for the conduct of their Negroes and would be required to remove the Negroes when they themselves left under penalty of imprisonment and fine of not less than five hundred dollars. Any Negro found in the territory except under control of a master or owner of a ship, or except those who were already permanent residents of Oregon, was to be brought before a magistrate who, upon conviction, would issue an expulsion order. A second offense on the part of a Negro

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<sup>22</sup>Odgers, "Jesse Applegate," Reed Bulletin, p. 8; Journals of the Proceedings of the House of the Legislative Assembly of the Territory of Oregon (hereafter cited as House Journal), (First Session), (Salem: A. Bush, 1850), p. 3.

was punishable by fine and imprisonment. The governor of the territory was directed to have the act published in the newspapers of California and any other place he thought suitable.<sup>23</sup>

A three-day debate in the lower house of the legislature was inspired by this proposal,<sup>24</sup> and in the end several amendments were adopted. One added a clause to section one of the bill, which had simply provided that it was unlawful for any Negro to come into or reside in the territory, stating that nothing in the act should apply to Negroes then resident or to their offspring. Another allowed masters or owners of vessels to arrange departure of any Negro in their employ on a ship other than their own, so long as the Negro left within forty days.<sup>25</sup> The bill as amended passed the lower house on September 19 by a vote of twelve to four, and the Council approved it two days later, with little debate, by five to four.<sup>26</sup>

It has been asserted that the amendment exempting Negroes then resident from the operations of the law was passed at the specific request of Michael Simmons, George Bush's associate.<sup>27</sup> Since Simmons resigned from the legis-

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<sup>23</sup> P&TG Papers, #3596, Oregon State Archives.

<sup>24</sup> House Journal (1849), pp. 49, 54, 55.

<sup>25</sup> P&TG Papers, #3515, Oregon State Archives.

<sup>26</sup> House Journal (1849), p. 55; Journal of the Proceedings of the Council of the Legislative Assembly of the Territory of Oregon (hereafter cited as Council Journal), pp. 89, 93, 94.

<sup>27</sup> Lyman, History of Oregon, III, 403-04.



lature for personal and business reasons on July 29, six weeks before the bill was introduced, the legend is probably not true.<sup>28</sup> Whether the amendment was passed with Bush in mind there is no telling; he was undoubtedly the most substantial and respected Negro then in the region, and one contemporary says flatly that he was the cause of it.<sup>29</sup> Other reasons for the clause are possible, though; a member of the Council, Nathaniel Ford, had brought with him to Oregon and there freed several slaves, and it is possible that he was the indirect instigator of the amendment on behalf of his Negro associates.<sup>30</sup>

The wording of the law indicates that its framers assumed that Negroes would normally arrive in Oregon only as deserting sailors; section two through five of the act refer to the duties and responsibilities of masters or owners of vessels, and no reference is made anywhere to persons bringing Negroes overland as employees, slaves, or personal servants. From all available evidence, few of the Negroes in Oregon in the territorial period were sailors. The normal pattern had them as family retainers of white immigrant families.<sup>31</sup>

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<sup>28</sup>A copy of his resignation is in the Provisional and Territorial Government Papers, Oregon Historical Society, Portland.

<sup>29</sup>John Minto, "Occasional Address," Oregon Pioneer Association Transactions (1876), p. 37.

<sup>30</sup>See below for discussion of Holmes-Ford case. Ford's vote on the bill cannot be ascertained.

<sup>31</sup>Jean B. Brownell, "Negroes in Oregon Before the Civil War," unpublished MS, Oregon Historical Society Vertical File, pp. 2, 6-38.



One well-known Negro, however, did come as a sailor; James Saules, of the Cookstock Incident, arrived in Oregon as a cook on the U.S.S. Peacock, a Navy ship, in 1841. He deserted and remained in the territory at least through 1846.<sup>32</sup> Saules was sufficiently notorious that it is not unreasonable to assume that he was the cause of the law's peculiar emphasis. The preamble to the bill also suggests his influence, recalling his arrest in 1845 mentioned above.

The first, and the only successful, attempt to enforce the new exclusion law was made in August, 1851. Theophilus Magruder, a white resident of Oregon City, swore out a complaint on August 20 against Jacob Vanderpool, a Negro, before Justice Nelson of the Territorial Court. Vanderpool was arrested and brought before the judge for trial on August 25. His lawyer, A. Holbrook, contended that the legislature had not the power to pass such a law; that the law violated Article IV, section 2, and the 5th, 6th and 8th amendments of the federal Constitution, not to mention the 2nd and 6th articles of the Northwest Ordinance and "all and singular the rights, privileges, and advantages granted and secured by which, the said Vanderpool as an inhabitant of this territory is entitled to enjoy;" that in any case the complaint did not specify that Vanderpool was a Negro, and was thus technically invalid; and finally that the law was not legally enacted since, argued Holbrook, the legislature was not in session when the law was supposed to have been passed. Justice

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<sup>32</sup>Ibid., pp. 29-30.

Nelson ignored the arguments and the three character witnesses brought forth, and issued a warrant ordering Vanderpool to leave the territory within thirty days without mentioning the constitutional question.<sup>33</sup>

Two Oregon newspapers commented on the decision. The Oregon Statesman, published at Salem by Asahel Bush, a strong Democrat, interpreted the decision as upholding the constitutionality of the law and observed, "This we suppose is but the re-affirmation of a well settled doctrine."<sup>34</sup> The Oregon Spectator, published at Oregon City, said, "There is no use of enacting laws if they are to remain a dead letter on our statute book," and also looked forward with rejoicing to the expulsion of George Winslow (of the Cockstock Incident), who was still in the territory.<sup>35</sup> Apparently the Spectator was unaware that as a resident prior to 1849, Winslow was entitled under the law to remain.

The success of the action against Vanderpool led to a similar complaint against A. H. Francis, a Negro merchant in Portland, and his wife. These two were called before Justice O. C. Pratt on September 11, 1851, and the judge generously gave them four months to leave the territory. Rather than leave immediately, Francis waited until the legislature convened in December. There a petition signed by 211 fellow

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<sup>33</sup> Copies of the court records are in the Oregon Historical Society Manuscript Collection, MSS 326V.

<sup>34</sup> Salem, Oregon Statesman, September 2, 1851, p. 2.

<sup>35</sup> Oregon City, Oregon Spectator, September 2, 1851, p. 2.

citizens (including Robert Newell of the Provisional Government; H. W. Corbett, later a United States Senator; and Thomas J. Dryer, editor-publisher of the Oregonian) was presented requesting either the repeal of the 1849 act or a special act exempting Francis and his wife from its operation.<sup>36</sup> The petition was referred to the committee on judiciary, which on December 11 reported out a bill to amend the 1849 act to allow Negroes to live in the territory if they could post good behavior bonds of an unspecified amount. After some debate and several amendments, Nathaniel Ford moved to postpone indefinitely consideration of the bill; the motion was carried by a vote of nine to eight.<sup>37</sup> Despite this failure to act on the part of the legislature, Francis remained in business in Portland for some years, apparently without further molestation.<sup>38</sup>

In the next session of the legislature another petition was received, this one requesting the exemption of George Washington, a Negro living north of the Columbia. Washington, a bachelor who came to Oregon in 1850 with J. C. Cochran and his wife, has usually been confused with George Bush, who came in 1844 with a family. The confusion is understandable; Bush's middle name is often given as Washington, and the two settled

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<sup>36</sup>P&TG Papers, #621, Oregon State Archives.

<sup>37</sup>Text of the bill is in P&TG Papers, #3684, Oregon State Archives. The legislative record is in the House Journal (1851), pp. 16, 18, 20.

<sup>38</sup>Brownell, "Negroes in Oregon," pp. 15-16.



fairly close to one another in what is now the state of Washington.<sup>39</sup> However, Bush, as a resident of Oregon before 1849, was already exempt from the exclusion law. Washington's petition, received by the House on December 10, 1852, was turned into a special exemption bill which had no trouble passing both houses within ten days. The only interruption in its smooth course was an attempt in the lower house to amend the bill to suspend any operation of the 1849 act until January 15, 1854. The amendment was defeated, nineteen to four, and the House passed the exemption bill by seventeen votes to six.<sup>40</sup> Within a few months, Washington's status became moot in Oregon anyhow, as the territory of Washington was organized by Congress in the spring of 1853.

A third petition was received by the territorial legislature in its next session. It requested the exemption of Morris Thomas of Portland and his family, and was signed by 128 people, again including several leading citizens. The House Journal notes receipt of the petition, and a petition from Thomas himself, on January 17, 1854, and one week later a bill was reported for his relief. Its legislative progress was interrupted by indefinite postponement on January 28.

At the next meeting of the House, on January 30, a new bill was introduced which except for the preamble was identical

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<sup>39</sup> Washington founded Centralia, Washington, less than twenty miles from Bush's settlement at Bush Prairie.

<sup>40</sup> P&TG Papers, #4530; House Journal (1852), pp. 10, 14, 41, 82.

with the act from which Thomas was to have been exempted.<sup>41</sup> This peculiar reversal was not explained until three years later, in a speech made by LaFayette Grover. The legislative Assembly, at its fourth session in 1852-53, had provided for a compilation and codification of the territory's laws and public records. Grover had been named code commissioner, and during 1853 he had prepared and published two volumes: the Oregon Archives, containing legislative journals, governors' messages, and so on; and the Laws of Oregon, containing all the laws then in force that had been passed by the various legislatures. At the fifth session, convened in December, 1853, an attempt was made to complete the codification of the laws by means of a general act which listed all laws the legislators wished to keep in force and repealed any laws not so listed. Inadvertently, the exclusion law was left off the list and so repealed. When Morris Thomas' petition came before the House, the error was discovered and a hasty attempt made to correct it. The session was in its last hectic day when the corrective measure came up and the attempt failed.<sup>42</sup>

John Peebles, who as a member of the lower house had introduced the corrective bill on January 30, 1854, was elevated by the electorate to the Council later that same year.

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<sup>41</sup>P&TG Papers, #5696, #6024, and #6035; House Journal, (1853), pp. 114, 140, 164, 177.

<sup>42</sup>The bill to re-enact the exclusion law was passed in the House under suspension of the rules by a nineteen to three vote. It was defeated in the Council. House Journal (1853), p. 177; Council Journal (1853), p. 121; Oregon Statesman, January 13, 1857, p. 4.

In the upper house, when it convened for its sixth session in December, 1854, he again presented a bill to re-enact the exclusion law of 1849. The bill passed the Council with no trouble, but it ran into difficulties on its arrival in the House. David Logan offered an amendment to include Chinese in the provisions of the law, setting off a debate on the relative merits of the black, white, and yellow races and their possible mixtures. One member expounded on the virtues of the Chinese and suggested that Oregonians should invite rather than forbid their immigration. Another cursed all blacks in what the Oregonian's reporter took obvious delight in conveying as highly uneducated language. Further amendments tried to exempt Negroes brought as slaves, and to include "Brigham Young and all other polygamists," "all Know-Nothings" (here a sub-amendment was tried: "naturals excepted"), and "all skunks." After this barrage, and because of a prevailing opinion that the law if passed would never be enforced and would only serve to provide the legislature with a succession of exemption petitions, the bill was quietly forgotten.<sup>43</sup>

A last attempt was made in the eighth session of the Assembly in 1856-57 to get the exclusion law back on the books. Mr. Peebles, again taking his text from the 1849 act, introduced the bill into the upper chamber and succeeded in getting it passed by a vote of five to two. The House debate was more extensive than it had been two years earlier, and its

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<sup>43</sup> P&TG Papers, #6074 and #6075; Oregonian, January 6, 1855, p. 2.



tenor was changed. Thomas Dryer, editor of the Oregonian and a member of the House from Portland, noted that Negroes then in Oregon were good citizens, citing A. H. Francis as an example, and that unlike other classes of the population they were not represented in the penitentiary. J. W. Moffit considered the bill an injustice to a part of the human race which, in any case, had not come to this continent by choice in the first place. The objection of A. E. Rogers was that the clauses laying penalties on masters and owners of ships would do serious damage to Oregon's trade. Since the bill did not specify that it applied only to free Negroes, A. L. Lovejoy saw it as a bill to prohibit slavery, but felt that the matter should best be left to the people in the then upcoming convention and referendum on a constitution for statehood. Delazon Smith agreed; he did not know whether the bill was pro-slavery or abolitionist, but thought it irrelevant in either case in view of impending statehood. Finally the bill was brought to a vote and defeated, twenty-three to three.<sup>44</sup>

In May, 1857, an election was held for the purpose of determining whether or not the citizens of Oregon wanted statehood, and for election of delegates to a constitutional convention should the people vote "yes." They approved the project, and the convention was organized in July and worked for two months. Debate on the question of exclusion of free

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<sup>44</sup> Council Journal (1856), pp. 26, 36-37, 38; House Journal (1856), pp. 65, 70, 74-75; Oregon Statesman, January 13, 1857, p. 4 and January 20, 1857, p. 1.

Negroes, as well as on the companion question of slavery, was generally avoided throughout the convention. An exclusion clause to be incorporated in the constitution was offered on September 3 by Luther Elkins, but tabled without debate on motion of John Peebles.<sup>45</sup> On September 11, the committee charged with preparing a schedule to be submitted to the voters reported with three questions for the electorate: the constitution itself; the existence of slavery in Oregon; and the admission of free Negroes to the state. The only debate arose on W. H. Watkins' offer of an amendment to include Chinese in the exclusion clause. The amendment was withdrawn after a short discussion, the trend of which was that Chinese were a menace only to people from mining areas, such as Mr. Watkins, and the delegates wanted to keep the schedule simple. Mr. Duncan, of Jackson County in southern Oregon, moved to strike the exclusion clause completely and was voted down without debate. The schedule was adopted without further ado.<sup>46</sup>

The schedule called for an election to be held on November 9, 1857, in which three questions were to be asked of the voters: "Do you vote for the Constitution?"; "Do you vote for Slavery in Oregon?"; and "Do you vote for free Negroes in Oregon?" The vote on the first question was 7195 yes,

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<sup>45</sup> Charles Carey, The Oregon Constitution and Proceedings and Debates of the Constitutional Convention of 1857 (Salem: State Printing Office, 1926), pp. 266, 267, 268. Peebles was not opposed to an exclusion law; he merely wanted to wait for the committee report.

<sup>46</sup> Ibid., pp. 329, 359, 361-62.



3215 no; on slavery, 2645 voted in favor and 7727 against; and on the final article only 1081 voted yes while 8640 voted no.<sup>47</sup>

Legal action involving Negroes was not limited to the legislature during Oregon's territorial period; the courts furnished a surprising comment on Negro status. As has been noted, the only successful try at enforcement of the exclusion law was in 1851, when Jacob Vanderpool was expelled. After the court order expelling A. H. Francis and his wife was demonstrated to be ineffectual, no effort was ever again made even to try to exclude any Negro from Oregon, or at least no record has ever been found of such a proceeding. On at least two occasions Negroes were involved in civil court actions, though, and in both cases Negroes were plaintiffs and whites were defendants.

Nathaniel Ford, mentioned above as a member of the territorial legislature, arrived in Oregon in 1844 with several slaves, including a married couple with several children. Over the course of some years the adult slaves had all been freed, and the couple, Robin and Polly Holmes, had moved from the Ford household to a nearby town, leaving their children in Ford's care. In April, 1853, Holmes brought suit against Ford for the release of the children, which suit Ford contested. The case was not heard until George Williams, a new Territorial Justice, arrived in June, 1853; it was the first case he decided in his new job. Williams ruled that the

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<sup>47</sup> Ibid., pp. 27, 428-29.

children were being held as slaves, and that slavery could not exist in Oregon without some positive local legislation protecting it.<sup>48</sup> The children were therefore released to their parents.<sup>49</sup>

The case was widely interpreted as barring slavery in Oregon, which was what Williams had intended. In his opinion, however, he had not mentioned either the territorial law or the clause Congress had put into the Oregon Territorial Act, both of which also forbade slavery in the area. Moreover, his comments on slavery were obiter dicta, according to Ford and his descendants, since Ford was not holding the children as slaves but as wards. It is claimed that Ford had induced Holmes to bring the suit as a custody case, in order to clarify publicly the children's status.<sup>50</sup>

Our interest in the case lies in the fact that in spite of Oregon's anti-Negro bias, a Negro could bring suit against a white and win his case. Another hearing before

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<sup>48</sup>In describing the case years later, Williams used the language of the Freeport Doctrine of Stephen Douglas. His original decision merely released the children to their parents' custody. See Sidney Teiser, Almost Chief Justice: George H. Williams, pamphlet published by Oregon Historical Society, 1947, pp. 7-9.

<sup>49</sup>There are no court reports of the case, but accounts are contained in several articles in the Oregon Historical Quarterly. See George H. Williams, "The Political History of Oregon from 1853 to 1865," OHQ, II (March, 1901), 5; Fred Lockley, "Facts Pertaining to Ex-Slaves in Oregon and Documentary Record of the Case of Robin Holmes vs. Nathaniel Ford," OHQ, XXIII, (June, 1922), 111.

<sup>50</sup>Pauline Burch, "Pioneer Nathaniel Ford and the Negro Family." Unpublished MS (#706), Oregon Historical Society Manuscript Collection.



Justice Williams the following year shows that the Holmes-Ford matter was not a fluke. A Negro woman, Luteshia Censor, sued the estate of the man who had been her owner in Missouri and for whom she had worked in Oregon from 1845 until his death in 1852, "to recover the value of her services." The case was tried before a jury, which disagreed, nine supporting her claim and three denying it. The jury was dismissed and the case continued, and it is not known whether final disposition was ever made.<sup>51</sup> The two cases show that whatever their prejudices, white Oregonians were not inflexible in their treatment of Negroes.

Prejudice against Negroes certainly existed. Most Oregon immigrants came from the Border States and the Mississippi Valley, particularly from Iowa and Missouri. As white non-slaveholders, they had objected strongly to the competition of Negro labor, whether slave or free, and indeed it is doubtful whether many of them made much distinction between the terms "Negro" and "slave."<sup>52</sup> Their dislike of Negroes was not based solely on economics, though; common racial stereotypes also conditioned their feelings. The early immigrants' attitude is characterized by a clause in the articles

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<sup>51</sup>Oregon Statesman, November 17, 1854, p. 3.

<sup>52</sup>Douglas, "Population of Oregon," Pacific Northwest Quarterly, XLI, (April, 1950), 95-109; Berwanger, Frontier Against Slavery, p. 78; Robert W. Johannsen, Frontier Politics and the Sectional Conflict: The Pacific Northwest on the Eve of the Civil War (Seattle: University of Washington Press, 1955), pp. 13-14, 19, 47, 168; Dorothy D. Johansen and Charles M. Gates, Empire of the Columbia (New York: Harpers, 1957), p. 255.

of an 1843 wagon train from Iowa: "No Black or Mulatto shall, in any case or any circumstances, be admitted to this society, or be permitted to emigrate with it."<sup>53</sup> LaFayette Grover wrote to a correspondent in 1854 that "our pre-emption and donation land laws are fatal to the institution of slavery. Western settlers, under these laws, are . . . laboring men, whose interests are opposed to negro service."<sup>54</sup>

The Oregon Statesman, in June, 1851, printed a lengthy scientific article aimed at proving that Negroes were not truly human, but rather a connecting link between man and chimpanzee. The article was taken from the Richmond, Virginia Examiner and had at its head the notice, "Published by Request." The argument was inconsistent; in one paragraph it asserted that any approach to civilization or culture by a Negro is bound to be discovered as the work of a mulatto, and in another place it stated that "nature abhors a hybrid" and that all issue of race-mixing will inevitably be more degenerate than either progenitor and probably sterile in the end, like the mule.<sup>55</sup>

Such attitudes were not universal among white Oregonians. The Spectator received a letter some three months after the Statesman's publication above which advanced the proposal that every true opponent of slavery should take the gold he had

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<sup>53</sup>"Emigration From Iowa to Oregon in 1843," OHQ, XV (December, 1914), 292.

<sup>54</sup>Grover to George Rhoads, July 17, 1854, Grover Collection, MSS #1069, Oregon Historical Society Manuscript Collection.

<sup>55</sup>Oregon Statesman, June 13, 1851, p. 1.



recently gathered in California and use it to buy one slave in the South, to be brought to Oregon and there manumitted. "Not until then can the sectarian . . . philanthropist . . . say that he has done all that he could to relieve suffering humanity."<sup>56</sup>

The by-laws of the Oregon Institute, founded in 1842 and later to become Willamette University, insisted that "the primary object of this institution is to educate the children of white men; but no person shall be excluded on account of color," provided that he met the standards of Christian character and knowledge of English.<sup>57</sup> However, Negroes were not allowed to vote, and attempts were made to prevent them specifically from buying liquor.<sup>58</sup>

Although it is true that Oregon's exclusion of free Negroes was not at all unique,<sup>59</sup> no appeal was made to precedent in the defense of Oregon's law. According to Samuel Thurston, speaking in Congress in 1850, "it is the principle of self-preservation that justifies the action of the Oregon Legislature." He called upon Congress to "shape your legislation to meet the case," as he felt the territorial body had done.<sup>60</sup>

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<sup>56</sup> Oregon Spectator, September 9, 1851, p. 1.

<sup>57</sup> Reverend Gustavus Hines, Oregon and its Institutions (New York: Carleton & Porter, 1868), p. 144.

<sup>58</sup> House Journal (1853), pp. 42-43.

<sup>59</sup> Johannsen, Frontier Politics, p. 24f.; Berwanger, Frontier Against Slavery, pp. 22-24, 31-33, 39-40, 43.

<sup>60</sup> Speech on Donation Land Act, reprinted in the Oregon Spectator, September 12, 1850, p. 1.

When conditions prompted, Oregonians legislated, but the state and the people were reluctant to enforce racist laws. Thus it was that despite laws forbidding both free Negroes and slaves, both were present in the territory without causing public concern. Two factors, however, brought Oregon into the midst of the national debate in the mid-1850's; the Kansas-Nebraska Act and the growth of national party loyalties.

The Kansas-Nebraska Act was viewed by many in Oregon not just as a means of settling the slavery controversy, although that was the immediate judgement of the Oregon Statesman,<sup>61</sup> but as a response to the territorial memorial to Congress of 1852 pleading for the right of self-government similar to that of a state but without the burdens of statehood.<sup>62</sup> Delazon Smith introduced a series of resolutions approving the Act in the territorial legislature in its sixth session in 1855; his argument was based heavily on the right of all free men to govern themselves. His concern was not with slavery, for he did not believe it could ever flourish in Oregon. The resolutions were debated and passed, not without opposition, and the effect of the debate was to involve Oregonians in controversy on a national rather than a local issue.<sup>63</sup>

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<sup>61</sup>Oregon Statesman, April 4, 1854, p. 4.

<sup>62</sup>Robert Johannsen, "The Kansas-Nebraska Act and the Pacific Northwest Frontier," Pacific Historical Review, XXII (1953), 132.

<sup>63</sup>Oregon Statesman, January 16, 1855, p. 2; Johannsen, Frontier Politics, pp. 21-26.

Party loyalties and organizations grew in Oregon as the desire for statehood grew, since partisan affiliation provided territorial citizens with increased leverage in the national capital.<sup>64</sup> In return, the party relations drew Oregon further into the national debates on slavery and other issues. In the campaign of 1856, the Statesman, always in the lead on such matters, defined Knownothings as "Persons who would give the right of voting to a thievish native-born negro, and deny it to an honest republican Irishman," using "republican" here in a theoretical and not a partisan sense; but a National Democrat to the Statesman's editor was "A friend to equal rights . . . one who stands by the constitution and civil and religious liberty, and opposes all unconstitutional isms."<sup>65</sup> In the same issue, the Statesman assaulted the Oregonian, whose editor, Dryer, was a Whig to the last, for its platform which included a proposal for limited Negro suffrage. Since one of Dryer's regular advertisers was A. H. Francis, the Statesman hinted, this plank was probably put in to assure the Oregonian of continuing revenue.<sup>66</sup>

In the spring of 1857, a "Free State Republican Convention" met at Albany, Oregon, adopted a platform opposing the extension of slavery, and made plans for a working, territory-wide organization. This move caused an immediate reaction

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<sup>64</sup>Dorothy Johansen, "A Tentative Appraisal of Territorial Government in Oregon," Pacific Historical Review, XXVIII (November, 1949), 491-92.

<sup>65</sup>Oregon Statesman, May 6, 1856, p. 1.

<sup>66</sup>Ibid., p. 4.



in Democratic circles, and the debate on slavery began in earnest. Most Democratic leaders were as ardently opposed to slavery in Oregon as any "Black Republican;" Asahel Bush of the Statesman, Lafayette Grover, and George Williams were vocal in their rejection of the institution in that region. They were equally opposed to anything that smacked of abolitionism. Some Democrats, notably Joseph Lane and Matthew Deady, favored Oregon's admission as a slave state not so much because they wished to plant the institution there as because they wanted to add two more votes in the United States Senate to the pro-slavery side.<sup>67</sup> The pro-slavery element was sufficiently vocal that the impression was gained in the territory and throughout the nation that Oregon was about to apply for admission to the Union as a slave state.<sup>68</sup>

Although debate in the constitutional convention was restrained on slavery and exclusion of free Negroes on the grounds that the questions would be put to the voters and so discussion in the convention was irrelevant, the arguments raged through the press. The Statesman argued that slavery was economically impossible in Oregon, and as for free Negroes, "At once, then, shut the State doors against [them]; for, if even but few come in, they are for a bone of contention and a stumbling block among the whites."<sup>69</sup> Stephen Chadwick, Benjamin

<sup>67</sup> Oregonian, February 21, 1857, p. 2; Statesman, January 20 (p. 2), February 24 (p. 2), March 3 (p. 4) and March 31 (p. 1), 1857; Johannsen, Frontier Politics, pp. 36-37, 39-40, 70.

<sup>68</sup> Oregon Statesman, June 9, 1857, pp. 2-3.

<sup>69</sup> Ibid., July 21 (pp. 2-3), and August 4 (p. 2), 1857.



Simpson, R. J. Ladd, and J. W. Mack, all Democrats, were at the same time out stumping the state for slavery.<sup>70</sup>

The referendum of November 9, 1857, settled the free Negro exclusion question as far as public discussion went; the matter ceased to be an issue. The last public comment on it was the Statesman's defense of the exclusion clause a year later against the attacks of the "Black Republican Press" of the East.<sup>71</sup> Not so with slavery; less than a month after the election, a resolution was presented to the last session of the territorial legislature, calling for a committee to investigate what laws might be necessary for the protection of slave property in Oregon. The rationale was two-fold: one, Oregon was not yet a state, and the people's vote was not binding until it became one; and two, in any case, the Dred Scott decision protected slave property everywhere. The move was unsuccessful,<sup>72</sup> but the Statesman found it necessary to editorialize on the right of states to prohibit property in slaves even under the terms of Dred Scott.<sup>73</sup> Attempting to bridge the gap, the Democratic convention in Oregon the following spring adopted resolutions praising both the principles of the Kansas-Nebraska Act and the Dred Scott decision.<sup>74</sup>

Opposition to the territorial exclusion law before 1855

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<sup>70</sup> Johannsen, Frontier Politics, pp. 39-40, 45.

<sup>71</sup> Oregon Statesman, November 9, 1858, p. 1.

<sup>72</sup> Oregonian, December 26, 1857, p. 2.

<sup>73</sup> Oregon Statesman, December 8, 1857, p. 2.

<sup>74</sup> Ibid., March 23, 1858, p. 2.

was found largely among abolitionists on the one hand and pro-slavery forces on the other. The first group found the provisions inhumane; the second feared that they would exclude slaves as well, since the texts of the law never specified "free" Negroes.<sup>75</sup> In the sixth and eighth sessions of the territorial legislature, however, opposition to re-enactment of the accidentally-repealed law arose mainly from a feeling that the law would inevitably be a dead letter. Delazon Smith argued in 1854 that there was no necessity for such a law, since there was no immediate danger of Oregon's being overrun with free Negroes; if there were such a danger he might feel differently, he said, but, in the absence of any problem in the territory at the time, he opposed exclusion. David Logan, at the same time, felt that a new law would be no more enforced than the old one had been, and he too opposed useless laws.<sup>76</sup> In 1857, Thomas Dryer repeated Smith's argument of two years earlier, saying, "I am certain that the circumstances of the country do not require such a statute." Smith and two other legislators in that session concurred that the law was completely superfluous.<sup>77</sup> Some reason had been seen in 1844 and 1849 for such a law, as shown above, but without an incident like the Cockstock affair or a public nuisance such as James Saules, there was no consensus for exclusion.

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<sup>75</sup> Pauline Burch, "Nathaniel Ford," MS #706, Oregon Historical Society, p. 9; Johannsen, Frontier Politics, p. 23.

<sup>76</sup> Oregonian, January 6, 1855, p. 2.

<sup>77</sup> Oregon Statesman, January 13, and January 20, 1857.



The exclusion clause proposed for placement in the new state constitution was a somewhat different matter. Like the territorial laws, it exempted current residents, but it specifically applied only to free Negroes. It was the first such law submitted to a popular vote. However, the electorate was not given the complete text of the clause; the question on the ballot was "Do you vote for free Negroes in Oregon?"

Although on the ballot, the slavery issue was presented separately; the exclusion law and the slavery question were joined together in the debate. The election took place at a time when the national controversy over the issue had taken over the state, and both questions were discussed on a relatively abstract level.<sup>78</sup> The vote can be taken as a flat assertion of the anti-Negro prejudice of white Oregonians.

The white people of the territory had shown by their actions that whatever their personal prejudices they were not overly hostile to Negroes in practice. There had been almost no enforcement of the exclusion law, under which any citizen could lodge a complaint against an illegally resident Negro. Moreover, the white citizens refused to get excited over either the presumption of Negroes in suing whites or the indifference of their elected representatives to an exclusion law after 1854. The growth of the slavery debate and the development of party politics in the territory made the exclusion of free Negroes more a matter of personal opinions than of public policy, and latent race prejudice was expressed at the polls.

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<sup>78</sup> Serwonger, Frontier Against Slavery, pp. 93-94.



### III. The National Negro and the Local Negro, 1859-1872

The vote of Oregonians against free Negroes in November, 1857, added the following clause to Oregon's Bill of Rights:

Article I, Section 35. No free negro, or mulatto, not residing in this State at the time of the adoption of this Constitution, shall come, reside, or be within this State, or hold any real estate, or make any contracts, or maintain any suit therein; and the Legislative Assembly shall provide by penal laws, for the removal, by public officers, of all such negroes, and mulattoes, and for their effectual exclusion from the State, and for the punishment of persons who shall bring them into the State, or employ, or harbor them.

Another provision, Article II, Section 6, denied the vote to Negroes, mulattoes, and Chinese. These clauses, together with a third (Article XV, Section 8) which imposed liabilities on Chinese, were the basis for a series of legislative efforts between the passage of the constitution and what could be called the end of Oregon's Reconstruction era in 1872.<sup>1</sup> Besides these strictly local measures, the state also was greatly agitated by the national issues arising from the Civil War and Reconstruction, but as far as Oregon's Negro population was concerned, the national and local issues were with one exception kept separate. In fact, concern among whites for local

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<sup>1</sup>In addition to these three clauses, the constitution restricted guarantee of foreigners' property rights to white foreigners (Art. I, Sec. 31), limited suffrage to "white males" (II, 2), limited the census to whites (IV, 5), and based apportionment for legislative and judicial posts on white population only (IV, 6; VII, 2, 4, 10). All but the first and third have since been removed, and the state census (to be taken in years ending in 5) was never taken, to my knowledge.

measures began to decline as the postwar debate on Negro status began.

Oregon's state government was partially organized and operating before the state's official admission to the Union. In state elections held in June, 1858, the governorship, the congressional seat, and a majority in the legislature were won by pro-slavery Democrats, despite the state's having voted against slavery just eight months earlier.<sup>2</sup> Joseph Lane, a strong advocate of slavery, was one of the first two men elected to the United States Senate. Notwithstanding their control of state government, though, the Democrats made no attempt to implement the Negro exclusion provision of the constitution until after the elections of 1862, which returned a strong Unionist legislature and governor.

The first bill presented on the matter was offered in the state Senate during the 1862 legislative session. While that bill was still in the Senate, another bill, prompted by two petitions from the white citizens of Multnomah county, was offered in the House. The petitions protested the immigration of both Negroes and Chinese, objecting primarily to their "monopolizing] the labour upon which the poorer class of citizens depend for their support."<sup>3</sup>

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<sup>2</sup>Charles Carey, The Oregon Constitution and Proceedings and Debates of the Constitutional Convention of 1857 (Salem: State Printing Office, 1927), pp. 40-42; Dorothy Johansen, "A Tentative Appraisal of Territorial Government in Oregon," Pacific Historical Review, XXVIII (November, 1949), 498.

<sup>3</sup>Petitions received, Oregon Legislature, 1862. Oregon State Archives.



Unlike the legislation put forward under the territorial government, all of which was the same, these two bills differed widely. The Senate bill provided for a fine to be levied on any person bringing Negroes (whether slave or free was not specified) into Oregon. The fine was to be not less than \$500.00 nor more than \$1,000.00, and upon default the convicted party was to be sentenced to one to five years in the state penitentiary. Extradition proceedings were also provided for if the accused person lived outside the state. In contrast to the harshness of these sections, the bill provided that free Negroes in the state on their own account would be tried only for a misdemeanor, subject to a fine of no more than \$50.00 or two months at hard labor in or out of the county jail, and guaranteed a trial by jury (in which the complainant against them would not be a competent witness) and the right of appeal. Severe hostility to slaveowners was made more obvious when the Senate struck from the bill a clause exempting those merely travelling through the state from the action of the law.<sup>4</sup>

The bill presented in the House was designed strictly to implement the constitutional provision. It simply repeated in law the liabilities listed in the constitution, set up a judicial procedure for non-trial execution of the act, and made common carriers liable to a fine of \$200.00 for each Negro they might bring into the state. Fines imposed on Negroes

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<sup>4</sup>Senate Bill #1, 1862, Oregon State Archives; House Journal (1862), p. 179; Senate Journal (1862), pp. 35, 44, 101, 104, 106; Oregonian, September 22, 1862, p. 2.



for illegal entry into the state could be as low as \$10.00, and the judge before whom the case would be brought had complete discretion as to the time he might allow a Negro to leave the state on his own.<sup>5</sup>

Although the two bills had identical objectives, it is apparent that the motives prompting them were different. The House effort was restrained, going no farther than to comply with the directive of the state constitution, and that only after being urged to do so by public petition. The petitioners themselves, according to their statements, were concerned mainly with decreasing the amount of local job competition. In the upper house, however, a spirit of vindictiveness toward the "slaveocracy" seems to have been the cause of the proposal. The heavy fines or imprisonment for slaveholders, together with the relative leniency toward Negroes themselves, support this view.<sup>6</sup>

The necessity for fulfilling the constitutional mandate for Negro exclusion was pointed out by the Albany, Oregon Inquirer during the 1862 legislative session. The Oregonian immediately attacked the Inquirer and all members of the "secesh" party for having ignored the mandate during their years in power only to raise it when good Union men had

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<sup>5</sup>House Bill #78, 1862, Oregon State Archives.

<sup>6</sup>The Senate bill may have been a response to the machinations of the Knights of the Golden Circle and the plot to establish a slave republic on the Pacific Coast, in which both ex-Senator Lane and ex-Governor Whiteaker were implicated. See Dorothy Hull, "The Movement in Oregon for the Establishment of a Pacific Coast Republic," OHQ, XVII (1916), 177.

captured the government. "With all your pretended hatred of the black race," accused the Oregonian's editor, "it is very evident that you have long invited their coming to Oregon." He called on the "secesh" to be quiet about the whole affair.<sup>7</sup>

Whatever the reasons behind the two proposals, neither one became law. The House received and tabled the Senate bill and five days later defeated its own offering.<sup>8</sup> The issue was laid to rest until the next session in 1864.

In that session a bill was introduced requiring each county sheriff to take a census of all Negroes in his county, noting whether or not they had been residents at the adoption of the constitution, and requiring each county clerk to prepare a list of all Negroes legally resident and issue warrants for the arrest of the rest. Without waiting for any judicial procedure, the sheriff was to execute the warrants and deport all illegal black immigrants; he had the discretionary power to allow them to leave on their own within thirty days, if he so desired. Penalties were provided for noncompliance of sheriffs, Negroes, and common carriers.<sup>9</sup>

On second reading of the bill, a motion was made to refer it to the Education committee of the Senate, which motion was amended to refer it to a "special committee of [the] insane asylum." It was finally given to the Judiciary committee,

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<sup>7</sup>Oregonian, October 8, 1862, p. 2. The Inquirer was a Democratic newspaper; the Oregonian was Republican.

<sup>8</sup>Ibid., October, 1862, p. 2; House Journal (1862), p. 272.

<sup>9</sup>Senate Bill #38, 1864, Oregon State Archives.

which recommended its indefinite postponement. The committee reasoned that although the constitution said that the legislature "shall" enforce the exclusion clause, the grant of power was discretionary and they were not required to do so. Since all previous legislatures had refused to act, it was evident that there was no strong demand for such a law. As to the justice of the law, the committee declared that its passage would be "foreign, indeed, to the enlightened spirit of the age in which we live."<sup>10</sup>

At a special session of the legislature called in December, 1865, to ratify the Thirteenth amendment to the United States Constitution, another attempt was made to put the exclusion clause into effect. This effort included Chinese and Hawaiians, and reiterated the constitutional restriction of the vote to whites. Debate on the measure in the House was half-humorous and half-serious; amendments were offered and adopted excluding "guerillas and bushwhackers" and "all those who were engaged in the late rebellion against the United States," and requiring sheriffs to provide deportees with housing outside the state as good as they had enjoyed within it. Sheriffs were also to be held liable for all damages incurred in removal proceedings. Several legislators spoke against the injustice of the bill and the principle behind it. One, reminded of the Dred Scott decision, denounced it as "a most corrupt and wicked decision, made by a wicked and corrupt Court for a most damnable purpose;" another could not

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<sup>10</sup>Senate Journal (1864), pp. 76, 89, 103-04.



find in the bill "any justice or humanity," and called it a measure of the "total depravity" of the Democrats who sponsored it. Again the bill failed to pass.<sup>11</sup>

A last effort was made, in the regular legislative session of 1866, to enact the exclusion laws called for by the constitution. Two bills were introduced; the first, in the House, was misnumbered, and because another bill received the same number it disappeared completely before any action could be taken on it. The Senate bill was rushed into the Committee on Federal Relations, over the objection of its author, and the committee report recommended indefinite postponement. The report noted that the power to determine citizenship rested with the federal government under the Constitution, and that the Congress by its Civil Rights Act of 1866 had conferred citizenship on Negroes. Thus, any Oregon enactment would be in conflict with federal law, and also "diametrically opposed to the fundamental principles of justice and humanity." The Senate then laid to rest the last enforcement bill ever offered to it.<sup>12</sup>

A somewhat more successful approach to discouraging nonwhite immigration into Oregon was tried in the same session in which exclusion laws were first proposed, in 1862. This was the poll tax, to be levied only on Negroes, Chinese, and Hawaiians. Two poll tax bills were presented to the legis-

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<sup>11</sup>Oregonian, December 16, 1865, p. 2.

<sup>12</sup>House Journal (1866), pp. 187-88; Senate Journal (1866), pp. 194, 242.

lature in that year, and one of them passed without substantial amendment, although it required a motion to reconsider to save it from an early defeat. The law, passed on October 15, required every Negro, Chinese, and Hawaiian resident of Oregon to pay an annual poll tax of \$5.00, or to work it out on road construction at fifty cents per day.<sup>13</sup>

In 1864 a member of the House announced his intent to introduce a bill to increase the racial poll tax to \$12.00, but apparently he never did so. The Senate proposed, and the legislature adopted, a bill to improve collection of the tax by making the county sheriffs financially liable for the total tax as assessed by county clerks, whether or not they could collect it all.<sup>14</sup> In the process of so amending the 1862 act, the legislature apparently repealed by accident the clause requiring Negroes, Chinese, and Hawaiians to pay the tax, so in 1866 a bill was presented re-enacting section 2 of the act. Although the bill passed the House, it was indefinitely postponed in the Senate, and no further racial poll tax legislation can be found.<sup>15</sup>

The Senate's defeat of the poll tax measure in 1866 was

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<sup>13</sup>House Journal (1862), pp. 73, 87, 134, 140, 143, 148-49, 156; Senate Journal (1862), pp. 115, 126; Oregonian, October 11, 1862, p. 2; The Organic and Other General Laws of Oregon...1845-1864, M. P. Deady, compiler and annotator (Portland: Henry L. Pittock, State Printer, 1866), pp. 815-17.

<sup>14</sup>Senate Bill #51, 1864, Oregon State Archives; House Journal (1864), pp. 16, 315, 319; Senate Journal (1864), pp. 106, 327-28.

<sup>15</sup>House Bill #27, 1866, Oregon State Archives; House Journal (1866), pp. 156, 267, 318; Senate Journal (1866), p. 209.

probably based on the same objection that had been made to the exclusion bill of that year, that it conflicted with the Civil Rights Act and the then-pending Fourteenth Amendment to the national Constitution. Some sources indicate that a poll tax was levied on Negroes after 1866, and even that it was increased to \$10.00,<sup>16</sup> but either the sources are wrong or the tax was collected illegally. The 1862 statute appears in the code compiled by Deady in 1864, but is not found in any of the subsequent codes, including that compiled by Deady in 1872. No reference to the outright repeal of the act can be found, other than the indirect action mentioned above.<sup>17</sup>

Chinese residents of Oregon were subjected to discriminatory taxation, usually in the form of a special mining license, from 1857 to the early 1870's. The state constitution adopted in 1857 prohibited them from holding real estate or working or owning mining claims, but the only serious attempt to legislate in support of the prohibition came in 1866. After some debate, that bill was rejected on first reading, without even proceeding to a formal vote.<sup>18</sup> Another

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<sup>16</sup>See, for example, Daniel G. Hill, "The Negro in Oregon, A Survey," M.A. Thesis, University of Oregon, 1932, p. 29.

<sup>17</sup>The argument here would seem to be contradicted by the fact that Senator J. C. Cartwright, who made the motion for indefinite postponement of House Bill #27, was also the author of a minority report on a bill to tax Chinese miners which argued that the state had a right to levy such a special tax and that the Civil Rights Act did not apply. Nonetheless, I can think of no other explanation which fits the situation.

<sup>18</sup>Oregonian, October 17, 1866, p. 2.



move in 1868, to prohibit the employment of Chinese labor on public works in Oregon, seems to have been backed by one railroad company in an effort to deny its competitor the use of Chinese workers; the bill was successful.<sup>19</sup> Bills to require special mining licenses from Chinese miners were offered in every legislative session from the territorial one of 1857 to the state session of 1868, and many of them were passed. The peak of state revenue from such laws was reached in 1868-70, shortly after which the laws were invalidated.<sup>20</sup> Lafayette Grover, as governor of Oregon in 1870, and the 1870 legislature of Oregon, expressed in very strong terms their outrage at the Burlingame treaty with China, guaranteeing reciprocal rights and privileges to citizens of one country residing in the other, but the demand for Chinese labor in railroad construction overrode all objections, and the discriminatory laws ceased to operate.<sup>21</sup>

Opponents of civil rights for Negroes and other non-whites tried other proposals to limit their citizenship if it could not be withheld altogether. Oregon's code of civil procedure, adopted in 1862, failed to exclude nonwhites from

<sup>19</sup> House Journal (1868), pp. 108, 139, 160, 346, 349-51; Senate Journal (1868), pp. 299, 317-18, 326-27; Oregonian, September 26, 1868, p. 2, and October 10, 1868, p. 1.

<sup>20</sup> House Journal (1866), pp. 151-54; House Journal (1868), p. 388; Senate Journal (1868), pp. 50, 70, 124-25, 162, 309; Oregonian, October 20, 1864, p. 2; F. G. Young, "The Financial History of the State of Oregon," OHQ, X (1909), 283.

<sup>21</sup> House Journal (1870), pp. 469-70; Senate Journal (1870), pp. 424-26; Oregonian, September 15, 1870, p. 2.

the witness box, so in 1864, legislators in both houses tried to close the loophole. The Senate bill was voted down. In the House, an amendment to the bill was offered citing the Dred Scott decision and giving it as the opinion of the House that "a white man may murder, rob, rape, shoot, stab, and cut any of those worthless, vagabond races . . . Provided, he shall do said acts of bravery and chivalry when no white man is troubled by seeing the same." The bill was indefinitely postponed.<sup>22</sup>

School segregation was tried on a local basis during the 1860's and 1870's. In Portland, when Negro parents tried to enter their children in the public schools in 1867, the school board offered to refund them their school tax so they could establish a school of their own. Since the refund would have amounted to \$35.00 per quarter and the cost of a school \$195.00 per quarter, the Negroes sought the assistance of a white lawyer, David Logan, who brought suit to compel the admission of the children to public school. The suit was dropped when the school district decided to establish a segregated school at its own expense, which school was opened in the fall of 1867 and operated for several years. In Salem, in 1868, the Negro community proudly announced that it would meet all expenses of its evening school by itself, and disowned solicitors collecting funds in its name. Paralleling Prince

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<sup>22</sup>Oregon Statesman, October 3, 1864, p. 1; Scrapbook 112, p. 101, Oregon Historical Society Scrapbook Collection.



Edward County, Virginia,<sup>23</sup> in more recent times, Pendleton, Oregon, closed its public school in 1873 rather than admit two Negro girls. By 1880, however, Oregon had no separate schools for Negroes, nor any Negro teachers, either.<sup>24</sup>

One limitation on the rights of nonwhites which was successfully established in the 1860's and lasted until 1949 was Oregon's prohibition of interracial, or rather white-nonwhite, marriage. This was the subject of the first bill introduced into the 1866 session of the legislature. The law prohibited marriage between any white person and any person having more than one-fourth Negro, Chinese, Hawaiian, or Indian blood, voided all such marriages, and provided prison sentences and fines for both parties to any such supposed marriage and the person who attempted to marry them. Nonwhite persons could intermarry as they chose, and the inclusion of Indians in the prohibition showed that Oregon had truly outgrown its frontier days.<sup>25</sup> The bill passed both houses, with only four negative votes in each.<sup>26</sup>

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<sup>23</sup>Faced with court-ordered integration, Prince Edward County closed its public school system in 1959 rather than comply. See Neil H. Sullivan, Bound for Freedom: An Educator's Adventure in Prince Edward County, Virginia (Boston: Little, Brown, 1965).

<sup>24</sup>Thomas A. Wood, "Autobiographical Notes," MSS 37, Oregon Historical Society manuscript collection; Works Progress Administration, History of Education in Portland, Oregon (Portland: --, 1937), p. 34; Oregonian, April 3, 1867, p. 3; Salem Daily Record, January 21, 1868, p. 2; Reminiscences of Oregon Pioneers, Pioneer Ladies' Club of Pendleton, ed. (Pendleton: East Oregonian Publishing Co., 1937), p. 114; Lancaster Pollard, "Synopsis of the History of the Negro in the Northwest," MSS 515, Oregon Historical Society manuscript collection.

<sup>25</sup>See above, p. 4, 5.

<sup>26</sup>House Bill #1, 1866, Oregon State Archives; House



With the exception of the special mining licenses required of Chinese Oregonians, no laws restricting the rights of nonwhites were offered or passed after 1866. In the meanwhile, the Reconstruction debate over what to do with the ex-slaves came to Oregon. In 1865, when the Thirteenth Amendment was pending, Governor A. C. Gibbs of Oregon received two requests; one from Secretary of State Seward forwarding the Amendment with the request that he expedite action, and another from a group of citizens in eastern Oregon, petitioning him to call an immediate special session of the legislature for the purpose of ratifying the Amendment. Gibbs needed little urging; almost the entire Union party (composed, as in the East, of Republicans, Whigs, and Douglas Democrats) supported the call for a special session. Only the Breckenridge Democrats and the Oregon Statesman opposed the call, the former saying that the people should have the right to express their feelings through election of a new legislature and the latter holding that early ratification of the Amendment would deprive the Union party, which it supported, of a strong issue in the elections of June, 1866.<sup>27</sup>

Gibbs' address to the special session was a rousing one, recounting the horrors of the slave trade, citing the corrupting

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Journal (1866), pp. 131, 286, 378-79, 398, 407; Senate Journal (1866), pp. 196, 207, 236.

<sup>27</sup> William H. Norris, "Political Parties in Oregon, 1865-1876," M.A. Thesis, University of Oregon, 1939; H. K. Hines, Illustrated History of the State of Oregon (Portland: --, 1893), pp. 172-73; Walter C. Woodward, Political Parties in Oregon (Portland: J. K. Gill, 1913), p. 243; Oregonian, December 18, 1865, p. 4.

effects of slavery on masters and the demoralizing social and economic consequences it held for poor whites in the South, and lauding the two hundred thousand black soldiers who earned their freedom in the Union army. He alluded to the "late rebellion," giving slavery as its cause and saying that on that basis alone the institution should be abolished, but he generally avoided waving the bloody shirt. The Oregonian praised the message highly, and called upon Oregon to "take a part in consummating our national freedom," but somehow managed to avoid specific mention of the Amendment, slavery, or Negroes.<sup>28</sup>

Although the ratifying resolution passed the Senate by a thirteen to three vote and the House by thirty to four, its opponents did good service in presenting their side of the case. Their argument had four premises. First, Congress had acted illegally in passing the Amendment, since eleven states were not represented. Second, abolition of slavery was confiscation of property without compensation, and thus not only unconstitutional but profoundly immoral. Third, the Amendment had no basis in the delegated powers of the federal government, and therefore was not an amendment to the Constitution but an overturning of it which would surely destroy the country. Fourth, passage of the Amendment was merely the first step in a campaign for Negro equality, an idea so monstrous that the speakers scarcely bothered to say why it was undesirable. Supporters of the resolution followed the lines of Gibbs' argument,

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<sup>28</sup>Oregonian, December 6, 1865, pp. 2, 3.

exceeding him perhaps in charging the slave power with most of the social and economic ills of the country and coming down hard on slavery as the cause of the late war. Only one member of the House, Mr. Cartwright, answered the charge of impending Negro suffrage by saying that he thought the vote was safer in the hands of educated and loyal Negroes than in the hands of treasonous or ignorant whites and that the prospect did not worry him at all. Another member, L. H. Wakefield, was not certain about giving Negroes the vote, but he prayed for the day when he might be able to vote for the repeal of Oregon's own racist liability, the Negro exclusion clause.<sup>29</sup>

The war was just over, and Oregon had held throughout it a solid majority of Unionists, so the ratification was popular throughout the state. The Oregonian, which along with the state's other major newspaper, the Statesman, had supported the Union party, piously expressed the hope that the seven legislative opponents of the Amendment would repent, pointing out "the inexcuseableness--say rather the criminality--of letting the occasion go by unimproved."<sup>30</sup> At the election held in June, 1866, however, the Union party's majority dropped considerably. Although all Union candidates for statewide office were elected, the Union majority in both houses of the legislature was reduced to a margin of four or less.

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<sup>29</sup> Oregonian, December 9, 1865, p. 2; December 11, p. 3; December 16, p. 1; December 18, p. 4; December 21, p. 1; December 22, p. 4; December 23, p. 1. The Oregonian has a verbatim account of the House debate on the ratifying resolution.

<sup>30</sup> Oregonian, December 9, 1865, p. 2.



When the newly-elected legislature met in September, 1866, the Fourteenth Amendment was placed before it with the commendation of both outgoing Governor Gibbs and incoming Governor George Woods. The way had been paved for debate by a series of articles condemning the Amendment, published in the Oregon Statesman. The author's argument was similar to those used against the Thirteenth Amendment; the whole proposal had been illegally submitted by Congress, and the first clause in particular was nothing more than a brief for Negro suffrage, a proposition "so monstrous that I would not, without cause, accuse any of my fellow citizens of entertaining it." The Statesman, reverting to its pre-war support of the Democratic party, issued the battle cry for opponents of the measure: "The fetid corpse of buried abolitionism is risen again, quick with the demon spirit known and hated of old."<sup>31</sup>

Legislative debate on the Amendment was somewhat more intense than it had been the preceding December, partly because the result was no longer a foregone conclusion. There were contested seats in both chambers from three counties, the outcome of which could swing the majority either way. Opponents of the measure opened by demanding a referendum on it, which was ruled out of order. The same objections were raised as had been raised against the Thirteenth Amendment; that it was revolutionary, that it was illegal, that it enshrined Negro equality in the Constitution. The supporters of the Amendment

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<sup>31</sup>House Journal (1866), pp. 29-30; Oregon Statesman, September 3, 1866, p. 2; September 10, p. 3.

answered the first two objections to the measure, but generally evaded the third, except to say that without the protection of the Amendment Negroes would be defenseless against practical re-enslavement. One change was made in the respective attitudes toward Andrew Johnson; he had now become a Democratic hero and a Republican villain. Oregon's exclusion provision came into the debate again, but this time it was used by a Democrat to accuse the proponents of the new Amendment of violating their oath to support the state constitution.<sup>32</sup>

The ratifying resolution passed the Senate by thirteen votes to nine, and the House by twenty-five to twenty-two. The issue did not end there, however. The contested seats from Grant county, which had been occupied in the interim by Unionists, were awarded to two Democrats in the House, and a resolution promptly passed that body twenty-four to eighteen disapproving the ratification. Four days later, the vote was reconsidered again and this time ratification was upheld. A member of the Senate, H. C. Huston, expressed the spirit of the opponents: "I shall have the pleasure of undoing in this Senate, two years hence, what will be done here today."<sup>33</sup>

The Senator from Lane county had the opportunity to do precisely that. At the elections held in June, 1868, a Democratic majority was returned to both houses. The Union party more or less ceased to exist except in name, its Democratic adherents

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<sup>32</sup>Oregonian, September 17, 1866, pp. 1, 2.

<sup>33</sup>Ibid., p. 1; Robert W. Johannsen, "The Oregon Legislature and the Fourteenth Amendment," DHQ, LI (1950), 6-7.



returning to the fold and leaving the Republicans on their own. The Oregonian suggested that since California had gone Democratic the preceding fall, the shift in Oregon had become almost inevitable. Things were not helped by what the Oregonian called "Price's army," a large number of former Confederate soldiers who had migrated to eastern and southern Oregon since the end of the war. The Democrats in the campaign had stressed just two issues: The right of states to tax bonds issued by the federal government, and Negro equality. They asserted that it was the policy of the national government and the Radicals to force their white daughters to marry blacks, to which the Oregonian replied that if people voted for the Democratic ticket on that basis they had wasted their votes, for the government "never contemplated and can never establish 'negro equality!'"<sup>34</sup>

The legislature on convening moved to a series of actions which attempted to fulfill the 1866 prophecy of Senator Huston. A resolution was introduced to rescind Oregon's ratification of the Fourteenth Amendment, which had been proclaimed in effect by Secretary Seward only six weeks before. The resolution argued that the national ratification had been achieved by fraud, seven Southern state governments having been illegally constituted under a military despotism, and that Oregon's ratification had also been fraudulent, because of the votes of the two illegally seated representatives of Grant county.

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<sup>34</sup> Johannsen, "Oregon Legislature," p. 3; Oregonian, June 5, 1868, p. 2; October 14, 1868, p. 2; September 30, 1868, p. 2.



The Senate committee having charge of the resolution reported it favorably, saying that "the instrument itself, coupled with the preamble, is an unanswerable argument in its favor." The Senate passed the resolution by the same vote, thirteen to nine, by which it had ratified the Amendment two years previously, and the House adopted it by a similar partisan vote.<sup>35</sup>

The Oregonian followed the progress of what it called the "Secession Ordinance" closely. At its introduction, that newspaper pleaded for its elimination "before the Constitution becomes a scant and scattered rag, and the nation is turned adrift with no chart to guide it." Its use of the argument made against the original Amendment ratification was done tongue-in-cheek, as were most of its comments on the measure; since the resolution's passage was certain, the Oregonian decided to treat the whole matter whimsically. Even when puncturing the repeated story of the "Grant county fraud," by pointing out that the ratification had been reconfirmed after the two Democrats had taken their seats, it asserted that the tellers of the tale obviously did not expect to be believed. In a series of editorials, the Oregonian urged the Democrats to carry their argument to its logical conclusion of secession: "Arm the State at once, and away with the timid counsels of the cowardly!" Its correspondent said that the Democrats' argument for "nullification" boiled down to one

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<sup>35</sup>Johannson, "Oregon Legislature," p. 10; Senate Journal (1868), pp. 32-37, 66-67, 130-31.

phrase: "Do you want your daughter to marry a nigger?"<sup>36</sup>

Not content with rescinding Oregon's ratification of the Fourteenth Amendment, the Democratic legislature also resolved to censure and demand the resignation of both of Oregon's representatives in the United States Senate, George Williams and Henry Corbett, for their support of (and in Williams' case authorship of) the Reconstruction Acts and the impeachment of Andrew Johnson.<sup>37</sup> The Oregonian observed, that if Williams and Corbett had been Senators in 1862 and the 1868 legislature had been sitting then, the two would have been censured for "urging the 'unconstitutional' doctrine of coercing rebels."<sup>38</sup> The Senators, of course, did not resign.

Democrats were still not satisfied with the action of the 1868 legislature. Four years later, in the 1872 session, another resolution was received and passed reciting the history of the Fourteenth Amendment in both 1866 and 1868, and reaffirming the rescinding resolution of 1868.<sup>39</sup>

Between the 1868 and 1870 legislatures, the Fifteenth Amendment was proposed, ratified, and proclaimed in force without Oregon having had a chance to pass on it. No special session was called for this Amendment as had been done for the

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<sup>36</sup> Oregonian, September 18, 1868, p. 2; September 28, p. 2; September 29, p. 2; September 30, p. 2; October 1, p. 2; October 7, p. 2; October 8, p. 2.

<sup>37</sup> House Journal (1868), pp. 122-27; Senate Journal (1868), pp. 107-08.

<sup>38</sup> Oregonian, October 3, 1868, p. 2.

<sup>39</sup> House Journal (1872), pp. 51, 71-72; Senate Journal (1872), pp. 80-81, 94.



Thirteenth, for Governor Woods, a Republican, knew well that the Democratic legislature would refuse to do so. A Democratic slate of state-wide officers, headed by LaFayette Grover as governor, was elected on June 4, 1866, and Grover, in his inaugural address, took note of the new Amendment. He quoted Washington's Farewell Address calling on the people to resist indirect attacks on the principles of the Constitution, he claimed that the Fifteenth Amendment was just such an attack, and he proclaimed his belief that the Amendment and its predecessor "have never been legally sanctioned" and would be accepted by Oregon only under duress.<sup>40</sup> The Oregonian summed up Grover's speech thus: "Niggers and Chinamen, in Oregon, are now to catch a foretaste of that place to which the orthodox consign the wicked."<sup>41</sup>

Despite the fact that the Fifteenth Amendment was already in force, the legislature received a resolution which stated that the Amendment was a direct violation of Oregon's right, given at her admission to the Union, to regulate conditions of suffrage; that it was illegally adopted and illegally enforced; and that Oregon would not accept it. The Senate passed the resolution sixteen to nine and the House followed suit twenty-four to fourteen. The two bodies also gave sizeable majorities to another resolution, expressing the political sense of the legislature that the federal constitution had been grievously

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<sup>40</sup> Oregonian, September 15, 1870, p. 2. Senate Journal (1870),

<sup>41</sup> Oregonian, September 16, 1870, p. 1. For Grover's attitude toward the Chinese, see above, p. 40.



transgressed in the preceding nine years, and that the Fourteenth and Fifteenth Amendments "are no part of that instrument, and consequently are not entitled to observance." The legislature maintained its determination to defend both the national Constitution and the constitution of Oregon "against any aggression, either foreign or domestic," and it asserted that Oregon's exclusion of Negroes and Chinese from the ballot box, adopted with the original state constitution, would stand until Oregon herself chose to alter or abolish it.<sup>42</sup>

This after-the-fact rejection of the Fifteenth Amendment by both governor and legislature was probably caused by a decision of the Oregon Supreme Court, made just as the session convened, upholding the validity of the Amendment. A contested election for county office in Wasco county reached the high court after the county judge had reversed the originally published election results. Among the contested votes were those of two Negroes, C. H. Yates and W. S. Ford; their votes were objected to by the appellants on grounds that the Oregon constitution limited the suffrage to whites. The Supreme Court, admitting the danger of judicial inquiry into a political process, found after careful examination that the Fifteenth Amendment had been legally proposed, ratified, and proclaimed, although "individuals may be constrained to believe it an unwise measure of government policy," and that the votes of

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<sup>42</sup> House Journal (1870), pp. 512, 545; Senate Journal (1870), pp. 654-55, 696-701. Oregon finally ratified the Fifteenth Amendment by unanimous vote in its centennial legislature in 1959.

the two men must be counted.<sup>43</sup>

The fundamental anti-Negro bias of Oregon's white population lay fairly quiet during the Civil War. The issue upon which almost all united was the preservation of the Union, and few wanted to raise the divisive issue of Negro status. There was no emphasis on emancipation as a war issue; Republicans continued to deny the charge that they were a party of abolitionists. Exemplifying the racial prejudice of white settlers, one Oregonian wrote, "I am for the union but against free negroes on this continent. But save the union if we have to cut the damned Negroes head off and give his body to the dogs for I have no love for them."<sup>44</sup>

The desire of the Oregonian to put a quietus on the question is noted above.<sup>45</sup> At the time of the 1862 legislative session another Portland paper pointed out that "we have a few free negroes and Chinese in this State. They are generally industrious, useful, and peaceable." The introduction of anti-Negro and anti-Chinese legislation was seen as only a Democratic play for the Irish vote. The writer's feeling was that Oregon's great need was for labor, and that it would be

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<sup>43</sup> Oregon Reports 568 [September 1870]. There were two offices at stake in the case, and the Court ultimately found one plaintiff and one defendant to have been elected, thus demonstrating that it did indeed have the wisdom of Solomon.

<sup>44</sup> Johannsen, Frontier Politics and the Sectional Conflict: The Pacific Northwest on the Eve of the Civil War (Seattle: University of Washington Press, 1955), pp. 203-04. He takes the quotation from a letter from J. S. Miller to Henry Cummins, September 30, 1862.

<sup>45</sup> See above, p. 39.

foolish to restrict the supply of it in any way.<sup>46</sup> Although there were occasional similar references to the economic factor, none were made in legislative debates on the various laws.

The Oregonian in January, 1863, took the occasion of a Negro wedding in Salem attended by whites to laud the paternalistic affection "common among the Southern people" toward Negroes, and to belittle fears of Negro equality. On another occasion it took its text from a Democratic newspaper report that a woman, widow of a man who was "killed fighting to make niggers his equal," had died of starvation; the editor's ambiguous comment was that "a 'nigger' is already the equal of any Copperhead editor who could be so low as to write that sentence."<sup>47</sup>

The Statesman, which had supported the Union party throughout the war and Andrew Johnson after it, was also ambiguous. In commenting, just before the cessation of armed conflict, on the approaching task of "reorganization," it limited itself to observing that "the work of reorganization will probably be brief and will have but one obstacle--the status of the Negro. The work of pacification will require much time and careful management."<sup>48</sup>

After the war had ended, as the Thirteenth Amendment came up for ratification, argument among white Oregonians over the civil and political status of Negroes returned to the

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<sup>46</sup> Clipping from Oregon Historical Society Scrapbook 112, p.13.

<sup>47</sup> Oregonian, December 1, 1864, p. 2; Scrapbook 112, p. 29, Oregon Historical Society Scrapbook Collection.

<sup>48</sup> Walter C. Woodward, "The Rise and Early History of Political Parties in Oregon," OHQ, XIII (1912), 41.



vehemence and partisanship which had characterized it in 1857. The debate again was on the national and abstract issue; the Thirteenth Amendment was presented to Oregon in December, 1865, and the last attempt to legislate the enforcement of the State constitution's exclusion clause came less than a year later. As late as 1868, a Salem newspaper could give extensive coverage to a local Negro celebration of the fifth anniversary of the Emancipation Proclamation, observing that "It is to be regretted that those who scorn [Negroes] were not there to see how they honor freedom....The affair was in every way creditable to those concerned."<sup>49</sup> No such friendly tone appeared in the policy/debate, however.

In the middle of the legislative discussion of the Thirteenth Amendment, the Oregonian juxtaposed, without comment, two statements: one, from the Statesman, said that Negroes had neither a place nor a future in the United States government; the other, taken from a speech by President Johnson to Negro troops, told the men that this country was as much theirs as anyone's, and that they should expect to take an active part in its civil life.<sup>50</sup> The Democrats went on to contest the state election held six months later on the basis of the legality of secession and a fervent denouncement of the social and political equality of Negroes and other nonwhites which, by its lights, the Republicans were forcing upon white citizens. The Oregonian in reply said only that "the impartial adminis-

<sup>49</sup> Salem Daily Record, January 3, 1868, p. 2.

<sup>50</sup> Oregonian, December 13, 1865, p. 2.

tration of justice is one thing, and 'social equality' another; that the one may be secured by law, and that the other can never exist." A year later it was saying that the idea of "mongrelization" of the races so often raised as a specter by the Democrats was both "disgusting" and "insulting."<sup>51</sup>

Curiously, since almost all groups and organs opposed it, the point most consistently argued was Negro suffrage. Republicans and Democrats took pains to accuse each other of supporting the idea. The Oregonian first denounced the concept in March of 1865, and accused the Democrats of the Border states of thrusting it on the nation. Another Portland newspaper, arguing that suffrage was not a right but a privilege granted by the general community for the good of all, said that the issue would be decided on the basis of what would be the best policy for the whole nation, which was tantamount to opposing Negro votes. The Statesman, in October, 1865, unequivocally opposed Negro suffrage, saying that "No governing race has ever yet, in the history of the world, tolerated citizenship to another race in large numbers, in any nation." It praised the wisdom of the Haitians in denying political rights to whites in that country, and raised the prospect of a three-cornered race war if nonwhites were given the franchise. It also accused the Oregonian of evading the issue.<sup>52</sup>

Although both had opposed the proposal, when Andrew

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<sup>51</sup>Norris, "Political Parties in Oregon," p. 30; Oregonian, May 17, 1866, p. 1; September 12, 1867, p. 2.

<sup>52</sup>Oregonian, March 3, 1865, p. 2; Scrapbook 112, p. 101; Oregon Statesman, October 2, 1865, p. 2; October 30, 1865, p. 3.



Johnson broached the idea of gradual enfranchisement of Negroes, with educational and property qualifications, the Oregonian and the Statesman favored his plan. They did not join hands, however; the Oregonian called the Statesman a "truckling slave" for having reversed itself, and the Statesman continued to have few kind words for its rival.<sup>53</sup> The agreement was brief; in April, 1866, the two party conventions in the state drew the line again. The Democrats flatly rejected extension of the franchise, stating that "this Government was made on a white basis." The Union party's platform urged "a full recognition of all civil and political privileges to the inhabitants of the states lately in revolt," which could be construed as either a plea for civil rights for Negroes or a request for full pardons for Southern whites.<sup>54</sup>

By the time the Fourteenth Amendment had reached the Oregon legislature, all pretense of reason had been dropped from the suffrage debate. As has been noted, the supporters of the Amendment in the legislature tried to avoid the issue. The Statesman met it head on: "We object," it cried, "to giving the negro a patent of nobility written and signed with the best blood of the Caucasian race." In an editorial entitled "Negro Suffrage" it placed the blame for all the political problems of the country for the preceding half-century squarely on the brow of its black inhabitants. The accusations grew so shrill that it became obvious that most Oregonians, Democrats,

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<sup>53</sup> Oregonian, December 6, 12, 21, 23, 1865, p. 2.

<sup>54</sup> Norris, "Political Parties in Oregon," pp. 21, 31.



or Unionists, held the view that "if [the Negro] is enfranchised . . . they will be compelled to sleep with him," in the words of one contemporary.<sup>55</sup>

By the time of the 1872 election, racial issues had disappeared from both party platforms. Oregon abandoned concern with both Reconstruction and Negroes five years at least before the rest of the nation.<sup>56</sup> A vigorous and intense state-wide debate on the national issue of the future status of Negroes in the Republic had brought out all of the latent race prejudice that had been exhibited in the 1857 vote on the state constitution, but the debate was of relatively short duration compared to the battle that raged in the east.<sup>57</sup>

Despite the ever-present prejudices of Oregon's white citizens, the racial clauses of the state constitution seemed to be in practice more of an embarrassment than anything else. Nonwhites were legally barred from voting until 1870, of course, but even where legislative act as well as constitutional provision prohibited Negro suffrage, a doubt may be entertained as to whether it was uniformly enforced. Certainly the Negro exclusion clause was never put into effect. The Democrats, when they had both the political power and the unquestioned legal right to do so between 1859 and 1862, did not even offer

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<sup>55</sup> Oregon Statesman, September 10, 1866, p. 2; October 8, 1866, p. 2; O. Jacobs to Benjamin F. Dowell, October 23, 1867, in Benjamin F. Dowell Papers, MS 209, Oregon Historical Society Manuscript Collection.

<sup>56</sup> Norris, "Political Parties in Oregon," pp. 81-94.

<sup>57</sup> Reconstruction and the status of Negroes were dead issues in Oregon by 1872, if not before. Nationally the questions were not completely settled until the Compromise of 1877.

enabling legislation. Again, after 1868, in spite of their rhetoric about defending Oregon's constitution against Radical onslaughts, they did not attempt to follow up their resolutions rejecting the Fourteenth and Fifteenth Amendments with positive law under the exclusion provision. They upheld its validity, but only as a tactic in the fight against national Radicalism. Chinese, under the constitution, were denied the right to work as miners in Oregon, but the legislature was satisfied with taxing their labor. Nonwhites were at no time excluded from the witness box, although that practice was common enough elsewhere. Even the poll tax on nonwhites, passed at a time when discussion of the "Negro question" was being kept to a minimum, disappeared when the discussion gained major proportions. Thus, in the first decade of statehood, Oregonians continued their habit of loudly expressing race prejudice when it had no practical effect and presenting quite another aspect when local legislation was the issue.

#### IV. The Setting for Repeal, 1893-1927

When the Reconstruction debate faded away after 1870, white Oregonians stopped worrying about Negroes, either locally or nationally. In this they followed the national pattern, or rather anticipated it by a few years. The Fourteenth Amendment had, of course, invalidated the state constitution's racial provisions, although no test was ever made of its applicability. Informal discrimination undoubtedly continued, but Negroes were not the subject of public comment in Oregon again until the advent of Jim Crow legislation in the South in the 1890's. When local issues were raised, during the 1890's, they were as likely to be raised by Negroes as by whites. When whites in Oregon did discuss Negroes around the turn of the century, they were talking more often than not about national concerns such as the economic or occupational status of the race or about Southern issues such as disenfranchisement.

Oregon's Negro population increased fairly steadily in numbers after the Civil War, although it remained a very small fraction of a percent of the total population of the state. From 346 in 1870 it rose to 1186 in 1890 and 2144 in 1920.<sup>1</sup>

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<sup>1</sup>Daniel G. Hill, "The Negro in Oregon, A Survey, " unpublished M.A. Thesis, University of Oregon, 1932, p. 30. Census reports for 1910, 1920, and 1930 show at least one Negro in each county, although in 1920 only 16 of the 36 counties had more than ten Negro residents. See United States Census Reports, Composition and Characteristics of the Population by States, for 1920 and 1930.



Three fourths of these Negroes lived in Portland, but they were present in every county of the state. In Portland the Negro community was organized and active; the first Negro church was established in 1862, an abortive school integration movement was started five years later, and by 1880 a society was incorporated which had as its express purpose the encouragement of Negro immigration to Oregon.<sup>2</sup> Railroads, sawmills, and hotels brought Negro workers into the state, and by the turn of the century a small but active professional class had been established in Portland's black community.

Negroes formed a part of Portland's underworld in the latter part of the Nineteenth century, and it was from this stratum that a Negro was apparently nominated for and elected to the city council about 1890; he never took his seat, however.<sup>3</sup> Other elements of the community were more successful. In 1903 a Negro-owned weekly newspaper was started, which developed a circulation of 3000 (more than twice the black population of the city) and continued in operation until the early 1930's. On its masthead the paper carried two quotations, Mr. Dooley was quoted as saying, "Don't ask for rights. Take them. An don't let anny wan give them to ye. A right that is handed to ye f'r nawthin has somethin' the matter with 't." And from James Russel Lowell was borrowed the assertion: "They have

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<sup>2</sup>Hill, "Negro in Oregon," p. 29; MS note, "Negroes-Oregon," Oregon Historical Society Vertical File. On the school issue, see above, p. 45.

<sup>3</sup>Hill, "Negro in Oregon," p. 38. Hill states that the man, named Charles Green, was put up by "boodlers" and later bought off.

rights who dare maintain them."<sup>4</sup>

A chapter of the National Association for the Advancement of Colored People was founded in Portland very soon after the organization was organized nationally. By the time "Birth of a Nation" came to Portland in 1915, the group was so well known that a newspaper story on its "vigorous protest" against the showing of the film cited it only by its initials, without further explanation. Besides protesting "Birth of a Nation," the NAACP also held celebrations on the anniversary of the Emancipation Proclamation.<sup>5</sup> In 1921, anticipating a world's fair projected for Portland in 1925, a group of Negroes incorporated the Race Progress Association, which intended to finance and build an exhibit at the fair. The exhibit was to show "the progress of the colored race of the world, and especially the progress of the colored race in America;" unfortunately the fair was not held.<sup>6</sup>

In general, Negroes in Oregon were inclined to count their blessings; at least they were not living in the South. The protest against "Birth of a Nation" called attention to "the peace and harmony that has existed between the two races." A columnist for the Negro paper, the Advocate, made up a balance sheet, comparing Oregon's integrated schools, churches, and public transportation with the segregation found in similar

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<sup>4</sup> Thomas C. Hogg, "Negroes and Their Institutions in Oregon," Phylon, XXX (Fall 1969), p. 280; Portland Advocate masthead (University of Oregon Newspaper Microfilm Section).

<sup>5</sup> Oregonian, July 4, 1915, p. 3; January 2, 1915, p. 4.

<sup>6</sup> Ibid., December 3, 1921, p. 4.

institutions in the South. The columnist went on, however, to point out the serious discrimination that existed in employment in Oregon. How strong this discrimination was may be indicated by the Advocate's celebration of a white, Jefferson Myers, as "the only federal office holder (he was a member of the United States Shipping Board in 1926) from Oregon, who has shown any consideration for Colored people." His consideration consisted in hiring two Negroes as chauffer and messenger.<sup>7</sup>

A study of Oregon's Negro community would be interesting and fruitful in itself, and although some work has been done in this area there is ample room for further research. However, such a study is outside the scope of this paper. We are primarily concerned with white attitudes and actions toward Negroes, and only as much information about the Negro community itself as will help to explain those attitudes and actions is relevant here. It is enough to say that Negroes in Oregon, although few in numbers, had strong community institutions and were active in their own behalf. Although their situation was in many respects better than in other parts of the country, they did not let this relative wellbeing blind them to the very real hardships they faced in Oregon.

The status of Negroes as a subject for action came before both state and local governmental bodies in the decade after World War I. The questions that arose were over strictly local matters: a public accommodations law, the right of

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<sup>7</sup> Advocate, January 22, 1927, p. 1; July 24, 1926, p. 4.



Negroes to build, the propriety of integrated dance halls. These questions were, of course, discussed by whites in the context of national attitudes on race, but the discussion was in general kept separate from arguments on national issues.

The Afro-American League of Portland went to the 1919 legislative session at Salem armed with a bill designed to "extend equal privileges in hotels, theaters, and other public places to all persons regardless of race." It was asserted by an opponent of the bill that they had some difficulty in finding a legislator willing to sponsor it, but finally the bill was presented by a representative from Multnomah county. Other members of the delegation from Portland tried a number of stratagems to prevent consideration of the bill, including stealing all available copies of it, but it passed through committee hearings and survived a move for its indefinite postponement.<sup>8</sup>

During the debate on final passage, several representatives praised the part Negroes had played in the war, both as soldiers and on the home front. One member felt constrained to say that the bill did not propose social equality, the old specter, but merely the equal right to spend one's own money. A woman member opposed the bill in part because one of its supporters had favored repeal of the law banning mixed marriages at a previous session of the legislature. The chairman of the Multnomah county delegation, when the final call for voting came, was found to have locked himself in a committee room to

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<sup>8</sup>Portland Oregon Journal, February 18, 1919, p. 3.

avoid voting on the measure, and he refused to come out until the sergeant-at-arms threatened to break down the door and tried to climb over the transom. The legislator then explained that he was not trying to avoid voting, but that the subject was a matter for Congress and not a state legislature, and that in any case the bill had been improperly drawn. The measure was defeated in the House by a vote of thirty-one to twenty-four.<sup>9</sup>

This episode is interesting for several reasons. First, the bill was drafted and presented by a Negro group. The Afro-American League was only one of a number of Negro organizations in Portland which demonstrated on this and other occasions that Negroes were ready to take action in their own behalf. Second, the actions of the representative from Multnomah county indicate that Negroes and their allies in Portland were a voting bloc that could not safely be ignored by politicians. Third, twenty-four members of a sixty-member body found enough justice in the measure to vote for it, and only nine of them were from Multnomah county;<sup>10</sup> the desire for Negro votes could have had little effect on the other fifteen.

In the summer of 1921, a group of Negro citizens applied for a permit to build a gymnasium on property owned by them in North Portland. A protest against issuance of the permit was filed by white neighbors, who in their complaint objected to

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<sup>9</sup>Portland Oregon Journal, February 18, 1919, p. 3; February 21, 1919, p. 4; Oregonian, February 21, 1919, p. 3.

<sup>10</sup>Ibid., p. 3.

the issuance of any building permits to Negroes. The city council requested an opinion from its legal advisor on its powers in the matter, and his reply was that the Thirteenth and Fourteenth Amendments precluded any ordinance prohibiting building permits to Negroes. The Oregonian noted that previous protests by whites in similar situations had been dealt with outside the council, although it did not say how.<sup>11</sup> The council had never asked for legal advice before; it may be assumed that it was not prepared to pass a Jim Crow ordinance even if such were found to be within its powers in 1921. The earlier adjustments may well have involved locating new building sites for Negroes to which there was no white objection; Negroes were certainly not commonly denied permits, as the number of churches and other Negro-owned buildings in Portland testified.<sup>12</sup>

Social integration was a touchier matter than building construction. In a police raid on a Portland cabaret in 1922, Negro men were found dancing with white women, and the mayor and city council were completely outraged. The proprietor of the cabaret lost not only his entertainment license but also licenses for a rooming house and a restaurant. When his lawyer protested that there was no law prohibiting mixed dancing, the mayor replied, "There is one law that prohibits it, . . . and that is the law of decency." He went on to explain that there was no race prejudice involved in his attitude, but that when white "girls" were allowed to get drunk and consort with Negro

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<sup>11</sup>Oregonian, August 30, 1921, p. 7.

<sup>12</sup>Hill, "Negro in Oregon," p. 43.



men, it was "humiliating to the white race and an insult to the decent negro people as well."<sup>13</sup>

To avoid future misunderstandings, the city attorney was instructed to draw up an ordinance prohibiting the mingling of whites and blacks in restaurants and dance halls. Negroes in Portland immediately made a vigorous protest against the proposed ordinance, calling it "a direct insult to the colored people of this city," and charging that it would be only the first step in a campaign to segregate public accommodations, public transport, and schools in Portland. The city attorney reported that no new legislation was needed to end integration as desired; probably his hesitation was in some measure due to the outcry against the proposal and to doubts about its constitutionality. The council unanimously upheld the mayor, saying that "such mixing should not be tolerated in any decent community," but that increased police vigilance could handle the problem.<sup>14</sup>

Some efforts were made to repeal the state's law against interracial marriages, but none were successful during this period. The pastor of Portland's A.M.E. Zion church prevailed upon a state senator to introduce a repeal measure in the 1893 legislature, and remained in Salem through the session to lobby

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<sup>13</sup>Oregonian, March 11, 1922, p. 8.

<sup>14</sup>Oregonian, March 18, 1922, p. 6; March 22, p. 15. Curiously, Mayor Baker was considered by some Negroes to be a great friend of the black community. His wife is said to have found jobs for many Negroes, and anyone hired through her could expect to be well taken care of. (Interview with Mrs. S. Farrell, Negro resident of Portland since 1916, December 20, 1969.)

for its passage. The bill was defeated in the Senate after considerable debate, but it did muster nine favorable votes out of twenty-nine.<sup>15</sup> Another attempt was made in 1917, by a representative from Multnomah county; it too failed.<sup>16</sup>

The issue of school segregation, settled in the state before 1880, reappeared in the 1920's in two sawmill towns with Negro work forces. In the town of Vernonia, Negro children were kept from the public schools for a year, but were finally admitted. The whites of Maxville offered the use of the school after 4 p.m. each day for the education of nine Negro children, but the black people preferred to provide their own two-room shack and a volunteer teacher.<sup>17</sup> Negro children were also excluded from Catholic schools in the Portland area, leading the editors of the Advocate to have second thoughts about their support of Catholics in the earlier controversy over the closing of Oregon's parochial schools.<sup>18</sup>

In some cases, smaller towns in Oregon simply chased Negro residents completely out of town. The white citizens of Liberty in 1893 ordered all Negroes to leave town, prompting a Democratic newspaper in Portland to suggest that the town change its name, and to ask William McKinley to explain how this could happen. Some years later, during the Ku Klux Klan

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<sup>15</sup> Oregon Statesman (Daily), February 2, 1893, p. 3; Oregonian, February 2, 1893, p. 2.

<sup>16</sup> Oregonian, February 21, 1919, p. 3.

<sup>17</sup> Advocate, October 9, 1926, p. 4; October 16, 1926, p. 1.

<sup>18</sup> Ibid., September 11, 1926, p. 4.

activity in Oregon, a Grants Pass newspaper published a front page editorial in protest against three Negroes who had been brought to town as domestic servants. "NIGGER WE DON'T WANT YOU HERE," said the editor of the Spokesman, "--AND WE WON'T HAVE YOU HERE--;" night-riders forced the three to leave.<sup>19</sup>

In general, white Oregonians did not turn their prejudices against Negroes into anti-Negro action, either legal or otherwise. Although the public accommodations bill of 1919 was defeated, it did muster a strong favorable vote. The city of Portland did not adopt segregation ordinances, and although two towns evicted their Negro residents, others did not. White citizens felt most threatened by social integration; the anti-miscegenation law was upheld twice, and the issue causing most uproar in Portland was integrated dancing at a cabaret.

The Klan was active in Oregon between 1921 and 1924, reaching its peak of power in 1922. In that year a Democrat was elected governor of Oregon and the people passed an initiative measure requiring all children of school age to attend public schools, a measure aimed primarily at closing all Catholic schools in the state. Both the governor's election and the passage of the law were due mainly to Klan agitation.<sup>20</sup> The Klan's appeal in the Northwest was based mainly on anti-Oriental and anti-Catholic sentiment; it had little success

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<sup>19</sup>Portland Evening Telegram, January 11, 1893, p. 4; Hill, "Negro in Oregon," pp. 41-42.

<sup>20</sup>For a discussion of the Klan in Oregon, see George S. Turnbull, An Oregon Crusader, (Portland: Binfords & Mort, 1955).



in fomenting anti-Negro feeling, and indeed did not often try.<sup>21</sup>

Some anti-Negro actions were undertaken. In the spring of 1922, a Negro was one of three men "lynched" in Jackson County; although the hanging was pantomimed, neither he nor the other two men were seriously harmed, and despite the anger of the district attorney, the Klan was so strong in the county that the charges were dropped against his assailants. Another Negro, in Salem, received a threatening note signed by the KKK, but he publicized it and stood his ground, and no further harassment was undertaken. Apparently in an attempt to show its Christianity, the Klan also donated the lumber for the construction of a Negro church in Portland.<sup>22</sup> Partly because Negroes were a matter of little concern to Oregon whites, and partly because of the determined character of Oregon's blacks, the Klan dropped its anti-Negro bias, at least for purposes of political agitation.

A kind of abstract racism was expressed by Oregon opinion-makers between 1893 and 1927. The Oregonian, as the state's dominant newspaper, was the most common organ for this expression, but it was not alone. Its editor during the first half of this period, Harvey Scott, was a genteel but unabashed racist; in an address to the Oregon Historical Society in 1905, he stated his belief that "the two main facts that form and direct the

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<sup>21</sup>Keith Murray, "Issues and Personalities of Pacific Northwest Politics, 1889-1950," Pacific Northwest Quarterly, XLI (July, 1950), 227; Oregon Journal, September 22, 1965, p. 12.

<sup>22</sup>Turnbull, Oregon Crusader, pp. 105, 166, 147-48; Hill, "Negro in Oregon," p. 48.

history of men are characteristics of race and variations of physical circumstances."<sup>23</sup>

Commenting on a suit filed in Chicago under the Civil Rights Act in 1893, the Oregonian said that decent, self-respecting Negroes would not obtrude where their presence was not desired, and that anyone who did force himself in, "in a spirit of bravado, or to push [his] rights to the extreme," deserved to be strongly rebuked. "A man is not justified in obtruding himself upon the attention of others . . . no matter what . . . the text of the law on the subject. Good sense and a consideration for the proprieties are better than law in such matters."<sup>24</sup>

Scott believed that Negroes were by nature an agricultural race without aptitude for trades, and his attitude persisted in the pages of the Oregonian, although gradually modified, for some years after his departure in 1910. He found proof for his theory in a report in 1900 that of 1243 Negroes trained in industrial skills, only three continued to work at the trades for which they had been trained. Industrial education having proved a failure, he said, "the future of the race lies in agricultural pursuits."<sup>25</sup> Two decades later, the Oregonian still held that "the communities in which

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<sup>23</sup> Harvey Scott, "The Unity of History," OHQ, VI (September 1905), p. 239.

<sup>24</sup> Oregonian, February 4, 1893, p. 4.

<sup>25</sup> Oregonian, May 31, 1900, p. 6. It did not occur to him that the reason for Negroes' not following their trades might have been white hostility to the idea rather than Negro disinterest.

the negro is most respected are those in which he is known as a farmer." It did agree with Henry Ford, in 1922, that Negroes needed industrial opportunities, but this was seen as an alternative to "racial equality" rather than a means of achieving it. "Racial equality" was still "a condition equally unsought by the more thoughtful members of either race."<sup>26</sup> In response to Marcus Garvey's "Africa for the Africans" movement, the Oregonian saw the solution to the plight of United States blacks in more Tuskegees rather than more Liberias.<sup>27</sup>

The attitude toward Southern Jim Crow legislation was ambivalent. The most common reaction to Southern actions and rhetoric was a belief that the South was paranoid on the subject of Negroes. Granting that the South had been dreadfully wronged by Reconstruction, the Oregonian felt in 1904 that the "social system" should be allowed to take care of itself in that region as it was in the North, so that the nation could pass on to more important matters. The assumption underlying this wish was that segregation was not really necessary, at least as a legal structure; that the Negro was so inadequate that he could never pose a serious threat to white society.<sup>28</sup> Responding to a charge by Senator Tillman of South Carolina in 1909 that the Taft administration was trying to destroy white supremacy in the South by promoting compulsory education

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<sup>26</sup> Oregonian, July 9, 1922, p. 8; November 5, 1922, p. 8.

<sup>27</sup> Ibid., August 22, 1920, sec. 3, p. 6.

<sup>28</sup> Ibid., November 11, 1904, p. 4.



for all races, the Oregonian stated, "It is not believed, it is not feared, by the whites now, even in the states where there are most negroes, that there is any danger of the loss of white supremacy."<sup>29</sup> However, the right of Southern states to do whatever they deemed necessary to prevent Negroes from taking part in the political process, and their right to order their social system as they saw fit, was unquestioned.

There were occasions, however, when even the Oregonian, not to mention other newspapers, appeared relatively free of racism. "Pure races are a myth of jingoism," said the Oregonian in 1915. "They exist only in the excited imaginations of . . . angry politicians." W.E.B. DuBois' proposal in 1919 for a trusteeship for Africa with board representation for black men both within and without Africa drew favorable comment. Especially favored was his plan to preserve African culture; an African could well have education, culture, and good morals without thereby becoming a copy of an Anglo-Saxon, the editor claimed. An editorial on lynching and the northward migration of Negroes made the point that if Southern whites continued to rely on "mob outlawry" in dealing with Negroes, they could hardly be surprised if Negroes chose to leave. A Grants Pass paper, noting a Democratic charge in 1916 that Republicans were moving Negroes North in order to capitalize on their votes, said that Negroes and other laborers quite rightly received assistance in moving to where labor was needed; even the Democratic-controlled Department of Labor engaged in the practice. "A basket of Oregon's

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<sup>29</sup> Ibid., January 7, 1909, p. 4.

famous apples may be of many colors," said an editorial in the Oregon Journal in 1924. "But beneath the skin the color is all the same."<sup>30</sup>

On the subject of Negro suffrage, the Oregonian held forth at length, but it was not completely consistent there either. Harvey Scott, while he was editor, was adamant in his opposition to the idea. When Congress appointed a committee in 1900 to investigate Negro disfranchisement in the South, he termed the project "useless and silly." The South, he said, would just not allow Negroes to vote in significant numbers, and there was no point in repeating the mistakes of Reconstruction. "It is not to be denied," he wrote in 1907, "that the evils of indiscriminate negro suffrage in our Southern states are too great to be permitted." He vacillated on the subject of enforcement of the representation clause of the Fourteenth Amendment. In 1900 he said that the Southern states could deny Negroes the vote, but they could not expect to have seats in Congress and votes in the Electoral College which represented those Negroes. By 1905, however, he had developed an ingenious argument to the effect that the Fifteenth Amendment had superseded the Fourteenth and returned to the states complete authority over the suffrage; hence the South could restrict its suffrage in any way to eliminate the Negro vote, so long as it did not specifically state in law that such was its purpose,

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<sup>30</sup>Oregonian, January 5, 1915, p. 6; February 28, 1919, p. 10; January 5, 1922, p. 8; Grants Pass Observer, November 23, 1916, p. 4; Oregon Journal, November 2, 1925, p. 10.

without the loss of representation. He did not believe that the North would or should intervene in the matter.<sup>31</sup>

George Williams, who had authored the Civil Rights Act of 1866 and been an active Radical in the Grant administration, was elected mayor of Portland in 1902. He had mellowed over the years, and in reminiscing about his part in Reconstruction he said that there had been considerable excess on both sides, as might be expected after a bloody civil war. "I do not see that I made any serious mistakes," he said in 1906, "unless it was with negro suffrage."<sup>32</sup>

The Oregonian's view of the matter had changed by 1927. Discussing the decision of the United States Supreme Court in the Texas white primary case, it rejected the Texas contention that a primary election is a purely private affair. "It is also the affair of the constitution of the United States . . . which provides that no one shall be denied the right to vote on account of race or color or previous condition of servitude," said the paper, a few months before Oregon finally repealed its dead-letter constitutional clause denying Negroes and Chinese the vote.<sup>33</sup>

The white population of Oregon still had, at the start of the Twentieth century, a sizeable reservoir of anti-Negro

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<sup>31</sup>Oregonian, March 23, 1902, p. 4; August 8, 1907, p. 4; June 4, 1900, p. 4; December 25, 1905, p. 4.

<sup>32</sup>Sidney Teiser, "Almost Chief Justice: George H. Williams," (pamphlet published by Oregon Historical Society, 1947), p. 21.

<sup>33</sup>Oregonian, March 9, 1927, p. 8.



prejudice. On a few occasions, when the presence of Negroes in Oregon was brought to their attention by a move for a public accommodations law or the discovery of an integrated night club, some prejudice was expressed through the people's representatives. In a couple of cases, such as at Liberty and Grants Pass, direct action gave an obvious demonstration of racism. Negroes themselves were organized and articulate, however, and both they and many whites refused to let racism go unchallenged. In general, though, the public mood on the subject was one of apathy. Harvey Scott's editorials on the "Negro problem" in the South were written in an unimpassioned tone, and they evoked no vigorous response from whites. The Ku Klux Klan could not make an issue of Negroes in Oregon. Scott himself, commenting on a series of articles in the Oregon Historical Quarterly about the slavery controversy in Oregon, said that it seemed strange in 1908 that the question could have agitated people so just fifty years earlier.<sup>34</sup>

Negroes were beginning to take action on their own behalf at the turn of the century, and indeed before it. They put forth legislation, or proposed the repeal of it; they protested loudly at racial slurs in government, the press, or the movies. The Advocate devoted itself to the defense and the extension of Negro rights. Henceforth in Oregon, the treatment of Negroes under the law would be an issue raised by Negroes and not by whites.

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<sup>34</sup> Oregonian, November 9, 1908, p. 4; May 3, 1909, p. 4.

V. The Movement for "Black Law" Repeal, 1893-1927

Four attempts were made between 1893 and 1927 to repeal the inactive anti-Negro provisions of the Oregon constitution.<sup>1</sup> The people of Oregon voted in 1900 and 1926 on the exclusion clause and in 1916 and 1927 on the suffrage clause. In every case but the last, the movement for repeal was initiated by Negroes through their legislative representatives. In no case, except possibly the first, was there any public opposition to repeal. Nonetheless, in the elections of 1900 and 1916 the voters, by the narrowest of margins, rejected the proposed deletions from the constitution. The reasons for rejection were varied, and will be analyzed in another chapter, but two will be mentioned here: the variety of other measures facing the voters at each election, and the indifference of the press in general to the success of the repeal movements.

Although amendments had been submitted to the people at various times in the Nineteenth century, no amendments to the constitution of Oregon were adopted before 1902.<sup>2</sup> The first

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<sup>1</sup>Since the clauses were part of the constitution, even though they were inoperative, their removal required the use of the full procedure of amendment. Before 1906, this procedure involved the affirmative vote of two successive legislatures and a vote of the people. Proposal of an amendment by initiative petition was approved in 1902, and after 1906 only one legislature was sufficient to move an amendment to a vote.

<sup>2</sup>Charles Carey, The Oregon Constitution and Proceedings and Debates of the Constitutional Convention of 1857 (Salem: State Printing Office, 1926), p. 437.



attempt to expunge the exclusion clause began nine years earlier, when Representative Henry H. Northup presented to the 1893 legislature three resolutions calling for constitutional amendments. The first projected amendment would repeal a clause of the constitution allowing white foreigners residing in Oregon the same property rights as native-born citizens; the second called for repeal of Article I, section 35, the Negro exclusion clause; and the third, among other things, aimed at deletion of the word "white" from the suffrage section. The resolution for repeal of the exclusion clause passed the House unanimously the day it was introduced, and the Senate also gave it a unanimous vote, although one member abstained.<sup>3</sup>

On the day after the introduction of Northup's resolutions, the Oswego, Oregon, Iron Worker, under the heading "A Great Awakening," credited their origin to the resolve of Oregon's Negro population. Impatient with lack of legislative action, it said, they had determined to clear the constitution of the offending articles. "Some day," it continued, "the new blood--and they won't be negroes--will rise up en masse, shelve the mossbacks, and with progressive spirit conduct this grand state."<sup>4</sup>

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<sup>3</sup>House Journal (1893), p. 49; Senate Journal (1893), p. 233; Oregon Statesman (Weekly), January 13, 1893, p. 11. The resolution on suffrage did not touch the section prohibiting Negroes and Chinese from voting, which can only have been an oversight.

<sup>4</sup>Oswego Iron Worker, quoted in Portland Evening Telegram, January 11, 1893, p. 4.



The representative of the Negro population who apparently sparked the series of amending resolutions was Reverend T. Brown, pastor of the African Methodist Episcopal Zion church in Portland. He spent the entire session of the legislature in Salem, lobbying for these measures as well as the bill to repeal the anti-miscegenation law.<sup>5</sup> The latter effort was unsuccessful, and two of the amendments ran into other difficulties, but his move to get the legislature to at least propose repeal of the exclusion clause was a complete success. The Oregonian, without mentioning Mr. Brown's part in the affair, approved all three proposed amendments at the time, saying, "These deformities of the constitution may just as well be removed now."<sup>6</sup>

The resolution to repeal the exclusion clause breezed through the 1895 legislature, being passed unanimously again by both houses. The other two proposals were subjected to debate and postponed. Ultimately, however, the 1895 session repassed four of the amendments proposed in 1893. The legislature's responsibility did not end there, though. Under existing law it was also required to pass a special act submitting the amendments to the people. Such a bill passed the Senate and went through two readings in the House, but it was lost in the confusion of the session's last day and never acted on. As a result, the Secretary of State did not present the amendments to the voters in 1896, as would normally have been

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<sup>5</sup> See above, p. 71; Oregonian, February 2, 1893, p. 2.

<sup>6</sup> Oregonian, January 14, 1893, p. 4.

done. He explained his omission to the legislative session of 1897, but that session, because of a fierce political battle, was completely deadlocked. The House never managed to collect a quorum and organize, so no legislation whatsoever was passed. It was left to the legislature of 1899 to pass the enabling act, which submitted a total of five amendments to the people at the 1900 state election.<sup>7</sup>

The ballot of 1900 contained five questions. The most controversial of these was a proposal for women's suffrage. Other issues, besides the repeal of the exclusion clause, were a measure dealing with municipal indebtedness, one restructuring the judiciary system, and one dealing with irrigation. The public press downplayed the measures, and especially ignored the exclusion clause repeal item. The Oregonian said that the question was "of no consequence" since the clause was void, and made no objection to repeal "except the general one that the change is unnecessary and immaterial." Two days before the election, the Statesman advised all its readers to vote against all the amendments, without singling out any for special commendation or blame. "That is the safest thing to do," it said. The Oregonian echoed the sentiment on election day,

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<sup>7</sup> House Journal (1895), pp. 240, 928, 945; Senate Journal (1895), pp. 457, 494-95; House Journal (1899), p. 840; Senate Journal (1899), pp. 419-20; Oregonian, January 31, 1895, p. 9; Report of the Secretary of State, Oregon Archives: Messages and Documents, 1897, 3 vols. (Salem: State Printer, ---), I, pp. 37-38. For a discussion of the 1897 deadlock, see "Lawmaking 50 Years Ago," Salem Capitol Journal, January 13, 14, 15, 16, 18, and 20, 1947.



adding, "Especially vote against the woman suffrage amendment."<sup>8</sup>

Vote on the measures was light, averaging just over half of the total vote cast for the office of Supreme Court Justice. The proposal to repeal the exclusion clause received the smallest vote of any of the measures, all of which were defeated: 19,074 Oregonians voted to delete the clause from the constitution, but 19,999 voted against tampering with the original instrument.<sup>9</sup>

In the 1901 session of the legislature, a repeal resolution was again introduced, this time by a Representative of a district in eastern Oregon which had only 15 Negroes in a total population of over 28,000. Again the resolution passed both chambers unanimously, although four members of the Senate refused to vote on it.<sup>10</sup> It did not reappear at the next session in 1903, and apparently the matter was dropped for several years.

Between the election of 1900 and the election of 1916 the "Oregon System" of popular legislation was put into effect and the state had adopted a sizeable amount of social legislation. Through the initiative, referendum, and recall, the people of Oregon, between 1901 and 1915, voted on no fewer than

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<sup>8</sup>Oregon Statesman, June 2, 1900, p. 4; Oregonian, May 27, 1900, p. 6; June 4, 1900, p. 4.

<sup>9</sup>Report of the Secretary of State, Measures and Documents, 1901, pp. 166-67.

<sup>10</sup>House Journal (1901), pp. 464, 511; Senate Journal (1901), pp. 347, 422. The Representative, George Barrett, could have wanted to embarrass the dominant Republican party, which had opposed all amendments at the previous election, or he could have been acting from conviction. No information is currently available.



136 measures, adopting 51 and rejecting 85. Among the measures adopted was woman suffrage. Twenty-three constitutional amendments were adopted, greatly modifying the instrument which for forty-five years had been untouched.<sup>11</sup> The election of 1916 excited considerable interest; besides the closely contested Presidential election, there were eleven measures on the ballot, including two prohibition laws and a single tax proposal backed by the labor movement.

In 1915, a resolution appeared in the Senate proposing repeal of Article II, section 6, of the state constitution, which prohibited Negroes and Chinese from voting. It was presented by George McBride of Portland, but the man who originated the proposal was <sup>McCants</sup> ~~McKent~~ Stewart, Portland's first Negro lawyer. The resolution received one negative vote in each house; S. P. Peirce, of Coos and Curry counties, opposed it in the House, and U. H. Strayer, of Baker, did the same in the Senate. Why Peirce was against the measure is unknown. He received a strong labor endorsement in the 1916 election, and it is possible that he was acting against the Chinese rather than Negroes, for anti-Oriental sentiment was high among working men on the Pacific Coast at that time. Strayer, as one of two Democrats in the state Senate, may have opposed the measure on partisan grounds.<sup>12</sup>

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<sup>11</sup>For a discussion of the legislation of this period, see William F. Ogburn, "Social Legislation on the Pacific Coast," Popular Science Monthly, LXXXVI (Jan.-June, 1915), p. 274, and Paul T. Culbertson, "History of the Initiative and Referendum in Oregon," Ph.D. Thesis, University of Oregon, 1941.

<sup>12</sup>House Journal (1915), p. 479; Senate Journal (1915),

The ballot title by which the repeal measure was presented to the voters gave the text of the section to be repealed: "No negro, Chinaman or mulatto shall have the right of suffrage." It further said that the purpose of the move was to remove "the discrimination against negro and mulatto citizens," but it did not mention that the clause to be repealed was null and void under the Fifteenth Amendment. It also neglected to point out, except by inference from the text of the clause, that a discrimination against Chinese was also to be deleted, although it made a point of this in the case of Negroes. The official voters' pamphlet issued by the Secretary of State printed the ballot title and the text of the Senate Joint Resolution by which the question had been submitted, but no further explanation or argument was provided. The resolution was no help to the voters; it merely stated that "Section 6 of Article II of the Constitution of the State of Oregon be and the same is hereby repealed."<sup>13</sup>

The press did not ignore the ballot measure in 1916 as completely as it had in 1900. The Telegram of Portland pub-

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pp. 40, 198, 204; Oregon Labor Press, November 4, 1916, p. 4. My source for the assertion that McKent Stewart originated the proposal is Henrietta Marshall, a long-time Negro resident of Portland. (Interview, March 19, 1970) I am sure that documentary proof of this statement exists among personal papers of Negro Portlanders, as well as in the press, but I have not yet found it. The only reasonable suppositions that can be made are that the idea came from the Negro community or that Senator McBride just happened to notice the provision and decided to act, and Stewart's position as Portland's first Negro lawyer lends weight to the presumption that it was his idea.

<sup>13</sup> Secretary of State, Constitutional Amendments and Measures to be Submitted to the Voters of Oregon, General Election, November 7, 1916, p. 6.



lished a long article prompted by the repeal proposal, going into the history of the constitutional clause at some length. It concluded that the provision was an anti-slavery rather than a pro-slavery one, since it prevented slaveholders from bringing their slaves to the state and registering them to vote for slavery; the explanation indicates some naivete about the attitude of slaveholders to any form of Negro suffrage before the Civil War. The Telegram noted that the clause was inoperative, and said that its repeal was strictly "a matter of state pride." "[It] will be gratifying to every good citizen that this last reminder of slave-holding feudalism is to be expunged from our fundamental law," said the paper, and predicted that the vote would be practically unanimous for repeal.<sup>14</sup>

The Oregon Voter, an independently published magazine dealing with political matters, cited the Fifteenth Amendment and flatly recommended repeal of the clause. Other organs approached the question a little differently, although they too more or less favored repeal. The Catholic Sentinel of Portland observed that passage of the measure would make the state constitution "look better," but that it would make no real difference one way or the other. "Of no consequence, but might as well get it off the poor old constitution's back," commented the Benton County Courier. Other newspapers around the state, including the Labor Press (following a vote of Portland's Central Labor Council), favored passage of the

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<sup>14</sup>Portland Telegram, September 25, 1916, from clipping in Oregon Historical Society Scrapbook Collection.



amendment, calling it "obsolete," but did not specifically say that it had no effect on whether or not Negroes and Chinese voted in the state.<sup>15</sup> Although no paper opposed passage of the measure, well over half of the newspapers surveyed by this writer made no mention at all of it.<sup>16</sup>

The vote on repeal was, of course, much heavier in 1916 than it had been in 1900. The date of the election had been changed to coincide with the date of the national election,<sup>17</sup> women had been included in the electorate, and the population of the state had grown by more than fifty percent. Moreover, there was some public opposition to the old general rule, still popular in Oregon, that one should vote against any proposition one did not understand. The new creed, articulated by the Benton County Courier, was, "Look them up and vote intelligently or don't vote at all."<sup>18</sup> Five times as many people voted on repeal of the suffrage in 1916 as had voted on the exclusion clause in 1900, and the margin of defeat was reduced by nearly one third: 100,074 voted for repeal and 100,701 against it.<sup>19</sup>

That defeat laid repeal moves to rest for the next eight

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<sup>15</sup> Oregon Voter, November 4, 1916, p. 9; Catholic Sentinel, September 14, 1916, p. 4; Benton County Courier, November 2, 1916, p. 2; Oregonian, November 6, 1916, p. 10; Medford Mail Tribune, November 4, 1916, p. 4; Corvallis Gazette-Times, November 4, 1916, p. 5; Oregon Labor Press, September 30, 1916, p. 5.

<sup>16</sup> Of the seventeen newspapers reviewed, only seven took any stand on the measure.

<sup>17</sup> Before 1908, state elections were held on the first Monday in June.

<sup>18</sup> Benton County Courier, November 2, 1916, p. 2.

<sup>19</sup> Vote reported in Oregon Voter, December 16, 1916, p. 11.

years. A story in the Oregonian in September of 1924 again called attention to the "anachronistic" exclusion clause in the state constitution. Its continued existence the paper laid to "the inexplicable perversity of the electorate in a comparatively recent day."<sup>20</sup> The following January the state Capitol was visited by a delegation from the League of Women Voters of Portland, including Mrs. Lenora Freeman, wife of the founder of Portland's Bethel African Methodist Episcopal Church. Mrs. Freeman and her associates urged repeal of the exclusion law upon the legislators, and prevailed on William F. Woodward, a representative from Portland, to introduce a repeal resolution.<sup>21</sup> In order to avoid the mistakes of the 1916 attempt on the suffrage clause, the resolution specifically called on the Secretary of State to set aside two pages of the official voters' pamphlet for arguments supporting the measure, and required the appointment of a committee of three legislators to prepare such an argument.<sup>22</sup>

The resolution passed rapidly through both chambers of the legislature again, receiving only one negative vote, that of Senator Strayer of Baker. Democratic membership in the Senate had doubled since 1915, to four, and it is possible that Senator Strayer's negative vote was in 1925 merely a question

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<sup>20</sup> Oregonian, September 14, 1924. (page unknown)

<sup>21</sup> Mrs. Freeman's daughter, Mrs. Clifford Dixon of Portland, recalled her mother's action in an interview on February 17, 1970. The matter was not on the agenda of the League in that year, so far as incomplete records can determine, but a decision on the exclusion clause could hardly have required much research.

<sup>22</sup> House Journal ( 1925), p. 74.

of consistency. Some other members of both houses did not vote at all on the measure.<sup>23</sup> The Advocate of Portland hailed the passage of the resolution and expressed its hope that a good educational campaign would be conducted "by those interested" so that the defeats of 1916 and 1900 would not be repeated.<sup>24</sup>

In the summer of 1926, the Advocate started its own campaign. It began with a statement of gratification that so many Negro voters were giving evidence of strong interest in the election, announcing that the Republican party could no longer count automatically on the Negro vote. A question put to the Oregonian by a subscriber as to whether a Negro could vote or hold office in Oregon brought forth the comment from the Advocate that here was "a splendid opportunity for some missionary work."<sup>25</sup> In another editorial, observing that the clause was being studied as part of the state constitution by thousands of school children, urged "churches, fraternal societies, women's clubs, and other civic and social organizations" to become active on behalf of repeal. For six weeks before the election, it ran editorials in every issue on the subject.<sup>26</sup>

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<sup>23</sup> House and Senate Journals (1925), pp. 128, 153, 322, 339.

<sup>24</sup> Advocate, February 21, 1925, p. 4.

<sup>25</sup> Negroes had been voting in Oregon since the Oregon Supreme Court had upheld their right to do so in 1870. (See Chapter III above.) As of 1920, there were 1720 Negroes of voting age in the state, although how many actually voted is unknown.

<sup>26</sup> Advocate, July 31, 1926, p. 4; August 14, 1926, p. 4; August 30, 1926, p. 4.



In an editorial urging Negroes to register to vote, the Advocate referred to the Southern blacks who were denied the franchise. All the more reason, it said, why "repeal of the black laws on the statute books [in Oregon] needs your support." It singled out candidates for public offices who promoted repeal before both black and white audiences for special commendation. On one occasion it ran a story about a visitor to Oregon from the South who had happened to notice the measure on a sample ballot he picked up in a bank; "the printed words so interested the visitor that he obtained several copies to send back home." The paper sprinkled its columns with one-line items reading "Blot out BLACK Laws."<sup>27</sup>

The 1926 general election saw a total of nineteen measures presented to the voters. The very number of the propositions caused many newspapers to revert to the principle expressed by the Oregonian as early as August: "When in doubt vote NO." The argument ran that very little if any real harm could be done by defeat of any measure, since the state had been getting along without all of them, but that an uncertain "Yes" vote could be very dangerous. The exclusion clause if upheld would do no damage except in public relations, perhaps, since Negroes did in fact live, own real estate, make contracts, and sue people in Oregon, and so several other papers besides the Oregonian saw it. Most of them did endorse passage of the repeal measure, but only half-heartedly. The Hegppner Gazette-

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<sup>27</sup> Advocate, September 25, 1926, p. 4; October 9, 1926, p. 4; October 16, 1926, p. 4; October 23, 1926, p. 1; October 30, 1926, p. 4.

Times could see no harm coming to the state "if the whole 'kittle of fish' received the axe and were cast on the dump," as fine a display of metaphor as appeared anywhere.<sup>28</sup>

Quite a few newspapers, however, published strong editorials favoring repeal. Most of them went into the history of the clause, putting forth as many explanations for its existence as there had been political factions in Oregon's territorial era. The Corvallis Gazette-Times saw its origin in the frustration of pro-slavery men who had not dared to submit a straight-out slavery constitution to the Congress. The Eugene Guard agreed, although it felt that pro-slavery men had been a minority at the time and had been granted this clause as a "sop." "The fact that we have to put the word 'free' in quotation marks," was for the Bend Bulletin a sufficient explanation of the origin of the provision. The Oregon Voter thought that it had been nothing more than a reasonable attempt by Oregonians to avoid the sort of race problem the South was still dealing with.<sup>29</sup>

Newspapers also heaped either scorn or reproach on the electorate of earlier years for their rejection of repeal. Those rejections, said the Corvallis Gazette-Times "showed up the idiocy of the initiative and referendum." "Whether or not they thought they were voting for or against slavery or in favor

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<sup>28</sup> Oregonian, August 23, 1926, p. 10; Bend Bulletin, October 27, 1926, p. 4; Medford Mail Tribune, October 31, 1926, p. 4; Heppner Gazette-Times, October 28, 1926, p. 4.

<sup>29</sup> Corvallis Gazette-Times, October 6, 1926, p. 2; Eugene Guard, October 8, 1926, p. 4; Bend Bulletin, October 20, 1926, p. 4; Oregon Voter, October 30, 1926, pp. 34-38.

of an amendment subsidizing negro bootblacks, we do not know," continued the editors. "Neither did they." The Albany Democrat Herald thought that elimination of the clause should be simple, and cited as the cause of previous failures the "tendency of the voters to vote 'no.'" Other papers were vigorous in their condemnation of the citizenry. The Eugene Guard was particularly outraged; the maintenance of the "intolerable measure," said the Guard, "was the shame of Oregon," and it demonstrated nothing but "intolerance and prejudice." The Oregon Voter agreed:

To keep on voting against the repeal brands Oregon as a state controlled by race prejudice instead of by patriotic loyalty to the expressed will of the whole people of the United States as fixed in the federal constitution as a result of a sacrifice of the nation's blood in civil strife.<sup>30</sup>

Regardless of the past, said the Gresham Outlook, the measure was "a reproach as it now stands," and should be repealed. The Oregonian, in its discussion of the ballot issues, observed that if "any good reason" existed for the clause, it could not be found; "its retention," the writer said, "can be viewed only as a futile expression of intolerance and hatred." Even Senator Strayer, who had twice opposed repeal of racial clauses in the legislature, announced his support of the measure at last.<sup>31</sup>

The Voters' Pamphlet contained a one-page argument

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<sup>30</sup> Corvallis Gazette-Times, October 6, 1926, p. 2; Albany Democrat Herald, September 29, 1926, p. 4; Eugene Guard, October 8, 1926, p. 4, and November 1, 1926, p. 4; Oregon Voter, October 30, 1926, p. 38.

<sup>31</sup> Gresham Outlook, October 26, 1926, p. 1; Oregonian, October 17, 1926, sec. 1, p. 15; Pine Valley Herald, October 28, 1926, p. 1. Again, only nine papers of nineteen surveyed took a stand on the issue.



supporting repeal, written by three Portland legislators, among them Representative Woodward. The argument quoted the clause and opposed to it section 1 of the Fourteenth Amendment to the national constitution, which voided it. The legislators called the clause "a slur upon those whom it sought to proscribe," and urged voters to "uphold the spirit of Abraham Lincoln" and do "justice to the citizens of Oregon [of] this and succeeding generations" by removing it from the constitution.<sup>32</sup> The voters responded, and on November 2, the repeal measure was passed with the highest number of favorable votes of any of the nineteen issues presented; the final vote was 108,332 to 64,954.<sup>33</sup>

On the second day of the 1927 legislative session, Representative John Giesy of Salem introduced a resolution to repeal Article II, section 6, of the constitution, denying Negroes and Chinese the vote. His move was apparently a completely independent effort to correct the oversight of the previous legislature in not including that section with the one just repealed in the submission to the voters the preceding November.<sup>34</sup> The Advocate pointed out to Giesy that his clause had not always been overlooked, reminding him of the 1916

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<sup>32</sup>Official Voters' Pamphlet, General Election, November 2, 1926, p. 9.

<sup>33</sup>Carey, Oregon Constitution, pp. 462-67.

<sup>34</sup>A special committee was established in the House in 1927 charged with seeking out and repealing obsolete and inoperative laws, but the committee was not formed until after Giesy's resolution had been introduced, and he was not a member of it. See Oregonian, January 16, sec. 1, p. 8; January 22, p. 6; January 26, p. 1.

referral of the issue.<sup>35</sup>

The repeal proposal, along with nine other measures, was referred to the voters at a special election to be held June 28, 1927. The primary reason for the special election was the urgency of an income tax proposal presented by the governor and legislature. The campaign for repeal this time had the aura of an afterthought; all concerned seemed to feel that the job had been, or ought to have been, completed the preceding November. The Oregon Voter set the tone in April, calling the suffrage clause "another 'dark blot' . . . equally [as] obnoxious" as the section just repealed. The current submission, it continued, just "completes the process of expurgating . . . all reference to limitations on rights of residence and suffrage of colored peoples."<sup>36</sup>

The press followed the Voter's lead. "Certainly, let's remove this blot," was the Gresham Outlook's comment. "Get rid of it," said the Albany Democrat Herald. The Rainier Review and the Bend Bulletin merely noted that the section was "deadwood," and the former did not even bother to make a recommendation on the issue. The Telegram again, as in 1916, hoped for a unanimous vote, saying that repeal should have come years before. Retracing at some length the history of both clauses, the Oregon Journal closed with the cryptic recommendation that "those who believe that the archaic section ought to be

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<sup>35</sup> Advocate, January 15, 1927, p. 3.

<sup>36</sup> Oregonian, March 6, 1927, p. 10; Oregon Voter, April 16, 1927, p. 7.

kept . . . dead though it be, will mark their ballots '301 X No.'" Only the Advocate, as might be expected, made its endorsement in strong terms; that the clause had survived so long, it said, was "a disgrace to [Oregon's] fair name."<sup>37</sup>

The Voters' Pamphlet was restrained as well in its recommendation for repeal. Interestingly, not one of the three members of the committee appointed by the legislature to write the argument was from Portland, which perhaps explained their restraint; they had no Negro vote to appeal to. They merely pointed out that a favorable vote was necessary to finish the job of making Oregon's constitution conform to that of the whole country.<sup>38</sup> Again the voters responded by adopting the proposed amendment, 69,373 to 41,887.<sup>39</sup>

For a movement without opposition, the campaign to repeal the two clauses of Oregon's constitution placing disabilities on Negroes took an unconscionably long time. Thirty-four years elapsed between first proposal and final success. The question was moot from the beginning, although it is not certain that all voters were aware of that fact, and the press did relatively little to enlighten them except in the election of 1926.

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<sup>37</sup>Gresham Outlook, June 24, 1927, p. 1; Albany Democrat Herald, June 27, 1927, p. 4; Rainier Review, June 3, 1927, p. 1; Bend Bulletin, June 27, 1927, p. 4; Telegram, June 23, 1927, p. 16; Oregon Journal, June 14, 1927, p. 15; Advocate, June 25, 1927, p. 2.

<sup>38</sup>Official Voters' Pamphlet, Special Election, June 28, 1927, p. 4.

<sup>39</sup>Secretary of State, Oregon Blue Book, 1957-58 (Salem: State Printing Office, 1957), p. 268.



Although only five measures in all were presented for the people's decision in 1900, the Republican press of the state's metropolitan areas opposed them as a group, mindful that the constitution had never yet been amended and fearful of the results if the process should be begun. In subsequent elections, the number of measures was much greater, including both constitutional amendments and direct legislation. Eleven issues were put forth in 1916, nineteen in 1926, and ten in 1927. They ranged in importance from proposals for a single tax, an income tax, and prohibition to such matters as a bonding limit for Klamath county and the location of a normal school in eastern Oregon. Although the voters showed a considerable amount of discrimination in their decisions, accepting some and rejecting some at each election except the first, it is not surprising that the sheer volume of legislation upon which they were called to pass produced confusion as to some specific issues.

The state's newspapers fairly consistently counseled the voters to vote against anything they did not completely understand. Regardless of the wisdom of the advice, one may suspect that many editors took a dim view of direct legislation in general and did not exert themselves as they might have to make sure the electorate at least had the opportunity to understand the measures before them. In the case of the two clauses restricting, or attempting to restrict, the rights of Negroes, a greater or lesser majority of periodicals at each election neglected even to mention the matter. Those that did

often conveyed the idea that it was of no consequence whatsoever whether the measures passed or failed.

Had it not been for the Negro community of Oregon, it is quite possible that no vote would have been taken on the clauses at all, at least until a much more recent day. Reverend Brown in 1893, McKent Stewart in 1915, and Lenora Freeman and her clubmates in 1925 brought the clauses to the attention of their legislators and insisted on repeal. The Advocate, whose associate editor, Beatrice Cannady, was a dominant figure in Portland's Negro community, promoted the campaign to a readership which extended significantly beyond the community it defended. If the possibility had existed that the issues presented by the two clauses had been substantial rather than purely theoretical or moral, the task might have been more difficult, but all things considered, it was quite hard enough.

## VI. The Voters' Decisions, 1900-1927: An Analysis

Why did the voters of Oregon refuse, in 1900 and 1916, to repeal the constitutional prohibitions against Negro residence and Negro suffrage? Why was repeal of the two clauses opposed in 1926 and 1927 by a large minority of voters? Three possible factors present themselves:

1. A generally negative response to direct legislation, or to political change of any sort.
2. Racial prejudice.
3. Lack of comprehension or misunderstanding of the repeal measures themselves.

Oregon's political system underwent a dramatic change after 1902, the basic change being a shift from purely representative legislative processes to the option of direct law-making by the people. Although the initiative and referendum were adopted in 1902 by a huge majority, 91.5 percent of the electorate voting in favor of them, there was considerable opposition to movements which tried to make use of them to amend the state constitution. Of sixty-one constitutional amendments proposed between 1900 and 1916, thirty-seven were rejected. Woman suffrage, as an example, was rejected twice before 1902 and three more times afterward before it finally passed in 1912.<sup>1</sup> A negative attitude toward direct legis-

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<sup>1</sup>See Charles Carey, The Oregon Constitution and Proceedings and Debates of the Constitutional Convention of 1857 (Salem: State Printing Office, 1927), pp. 437-48; also, Paul



lation or toward the great use made of it might tend to result in votes against any particular measure unless there were compelling reasons for its passage.

One would expect to see the racial biases of Oregon's white citizens reflected in elections involving issues of racial disabilities, such as the Negro exclusion clause and the suffrage provision. The fact that neither clause was operative in any case does not affect the influence of this factor; a vote against repeal could be intended as a vote against Negroes, whether or not Negroes would actually be subject to state action as a result. The measures before the voters can to some extent be viewed as a public opinion poll on white citizens' feelings about black citizens.

The often-repeated rule, "if you don't understand it, vote no," would tend to produce votes against repeal of the anti-Negro clauses if voters did not comprehend the question submitted to them. A white Oregonian, approving of Negro civil rights, might well suspect a trick of some sort if, knowing that Negroes did live and vote in Oregon, he came upon a ballot question proposing to give them the right to do so. The degree to which public sources of information about the item were available to the electorate, through the press and official publications, could be expected to have a great effect on the dimensions of this problem.

There were, of course, other factors that influenced

voting behavior in the four elections on repeal. Partisan and regional loyalties did exist in Oregon, but it is difficult to see what effect they could have had in the matter under discussion. The issue of repeal was never a partisan one in itself; the repeal resolutions received support from all political factions in the legislature, and of the two legislators who opposed repeal in 1915 and 1925, one was a Democrat and the other a Republican. In 1900, the question of whether or not to amend the state constitution at all was in some measure a partisan one, with the Republican party generally against any change in the instrument. However, the most controversial issue on the ballot in that year, woman suffrage, was originally proposed in 1893 by a Republican, Senator Edward Hirsch of Marion county, and it was supported at that time by both the Oregon Statesman, a Republican newspaper, and the Populist Representative from Coos county, J. H. Upton.<sup>2</sup>

Although something of an urban-rural split developed over the issue of repeal, such a cleavage could only be meaningful as a reflection of one of the three factors mentioned above. In 1900, the four most populous counties of the state, and almost all of the counties in the Willamette Valley, favored retaining the exclusion clause, and the more rural southern and eastern counties voted to repeal it. The pattern completely reversed in 1916, however, with the Willamette Valley counties voting for repeal of the suffrage clause and the rest of the state generally

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<sup>2</sup>Salem Oregon Statesman (Daily), January 31, 1893, p. 3; Portland Oregonian, January 13, 1893, p. 2.

opposing repeal. Urban areas in 1916 (excluding Portland) gave 48 per cent of their votes for repeal, while the state as a whole (again excluding Portland) cast about 45 per cent of its ballots for repeal.<sup>3</sup> A similar pattern appears in 1926, except that the proportion of favorable votes was higher in all cases and only three counties voted against repeal.<sup>4</sup>

On other measures, Oregon exhibited no division whatever between urban and rural areas. A measure providing for state loans to farmers in 1916 carried every county in the state, gaining a larger majority in Portland than in many of the rural counties. Similarly, a 1927 measure to permit Portland to levy special school taxes was given a majority downstate and defeated in Multnomah county.<sup>5</sup> Moreover, no statistical correlation, either positive or negative, can be found between the vote on the rural credits amendment and that

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<sup>3</sup> Three of the seven cities for which I have figures for 1916 voted for repeal, and four opposed it. The figures are as follows:

	<u>For repeal</u>	<u>Against repeal</u>
Baker	904 (40.5%)	1321 (59.5%)
Astoria	860 (39.3)	1330 (60.7)
Ashland	854 (55.0)	699 (45.0)
Medford	1103 (50.1)	1100 (49.9)
Klamath Falls	642 (48.5)	681 (51.5)
Salem	2500 (56.0)	1962 (44.0)
La Grande	796 (44.0)	1012 (56.0)
Total	<u>7659 (48.6)</u>	<u>8105 (51.4)</u>

The state as a whole (less Multnomah county, which cast an atypical 59.9% of its votes for repeal) voted 61,089 (44.6%) for repeal and 74,603 (55.4%) against it. See Appendix II. Urban figures from County Abstracts, Measures, 1916, Oregon State Archives. Returns from the city of Portland for 1916 are not available.

<sup>4</sup> See Appendix III.

<sup>5</sup> Abstract of Votes: Measures, 1916; County Abstracts, Measures, 1927, Oregon State Archives.



on the suffrage clause repeal. To the extent that urban areas responded more favorably than rural ones to repeal measures after 1900, the reasons can only be found in other factors.

A vote against repeal in any of the elections could indicate one of three things, then: that the voter objected to the whole business of direct legislation or to the number and variety of the issues presented, that he was prejudiced against Negroes as a race, or that he did not understand what he was voting on and opposed it for that reason. An analysis of the election returns in each of the four elections will not provide conclusive answers as to what weight should be assigned to each of these factors, but it does suggest some probabilities.

Tension between the advocates of positive governmental action and the adherents of the negative or minimizing view of government was most apparent in the election of 1900. Up to that time, as has been noted, the constitution of Oregon had never been amended, nor was it to be until the adoption of the initiative and referendum two years later. The measure for repeal of Article I, section 35, the exclusion clause, came closest of the five amendments to victory, losing by only 925 votes. Woman suffrage, by far the most controversial issue and the one that drew the most votes, was defeated by 2137 votes, and the offerings concerning municipal indebtedness, the judiciary system, and irrigation projects lost by about 10,000 votes each.

The general opposition to constitutional change was symbolized in the Oregon Statesman's recommendation that all

the amendments should be rejected.<sup>6</sup> The Oregonian undoubtedly spoke for a large segment of Oregon opinion in interpreting the election results as "a vote of confidence in our good, old Constitution." It approved the vote retaining the Negro exclusion clause on the basis that a successful repeal would only "give encouragement to a current craze" for making changes in the state's organic law.<sup>7</sup>

The pattern of voting in 1900 was set by the woman suffrage question, which most closely paralleled the vote on the exclusion clause. Seven of the twelve counties opposing woman suffrage also opposed repealing the exclusion clause, and seventeen of the twenty-one counties that voted for woman suffrage also voted for repeal. A high statistical correlation (.74) is found between the vote by counties on woman suffrage and that on repeal of the anti-Negro provision. However, the pattern is not as clear in the case of the other three measures. All ten of the counties that voted against the repeal amendment also voted against them, and by fairly consistent margins, but a favorable vote on repeal did not find corresponding majorities on the other questions.<sup>8</sup> Opposition to woman suffrage worked against all the measures, and had it not been for the spirit of "agin-ism" the exclusion clause would probably have been wiped off the books at that point.

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<sup>6</sup>See above, p. 84.

<sup>7</sup>Oregonian, June 6, 1900, p. 6; October 7, 1900, p. 6.

<sup>8</sup>Abstract of Votes: Constitutional Amendments, 1900, Oregon State Library.

In the later elections of 1916, 1926, and 1927, however, no such clear pattern is evident. The voters in 1916 adopted six of the eleven measures on the ballot, with majorities ranging from 51 per cent (prohibition of importation of alcoholic beverages) to 73 per cent (the single item veto). At the same time they turned down five proposals, including repeal of the suffrage restriction clause, by margins varying between the miniscule 50.1 per cent of the suffrage clause issue to a thundering 78 per cent against a single tax proposition. The same discrimination was demonstrated in 1926, when ten of the nineteen proposals were adopted and nine rejected, with majorities ranging from 73 per cent in favor of building a tuberculosis hospital in eastern Oregon to 72 per cent against construction of a normal school at Seaside on the coast. Not until the special election of 1927 did a general negative disposition manifest itself again, with eight of twelve measures going down in defeat. In that election, the measure to repeal the anti-Negro suffrage clause led the group, gaining a 62 per cent majority, almost exactly the same margin by which its companion exclusion clause had been repealed seven months earlier.<sup>9</sup>

Many newspapers continued to object to all, or at least most, referenda or initiatives put before the people. Faced with the nineteen questions on the ballot in 1926, the Medford Mail Tribune said they were all stupid and confusing and should be defeated. The Oregonian, in that same year, recalled previous

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<sup>9</sup> Percentages based on returns in Abstract of Votes: Measures, for 1916 and 1926, and the 1927 returns reported in the Oregon Blue Book, 1959-60, p. 229.



elections in which voters had rejected measures across the board, and said of the 1926 collection that it "cannot discern actual disaster in rejection of the whole."<sup>10</sup> Although this negative spirit certainly persisted, the election results show that the electorate was rarely dominated by it after 1900, preferring to judge issues more or less as they came. Certainly it is hard to see this kind of opposition as having played a major part in the votes on the anti-Negro clauses in the constitution, considering that in the elections in which they were presented, except that of 1900, no pattern of opposition appeared.

Race prejudice was not respectable in Oregon during the early part of the Twentieth century. Its practice was widespread, and its existence is undeniable. However, it was not acceptable, as a basis for public policy, to the press, the legislature, or a major part of the electorate. The attitude of the press in making its recommendations on the repeal issues has been discussed in the previous chapter, but it should be recalled here that although many editors ignored the measures, those who dealt with the race prejudice aspect of the matter tended to do so with almost abolitionist fervor.

In the post-election analyses of the returns, newspapers usually gave no weight to race prejudice as a factor in explaining the behavior of the voters. As early as 1900, Harvey Scott of the Oregonian felt it necessary to point out that no one's rights were being infringed under the exclusion clause, implying

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<sup>10</sup> Medford Mail Tribune, October 31, 1926, p. 4; Oregonian, August 23, 1926, p. 10.

that if there were any substance to the issue repeal would have been a more urgent matter. Scott chided the Democratic party for having been the author of the "wrong" done in Oregon just as it was then, at the turn of the century, perpetrating similar wrongs in the South. In 1916, the Oregonian, along with the Gresham Outlook and the Heppner Gazette-Times, belittled prejudice as an influence in the election. The Outlook observed that it was possible, but highly unlikely, that voters had been following the precedents of the Civil War era. It pointed out that in any case, Oregon was one of only six states in the Union to be on record as opposing Negro suffrage.<sup>11</sup>

Some analysts did believe that prejudice had been a determinant in the vote, especially in 1916. The Gold Beach Reporter assumed that citizens of Curry County had actually believed in that year that they were voting to deny Negroes the franchise. The editor of the Oregon Voter reported that acquaintances had told him that they voted against repeal in 1916 as a protest against Negroes, knowing full well that it would make no difference. Whether or not the people voted their racial biases the Benton County Courier was unsure, but, it said, "If either ignorance or prejudice, the vote is inexcusable."<sup>12</sup>

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<sup>11</sup>Oregonian, October 7, 1900, p. 6; November 15, 1916, p. 8; Gresham Outlook, November 10, 1916, p. 2; Heppner Gazette-Times, November 9, 1916, p. 1. The Outlook did not state who the other five states were, nor on what basis it determined that they opposed Negro suffrage.

<sup>12</sup>Gold Beach Reporter, November 16, 1916, p. 2; Oregon Voter, December 16, 1916, p. 11; Corvallis Benton County Courier, November 16, 1916, p. 4.

The legislators of Oregon presumably represented a reasonable cross-section of the electorate, and could be expected to reflect personal race prejudice in the Capitol to more or less the same degree that it existed in the general population. They were, however, public men. Debate on the public accommodations bill of 1919 brought forth no expressions of bigotry, and the efforts of one legislator to avoid voting on the bill indicate that there was some reluctance to make private convictions a matter of public record.<sup>13</sup> This reluctance is even more striking in the case of the repeal resolutions of 1893, 1895, 1915, 1925, and 1927. Although it is unlikely that the Senators and Representatives were free from prejudice, in five sessions of the legislature repeal resolutions received only three negative votes, two of them cast by the same man.

From available information it is impossible to determine by voting precincts just where in Oregon most Negroes lived between 1900 and 1927, but some precincts can be pinpointed. The 1930 census shows Negroes living in eighty rural precincts, as well as twenty-three urban areas for which breakdowns by precinct are not given. Most of the rural precincts had fewer than five Negro residents, and only four had more than ten. Election returns are available from some of these precincts for 1926, and from almost all of them for 1927. In 1926, 72 per cent of all precincts outside Portland voted in favor of repeal of Article I, section 35, and 69 per cent of all pre-

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<sup>13</sup> See above, pp. 68-69.



precincts outside Portland with Negro residents voted for repeal. The correlation was repeated in 1927, with respective percentages of 84 and 75.<sup>14</sup> Two precincts, one in Vernonia, Oregon, and the other in Maxville, had sizeable Negro populations in 1926, yet neither of them deviated greatly from the norms of their respective counties. Both voted for repeal in both 1926 and 1927, but not by unusual margins. Information on how areas having Negro residents voted in 1916 is less reliable, but it appears that of five cities or towns in which Negroes lived, three voted for repeal and two voted against it.<sup>15</sup> The presence or absence of Negroes in a neighborhood had little effect on voting patterns; if race prejudice was an influence in how people voted on the anti-Negro clauses, it was neither augmented nor diminished by proximity to that race.

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<sup>14</sup>Portland is excluded from this sample because it is so large and (in this case) unrepresentative that it renders meaningless all norms from the rest of the state. The figures, taken from County Abstracts, Oregon State Archives, are as follows:

1926: Total precincts. . . .988	1927: Total precincts. . . .1327
(and urban areas)	
Voting for repeal. .710	. . . .1116
Voting against . . .278	. . . . 211
Total precincts with	
Negro residents. . . 73	. . . . 99
Voting for repeal. . . 51	. . . . 74
Voting against . . . 16	. . . . 18
Unable to determine. 6	. . . . 7

I have included urban areas as single precincts on the theory that Negro residents probably tended to live in one precinct. Ten of the twenty-three urban areas and five precincts or less. In cases where all precincts in such an area voted favorably, the area is included in the total voting for repeal; in areas where precincts divided, some voting for and others against repeal, it is listed as indeterminate.

<sup>15</sup>The five cities were Ashland, Astoria, Baker, Medford, and Salem. For data see footnote, p. 103 above.

Nor did the presence of other persons classified as non-white make much difference in how people voted. Although the proportion of Oregon's population which fitted into neither white nor black categories was also quite small, it exceeded that of Negroes. Foreign-born whites, who might have been expected to arouse some nativist sentiment, made up a much larger part of the state's population than either blacks or other non-whites. No consistent relationship can be found, however, between the size of a county's non-white or foreign-born white population and its vote on the repeal measures.<sup>16</sup>

In limited localities race prejudice might appear to have been more important than it was in the state as a whole. Thus Curry County and Baker County, whose representatives voted against the repeal resolution in the 1915 legislature, ranked thirtieth and thirty-first respectively in percentage of favorable votes in the 1916 election. Curry, Clatsop, and Hood River Counties had the highest proportions of non-white residents in the state between 1910 and 1920, except for counties with Indian reservations, and Clatsop County stood just below Curry in percentage of negative votes on repeal in 1916. Hood River County broke the pattern, though, standing sixth in percentages of "yes" votes in that year.<sup>17</sup>

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<sup>16</sup> Oregon's non-white and non-black population amounted to 2.4 per cent of the total in 1910, 1.5 per cent in 1920, and 1.5 per cent in 1930. Its foreign-born whites made up 15.3 per cent, 13.0 per cent, and 11.1 per cent respectively. Averaging the percentages for both groups for 1910 and 1920, the 1916 vote shows a positive correlation of small proportions between favorable votes on repeal and relatively high concentrations of both groups. Population statistics from U.S. Census Reports for 1910, 1920, and 1930.

<sup>17</sup> See Appendix II.



Some voters, apparently recalling the era of Reconstruction, had no objection to repeal of the clause prohibiting Negro residence in Oregon but could not vote to repeal the restriction on Negro suffrage. Of the precincts which changed from opposing the 1916 measure to favoring the repeal move in 1926, sixteen per cent returned to the opposition in June, 1927, when the question was again on the suffrage clause. Ten per cent of the precincts voting for repeal of the exclusion clause in November, 1926, voted against repeal of the suffrage clause seven months later. Almost two-thirds of these latter precincts were in Multnomah County, where the majority for repeal dropped from sixty-eight per cent in 1926 to fifty-nine per cent in 1927. It must be remembered, however, that as great a shift of votes occurred in the other direction, and if Multnomah County is left out of the total, the shift of votes from 1916 on was overwhelmingly toward support of repeal measures.<sup>18</sup>

There is no reason to assume that race prejudice in Oregon either increased or decreased between 1916 and 1926. If prejudice were the primary cause of the defeat of the repeal measure in 1916, a considerable amount of enlightenment must have come to the voters in the following decade, and there is no evidence that such was the case. Voting patterns do not appear on the whole to have been affected either positively or

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<sup>18</sup>I have returns for all three elections from only 284 precincts. Of these, 133 voted against repeal in 1916, but for it in 1926. Of that 133, 22 voted against repeal in 1927. Of 1200 (out of 1474 available) precincts voting for repeal in 1926, 172 voted against it in 1927, and 105 of those 172 were in Multnomah County. County Abstracts: Measures, Oregon State Archives.



negatively by concentrations of Negroes or other non-whites. The only definite indication of racial bias that can be derived from the election returns lies in the propensity of scattered precincts to vote against repeal of the suffrage clause and for repeal of the exclusion clause. As has been shown, though, these precincts were few outside of Multnomah County and the trend throughout the state from 1916 on was consistently toward larger majorities for repeal of both clauses.

The extent to which ignorance or confusion concerning the ballot measures was a major factor in election results is easier to determine than the influence of race prejudice. Most observers at the time believed that voters who cast their ballots against repeal did so out of misunderstanding. The Oregonian, in an acerbic editorial, attributed the 1916 defeat of repeal to "crass ignorance." Noting that Morrow County's voters had supported establishment of a normal school in nearby Pendleton at the same time that they turned down repeal of the suffrage clause, the Heppner Gazette-Times concluded that not only were the voters ignorant, but they knew it and sought to be educated. The Medford Mail Tribune had recommended repeal in 1916, but seemed a little vague itself on the effect of the measure; it reported that a "negro suffrage bill" had been defeated, saying that Negroes were voting in Oregon "by virtue of the fifteenth national constitutional amendment only."<sup>19</sup>

Even when repeal was accomplished, the number of negative

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<sup>19</sup> Oregonian, November 11, 1916, p. 8; Heppner Gazette-Times, November 9, 1916, p. 1; Medford Mail Tribune, November 10, 1916, p. 1.

gram, the Labor Press, and the Catholic Sentinel, all of Portland, in endorsing repeal, and Multnomah County in that year gave the biggest majority in the state, by a wide margin, in favor of repeal. It is not argued here that editorial positions were the controlling factor in determining election outcomes, but in relatively obscure questions a newspaper's comment can be a major source of information for the average voter.<sup>22</sup>

A close correspondence between editorial interest in the repeal measures and the level of favorable votes on repeal was found elsewhere in the state in 1916. Of five downstate newspapers checked, in towns for which returns are available, only one, the Medford Mail Tribune, mentioned and endorsed the the repeal measure. Its explanation was quite cursory, but the other four newspapers made no mention at all of the issue. The city of Medford voted for the repeal measure in 1916; three of the other four towns did not.<sup>23</sup>

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<sup>22</sup>See above, pp. 84-85, 88-89.

<sup>23</sup>The newspapers checked were the Astoria Daily Morning Astorian, the Forest Grove Express, the Gold Beach Reporter, the Klamath Falls Herald, and the Medford Mail Tribune. The votes were as follows:

	<u>For repeal</u>	<u>Against repeal</u>
Astoria	860	1330
Forest Grove	595	356
Gold Beach	46	67
Klamath Falls	642	681
Medford	1103	1100

For the Mail Tribune's endorsement, see its issue of November 4, 1916, p. 4. It should be pointed out that Forest Grove is a college town, while the others were not. All 1916 precinct abstracts were obtained from County Clerks of the various counties.

A similar survey of the 1926 election, based on fifteen towns and their respective newspapers, yields approximately similar results. The towns ranged in size from Eugene, then the third largest city in the state, to Florence, with a population at that time of about 500. Seven of the towns had newspapers which explained or made a recommendation on the repeal measure of that year, but in the other eight localities no mention was made of the matter prior to the election. In the former group, the average favorable vote was 66 per cent; the latter group, where no information was offered in the press, also supported repeal, but by a lower margin of 61 per cent. The statewide electorate returned a favorable vote of 62.5 per cent. Ranking the towns according to their percentage of "yes" votes on the question, we find that four of the five highest ranked towns had newspapers which commented on the measure and four of the five lowest ranked were towns whose press had ignored the issue.<sup>24</sup>

<sup>24</sup>Newspapers surveyed:

	<u>Endorsement or explanation</u>
Albany <u>Democrat-Herald</u>	X (September 29, 1926, p. 4)
Astoria <u>Daily Morning Astorian</u>	
Bend <u>Bulletin</u>	X (October 20, 1926, p. 4)
Corvallis <u>Gazette-Times</u>	X (October 6, 1926, p. 2)
Corvallis <u>Benton Independent</u>	
Eugene <u>Guard</u>	X (November 1, 1926, p. 4)
Florence <u>Times</u>	
Glendale <u>Log</u>	
Gold Beach <u>Reporter</u>	
Grants Pass <u>Courier</u>	
Gresham <u>Outlook</u>	X (October 26, 1926, p. 1)
Haines <u>Record</u>	
Halsey <u>Enterprise</u>	
Heppner <u>Gazette-Times</u>	X (October 28, 1926, p. 4)
Klamath Falls <u>Herald</u>	
Medford <u>Mail Tribune</u>	X (October 31, 1926, p. 4)



While no comparisons were made for the election of June, 1927, it is interesting to note that four towns outside of Portland whose papers made explanations of the ballot measure returned majorities ranging from four per cent to sixteen per cent above the majority for the state as a whole on the question of repeal.<sup>25</sup>

At each succeeding election from 1900 to 1926, the press of Oregon showed increasing interest in the attempt to repeal the two clauses of Oregon's constitution placing legal disabilities on Negroes. The special election of 1927 included

Vote by cities, November, 1926:

City	For repeal	Against repeal	Rank
Albany	1063 (68.9)	484 (31.1)	3
Astoria	1432 (66.0)	740 (34.0)	4
Bend	854 (58.1)	616 (41.9)	10
Corvallis	1233 (72.6)	465 (27.4)	1
Eugene	2395 (71.0)	975 (29.0)	2
Florence	53 (55.8)	42 (44.2)	13
Glendale	68 (47.6)	72 (52.4)	15
Gold Beach	76 (60.4)	50 (39.6)	7
Grants Pass	605 (57.5)	447 (42.5)	11
Gresham	299 (65.7)	156 (34.3)	5
Haines	106 (53.8)	91 (46.2)	14
Halsey	156 (64.7)	85 (35.3)	6
Heppner	232 (59.8)	156 (40.2)	8
Klamath Falls	1069 (59.0)	739 (41.0)	9
Medford	1224 (57.2)	916 (42.8)	12

Source: County Abstracts: Measures, 1926, Oregon State Archives.

<sup>25</sup>The newspapers were the Albany Democrat-Herald, the Bend Bulletin, the Gresham Outlook, and the Rainier Review.

	For repeal	Against repeal	Endorsement
Albany	572 (78.5%)	157 (21.5)	June 27, 1927, p.4
Bend	387 (68.5)	178 (31.5)	June 27, 1927, p.4
Gresham	177 (74.0)	63 (26.0)	June 24, 1927, p.1
Rainier	110 (66.2)	56 (33.8)	June 3, 1927, p.1

The vote in the state as a whole was 62.3 per cent for repeal. Figures from County Abstracts: Measures, 1927, Oregon State Archives.

a measure on repeal of the suffrage clause, but it was treated as a kind of leftover from the general election of the previous year and somewhat less attention was paid to it. The rise of editorial concern was most striking between 1916 and 1926, and it was between these two elections that the greatest shift of votes occurred. Moreover, the Voters' Pamphlet which in 1916 had offered no recommendation or explanation of the repeal measure of that year was in 1926 exhorting the voters to action. This evidence indicates that the voters' understanding of the questions they were called upon to decide was a major factor in determining the success or failure of repeal.

It is clear that the primary reason for defeat of the measure for repeal of the suffrage clause in 1916, and for most of the votes against the repeal measures of 1926 and 1927, was that those who voted "no" in most cases did not understand what they were being asked to do. Race prejudice played a secondary role in determining votes, and the "mossback" syndrome of general opposition was of very little importance except in the first repeal election in 1900.

The two racist clauses in the constitution were relics from the past, which could be expected to cause confusion in voters who encountered them for the first time at the polls. The difference between defeat in 1916 and success in 1926 for the repeal movement, if it can be called that, lay in the explanations and endorsements presented to the people by the state's newspapers and the Voters' Pamphlet. To the extent that rural areas were more reluctant than urban areas to approve

repeal in 1916, 1926, and 1927, the reason probably lies in the better opportunities for information available in cities and towns. As more efforts were made throughout the state to inform the electorate on the question, majorities for repeal became almost universal; not one county voted against repeal in 1927.

One cannot say with any certainty that race prejudice accounted for specific blocs of votes against repeal, except for the strong probability that such was the case where precincts gave majorities for repeal of the exclusion clause but against repeal of the suffrage clause. It can be asserted with confidence that a majority of votes were not based on prejudice. The counties that voted for repeal in 1900 can hardly be assumed to have become biased against Negroes between that election and the one held in 1916, unless one also assumes that those areas voting against repeal in 1900 lost their race prejudice in the following sixteen years. Again, there is no evidence of increase or decrease in racial biases between 1916 and 1926, yet many who voted against the 1916 measure cast their ballots for the one in 1926.

As has often been repeated in this essay, Oregon was no more free from racial bigotry than any other state in the Union. Perhaps the distinction made in Oregon was that prejudices were a matter of purely private concern and had no place in the making of public policy (except when the possibility of miscegenation was involved). In any case, the main problem as far as the efforts for repeal of the two racial clauses were concerned was



one of understanding, and when the issue was made clear to the voters they responded by eliminating the offending provisions from the state's basic law.

## VII. Conclusion: Private Attitudes and Public Policy

A curious dichotomy runs through the history of Oregon's race laws. On the one hand, expressions of race prejudice abound, ranging from the dispassionate opinions of Harvey Scott and George Williams that perhaps Negro suffrage was a mistake to the suggestion of J. S. Miller in 1862 that the Union might be saved by feeding Negro bodies to the dogs. On the other hand, there was a definite reluctance to enact anti-Negro legislation and an almost total lack of interest in enforcing such laws when they were passed. Whatever their rhetoric, white Oregonians showed in practice that they were not very interested in denying Negro Oregonians their civil rights.

A number of moves were made between the first organization of a government in Oregon in 1843 and the end of Reconstruction in the 1870's to exclude Negroes from the region or to restrict their citizenship if they did come. Two exclusion laws were adopted before Oregon achieved statehood in 1859: the first under the provisional government in 1843, and the second at the organization of the territorial government in 1849. The people, by popular vote, put an exclusion clause into the state constitution in 1857. Besides these successful moves, there were three unsuccessful attempts to adopt exclusion clauses between 1854 and 1857, and four more tries between

1862 and 1866. Obviously, there were many white Oregonians who did not want Negroes around.

In addition to exclusion laws, or in some cases in place of them, laws were proposed in the 1860's to disqualify Negroes as witnesses, to require them to pay poll taxes, and to prohibit interracial marriages. Negro children were sporadically denied access to the public schools, or put into segregated classrooms of one sort or another, as early as 1867 and as recently as 1926. The city of Portland was the scene in the 1920's of efforts to pass ordinances outlawing mixed dancing in cabarets and prohibiting Negroes from taking out building permits.

The most vigorous and widespread expressions of anti-Negro sentiment in Oregon came just before and just after the Civil War. The slavery debate seized Oregon in 1857, and the move for statehood was thoroughly enmeshed in the question of whether it would be achieved as a slave state or a free state. After the war, the adoption of the Fourteenth and Fifteenth Amendments brought the "Negro Question" to the fore again, as the Democratic party returned to power on a platform largely constructed of hatred for Negroes, and proceeded to try to nullify the two Amendments.

In general, these actions and postures had no effect, other than possibly a psychological one, on Negroes living in Oregon. Of ten attempts at passage of a Negro exclusion law, only three succeeded in being adopted. The first one passed was repealed a year before it was due to go into effect. The



second was acted on four times in its four-year life: one Negro was expelled from the territory in 1851, one expulsion order was issued but not executed in that same year, one Negro resident was exempted by legislative act in 1853, and the law was repealed in 1854. Although the people voted overwhelmingly for a constitutional exclusion clause in 1857, no implementing legislation was even offered until five years later.

The attempt to disqualify Negroes as witnesses in 1862 failed of passage. A poll tax was required of Negroes for a few years in the 1860's, but it faded into obscurity after the adoption of the Fourteenth Amendment. The Democratic party, most vociferous in its denunciations of Negro equality, did not try to follow up its protests against the Reconstruction Amendments with local anti-Negro legislation. Only the law prohibiting interracial marriage had any lasting effect, and it was easily subverted since Washington territory and state had no such law.

Although various attempts were made to keep black children from white classrooms, none succeeded for long, either in the Nineteenth Century or in the Twentieth. Neither the move to deny building permits to Negroes nor restrictive covenants were very effective in Portland; the census of 1910 shows numerous Negro residents in each of the city's ten wards.<sup>1</sup> When the Ku Klux Klan came to Oregon in 1922, it had no success in making an issue of race hatred. Only two Negroes were

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<sup>1</sup>United States Census Reports, Composition and Characteristics of the Population by States, 1910, p. 523.

attacked by it; one was run out of Jackson county, but the other stood his ground in Salem and was not molested beyond the receipt of one threatening letter.

The failure of Oregon's voters to repeal racist provisions of the state constitution in 1900 and 1916 has been attributed to race prejudice. It has been shown above that such was not the case. In the first repeal election, anti-amendment sentiment was a far more important factor than anti-Negro sentiment. Rejection of the repeal measure of 1916 was primarily the result of a misunderstanding on the part of voters as to what was being asked of them, and when the issue was clarified by the press and the voters' pamphlet in 1926 and 1927, repeal measures passed easily.

Why the dichotomy between racist talk and relatively non-racist practice? Most white Oregonians apparently did not want their personal prejudices written into law. It is even possible that the extent of race prejudice in the state was more apparent than real. The legislators of the territorial era were usually ready to grant exemptions from the exclusion law when it was nominally in effect, and Negroes' civil rights were not interfered with except in the matters of voting and marriage. The anti-Negro speeches of the Reconstruction period were frequently answered by speeches showing little race hatred, and the legislative committee reports on the Negro exclusion bills of 1864 and 1866 contained language echoing civil rights speeches made in our own time.

The peak of anti-Negro agitation, or rather the peaks,

came at times when the nation as a whole was most greatly agitated over the matter of Negro status. The first great outburst, culminating in the adoption of the constitutional exclusion clause in 1857, was a product not of conditions in Oregon but of the operations of national partisanship. The Democratic party was the dominant political organization in the state at that time, and its parent party in the East was convulsed by the slavery controversy. The issue was imported to Oregon by party loyalties, and it flourished there for little more than a year.

The same is true of the anti-Negro politics of the post-Civil War period. The Democratic party in Oregon campaigned on a platform of opposition to Negro civil rights not out of any great fear that Negroes were threatening to dominate or undermine white society in Oregon, but because the issue was paramount in Eastern conflicts between Democrats and Republicans. Again, the issue died in Oregon some years before it was laid to rest in the East.

There were two basic reasons for white Oregonians' lack of enthusiasm for effective anti-Negro legislation in the state. First, it was felt to be unnecessary. The most common argument against exclusion laws in the territorial period was that Oregon's Negro population was negligible and on the whole composed of responsible citizens, and that there was little likelihood of a massive influx of Negroes into the region. In a later day, the point was made somewhat differently: the Oregonian's editor at the turn of the century was arguing that legal segregation



was not necessary, since Negroes were inherently unable to advance themselves without white help anyhow.

The other reason for opposition to racial disability laws was that they were held to be wrong in principle. The committee of the Oregon Senate which had charge of the exclusion bill of 1866 said that its passage would violate the "fundamental principles of justice and humanity."<sup>2</sup> A similar stand was taken during the repeal campaign of 1926. Newspapers called the clause "the shame of Oregon," "a reproach," and a "dark blot." The Voters' Pamphlet of that year also strongly urged repeal of the clause on grounds of principle, invoking the memory of Abraham Lincoln against it.<sup>3</sup>

The many attempts to enact anti-Negro laws in Oregon, and the failure of two efforts at repeal of the state constitution's racial clauses, give a misleading picture of conditions in the state. They make it appear that race prejudice was a much more powerful force than it actually was. From the point of view of Oregon's Negro citizens, of course, the reality was quite bad enough. Nevertheless, it is somewhat to the credit of Oregon's white residents that more often than not, in strictly local matters at least, they found laws inhibiting the rights of Negroes to be either morally repugnant or irrelevant.

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<sup>2</sup>See above, p. 41.

<sup>3</sup>See above, pp. 94-96.

## Appendix I

Votes cast by counties on repeal of Article I, section  
35, June 4, 1900.

<u>County</u>	<u>For repeal</u>	<u>Against repeal</u>	<u>Rank</u> (% of yes votes)
Baker	637 (65.3%)	339 (34.7%)	5
Benton	362 (42.5)	489 (57.5)	30
Clackamas	877 (44.6)	1164 (55.4)	29
Clatsop	321 (50.6)	313 (49.4)	23
Columbia	227 (54.6)	188 (45.4)	14
Coos	551 (64.4)	304 (35.6)	6
Crook	188 (53.4)	164 (46.6)	17
Curry	147 (66.2)	75 (33.8)	4
Douglas	745 (47.9)	814 (52.1)	26
Gilliam	231 (64.1)	129 (35.9)	7
Grant	234 (66.6)	117 (33.4)	3
Harney	116 (59.7)	78 (40.3)	10
Jackson	873 (55.2)	710 (44.8)	13
Josephine	402 (62.9)	237 (37.1)	8
Klamath	170 (73.3)	62 (26.7)	1
Lake	110 (53.6)	95 (46.4)	16
Lane	1010 (52.3)	922 (47.7)	20
Lincoln	208 (59.1)	144 (40.9)	11
Linn	881 (35.7)	1625 (64.3)	33
Malheur	221 (69.2)	98 (30.8)	2
Marion	986 (38.3)	1592 (61.7)	32
Morrow	198 (46.8)	225 (53.2)	27
Multnomah	4313 (45.2)	5215 (54.8)	28
Polk	467 (39.8)	709 (60.2)	31
Sherman	234 (52.4)	213 (47.6)	19
Tillamook	274 (58.1)	198 (41.9)	12
Umatilla	799 (51.9)	740 (48.1)	22
Union	895 (49.3)	920 (50.7)	25
Wallowa	279 (54.1)	237 (45.9)	15
Wasco	458 (52.0)	423 (48.0)	21
Washington	749 (49.4)	768 (50.6)	24
Wheeler	114 (60.0)	76 (40.0)	9
Yamhill	697 (53.1)	616 (46.9)	18
Total	19,074	19,999	

Source: Abstract of Votes, Report of Secretary of State, 1901.

Appendix II

Votes cast by counties on repeal of Article II, Section 6, November 7, 1916.

<u>County</u>	<u>For repeal</u>	<u>Against repeal</u>	<u>Rank</u>
Baker	1804 (37.4%)	3102 (62.6%)	31
Benton	2377 (52.7)	2127 (47.3)	2
Clackamas	4435 (47.8)	4834 (52.2)	9
Clatsop	1449 (39.6)	2229 (60.4)	29
Columbia	1184 (43.3)	1550 (56.7)	18
Coos	2331 (44.9)	2857 (55.1)	14
Crook	1399 (43.6)	1850 (56.4)	17
Curry	320 (38.3)	496 (61.7)	30
Douglas	2709 (43.2)	3567 (56.8)	19
Gilliam	421 (41.5)	602 (58.5)	23
Grant	594 (35.6)	1074 (64.4)	32
Harney	556 (34.6)	1051 (65.4)	34
Hood River	1035 (49.3)	1064 (50.7)	6
Jackson	3363 (48.4)	3572 (51.6)	8
Jefferson	467 (40.6)	682 (59.4)	25
Josephine	1305 (47.7)	1431 (52.3)	10
Klamath	1133 (44.3)	1423 (55.7)	16
Lake	430 (30.8)	964 (69.2)	35
Lane	4905 (46.5)	5655 (53.5)	11
Lincoln	850 (49.5)	865 (50.5)	5
Linn	3554 (45.7)	4209 (54.3)	13
Malheur	1210 (42.6)	1633 (57.4)	22
Marion	5500 (48.5)	5907 (51.5)	7
Morrow	494 (40.9)	718 (59.1)	24
Multnomah	38938 (59.9)	26098 (40.1)	1
Polk	2145 (44.7)	2650 (55.3)	15
Sherman	508 (43.1)	670 (56.9)	20
Tillamook	877 (42.8)	1172 (57.2)	21
Umatilla	2411 (39.6)	3676 (60.4)	28
Union	1720 (39.9)	2591 (60.1)	27
Wallowa	854 (35.3)	1565 (64.7)	33
Wasco	1748 (45.8)	2066 (54.2)	12
Washington	3445 (52.5)	3137 (47.5)	3
Wheeler	340 (40.1)	508 (59.9)	26
Yamhill	3216 (50.9)	3106 (49.1)	4
Total	100,027	100,701	

Source: Abstract of Votes, Measures, 1916.



Appendix III

Votes cast by counties on repeal of Article I, section 35, November 2, 1926.

<u>County</u>	<u>For repeal</u>	<u>Against repeal</u>	<u>Rank</u>
Baker	2258 (55.5%)	1812 (44.5%)	27
Benton	2305 (69.3)	1027 (30.7)	2
Clackamas	5271 (60.7)	3408 (39.3)	15
Clatsop	2353 (64.0)	1324 (36.0)	8
Columbia	1476 (58.3)	1052 (41.7)	18
Coos	2810 (60.3)	1855 (39.7)	16
Crook	433 (59.3)	297 (40.7)	17
Curry	348 (57.0)	262 (43.0)	22
Deschutes	1430 (57.5)	1054 (42.5)	21
Douglas	2422 (53.2)	2125 (46.8)	30
Gilliam	388 (50.1)	387 (49.9)	33
Grant	495 (44.6)	613 (55.4)	36
Harney	462 (53.4)	403 (46.6)	29
Hood River	987 (69.8)	437 (30.2)	1
Jackson	3316 (55.8)	2624 (44.2)	25
Jefferson	309 (65.0)	167 (35.0)	4
Josephine	1047 (52.9)	933 (47.1)	31
Klamath	1718 (55.7)	1361 (44.3)	26
Lake	436 (46.9)	493 (53.1)	35
Lane	5799 (64.9)	3142 (35.1)	5
Lincoln	982 (52.8)	876 (47.2)	32
Linn	3525 (62.3)	2133 (37.7)	12
Malheur	881 (54.0)	751 (46.0)	28
Marion	7174 (63.7)	4093 (36.3)	10
Morrow	558 (56.1)	435 (43.9)	24
Multnomah	40858 (67.6)	20514 (32.4)	3
Polk	1927 (57.8)	1409 (42.2)	19
Sherman	440 (63.3)	254 (36.7)	11
Tillamook	1543 (57.6)	1139 (42.4)	20
Umatilla	2814 (62.1)	1711 (37.9)	14
Union	2254 (62.2)	1365 (37.8)	13
Wallowa	856 (56.5)	659 (43.5)	23
Wasco	1763 (63.8)	1003 (36.2)	9
Washington	3416 (64.6)	1861 (35.4)	34
Yamhill	2983 (64.1)	1678 (35.9)	7
Total	108,332 (62.5)	63,954 (37.5)	

Source: Abstract of Votes, Measures, 1926.

Appendix IV

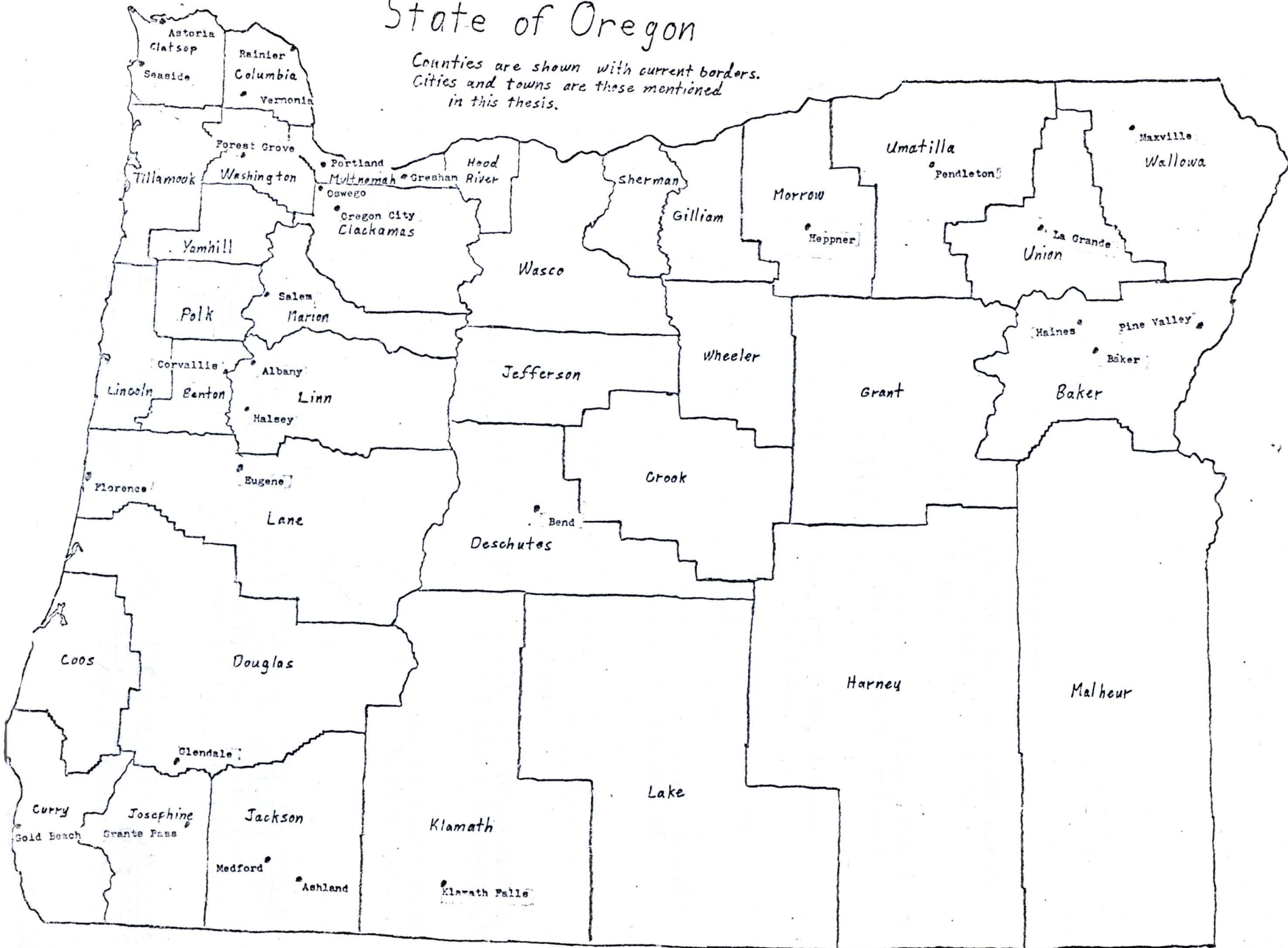
Votes cast by counties on repeal of Article II, section 6, June 27, 1927.

<u>County</u>	<u>For repeal</u>	<u>Against repeal</u>	<u>Rank</u>
Baker	1173 (61.5%)	738 (38.5%)	26
Benton	1437 (77.4)	419 (22.6)	2
Clackamas	3254 (64.4)	1799 (35.6)	20
Clatsop	1403 (68.7)	638 (31.3)	8
Columbia	906 (65.2)	484 (34.8)	18
Coos	1424 (67.4)	690 (32.6)	12
Crook	293 (74.2)	101 (25.8)	4
Curry	253 (57.4)	188 (42.6)	33
Deschutes	746 (67.8)	355 (32.2)	11
Douglas	1729 (62.1)	1055 (37.9)	25
Gilliam	255 (59.0)	177 (41.0)	31
Grant	379 (55.6)	303 (44.4)	35
Harney	283 (60.5)	185 (39.5)	29
Hood River	654 (79.6)	168 (20.4)	1
Jackson	1877 (54.2)	1583 (45.8)	36
Jefferson	235 (74.3)	81 (25.7)	3
Josephine	647 (62.7)	385 (37.3)	24
Klamath	944 (56.5)	728 (43.5)	34
Lake	294 (60.1)	195 (39.9)	30
Lane	4493 (66.0)	2309 (34.0)	15
Lincoln	579 (64.0)	326 (36.0)	22
Linn	2349 (70.6)	979 (29.4)	5
Malheur	413 (60.6)	269 (39.4)	28
Marion	4382 (64.8)	2374 (35.2)	19
Morrow	289 (66.1)	148 (33.9)	14
Multnomah	27587 (58.7)	19395 (41.3)	32
Polk	1290 (65.9)	666 (34.1)	16
Sherman	259 (70.5)	109 (29.5)	6
Tillamook	932 (68.2)	587 (31.8)	18
Umatilla	1418 (66.6)	707 (33.4)	13
Union	1506 (60.7)	973 (39.3)	27
Wallowa	473 (64.3)	263 (35.7)	21
Wasco	1035 (63.9)	583 (36.1)	23
Washington	1925 (68.6)	878 (31.4)	9
Wheeler	234 (65.3)	124 (34.7)	17
Yamhill	2023 (68.8)	924 (31.2)	7
Total	69,373 (62.3)	41,887 (37.7)	

Source: County Abstracts, Measures, 1927.

# State of Oregon

Counties are shown with current borders.  
Cities and towns are those mentioned  
in this thesis.





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