

## THE OREGON LAWS OF 1845

The publication of the acts and laws of the House of Representatives of the provisional government of Oregon Territory, passed at a meeting held in Oregon City in August, 1845, is an event of more than passing importance to students of northwest history.<sup>1</sup>

This book consists of sixty pages and was issued by N. A. Phemister Company of New York in 1921. No statement accompanies the book showing the source of the material or the reason for the publication at this late date.

During the years 1914 and 1915 the writer of this article took occasion to study the history of the statute law of Oregon rather closely in checking the completeness of a set of session laws and journals of the Oregon legislature then purchased by the law library of the University of Washington. Mr. Glenn Fairbrook, a graduate of our law school, and at that time our law librarian, was sent to Salem, Eugene and Portland, Oregon, where the best and most complete sets of the Oregon laws were supposed to be located. As the result of his search there he published an article in the *Law Library Journal* of April 1915 beginning at page one of volume eight. In this article Mr. Fairbrook called attention to the fact that there were a number of unpublished laws of Oregon including those set out in the Phemister Company's publication.

In an address by Frederick V. Holman, President of the Oregon Historical Society at its annual meeting held at Portland, Oregon, December 18, 1909, the account of these unpublished laws was stated by Mr. Holman as follows:

"Washington Territory was created out of the northern part of Oregon by Act of Congress, approved March 2, 1853. Prior to that time a number of counties had been created in that part of Oregon by its Provisional and Territorial Legislatures. Of these counties I shall refer only to Vancouver (now Clark) County. I spent much time in an endeavor to find the Act creating Vancouver District or County, but without finding the Act or the boundaries. Neither the Journals of the Legislatures nor the published laws show any record of it. At last I applied to Mr. George H. Himes, the efficient Assistant Secretary of the Oregon Historical Society, who had been away from Portland for several weeks during my search. He found a copy of this Act in the Oregon Historical Library. I believe it to be the only copy in existence. It is con-

<sup>1</sup> Oregon Acts and Laws Passed by the House of Representatives at a Meeting Held in Oregon City, August, 1845. (New York: N. A. Phemister Company, 1921. Pp. 60. \$15.00)

tained in a manuscript book setting forth copies of laws of the Provisional Legislature approved by Governor George Abernethy in August, 1845. Each of these laws is attested by the genuine signature of J. E. Long, Secretary of the Provisional Government. These copies are apparently all the laws passed by the Provisional Legislature at its session, at Oregon City, begun June 24, 1845, which were approved by the Governor. According to the "Oregon Archives," this session adjourned July 5, 1845, to meet August 5, 1845. After meeting according to adjournment it held continuous meetings until August 20, 1845, when it adjourned sine die. Among these copies of laws is one passed July 3, 1845, and five passed July 5, 1845, all of which were approved August 15, 1845. The only acts which, according to the Journal, as set forth in the "Oregon Archives," were passed in July, 1845, and are not contained in these copies, are: "The bill concerning the sittings of the Legislature," passed July 3, and "The bill for locating county seat of Tuality," passed July 5, and two bills granting divorce, passed July 3. None of these laws is contained in the compilation of the laws of 1843-1849, published in 1853, or otherwise printed so far as I have been able to ascertain. The next Legislature should cause these laws to be printed.

"This book formerly belonged to Judge William Strong.<sup>2</sup> After his death it was given by his son, Thomas N. Strong, of Portland, to the Oregon Historical Society. Judge Strong was appointed a Judge of Oregon Territory in 1849, and arrived in Oregon in August, 1850. His judicial district comprised all of Oregon Territory north of the Columbia River, which was the original Vancouver District—and also Clatsop County."—*Oregon Historical Society Quarterly*, Volume II, page 3.

The address by Mr. Holman is one devoted to the History of the counties of Oregon and can be found in Volume II of the *Oregon Historical Society Quarterly* at page one.

According to Mr. Holman the only laws of the June-August session not found in the collection of laws in the possession of the Oregon Historical Society were the following:

"The bill concerning the sittings of the Legislature,

"The bill locating county seat of Tuality", and two bills granting divorces, these from bills being passed July 3, 1845.

Mr. Fairbrook in his article above referred to says there were twelve such laws of the June-August session not found in the then unpublished collection of the Oregon Historical Society.

"Two sessions were held in 1845, one in June, which was adjourned July 5 reconvening again in August, and one in De-

<sup>2</sup> Judge William Strong served as judge of the Supreme Court of Washington Territory from December term of 1858 until December term of 1860.

ember. The Acts passed at the December session of this year are found in the Laws of 43-9, but those of the June session exist only in the document in the Oregon Historical Society collection. There are forty-one acts contained in this copy, including all but twelve of the acts passed at that session by the Journal. These twelve may have failed to receive Executive approval however. Several of these acts adopt various laws of Iowa and one adopts the "acts of the Legislative Committee of 1844," not "incompatible with the original amended organic laws, and not repealed" by the House of 1845."—*Law Library Journal*, 1915, page 2.

There are forty-one acts in the Plemister Company's publication and there were forty-one acts in the Oregon Historical Society collection of the laws of the June-August, 1845, session. About three years ago the writer of this review told Mr. Davis, the representative of the N. A. Plemister Company, of this Oregon Historical Society collection of unpublished laws of that session, and it is fair to assume that the Plemister Company publication is based upon the Oregon Historical Society collection.

In 1915 while Mr. Fairbrook was making his investigation in Portland, Oregon, he was permitted to take a typewritten copy of these laws by the secretary of the Oregon Historical Society, which he did and this copy is now in the law library of the University of Washington.

Two errors of editing this publication should be noted:

First, the name of the secretary of Oregon Territory was J. E. Long and not I. E. Long.

Second, the title page speaks of the laws as being passed in August, 1845. The session at which these laws were passed convened June 24, 1845, and adjourned July 5, 1845, to meet on August 5, 1845, when it met according to adjournment. Many of the laws published were passed in July, 1845. This appears from the "Oregon Archives".

Mr. Fairbrook's article above referred to also calls attention to a number of unpublished laws of the session of June, 1844.

At page twenty-two of this publication is an act to organize the district of Vancouver, passed August 18, 1845, in the following language:

"That all that portion of the Territory of Oregon lying north of the middle of the main channel of the Columbia River shall be and the same is hereby declared a separate District, under the name and style of Vancouver District and the said District shall be entitled to elect One member to the House of Representatives at the next annual Election."—Oregon Acts and Laws for August, 1845, page 22.

This was the first creation of a district, now called county, in what is now the State of Washington and this is the first publication of that act.

Mr. Abbott in his publication of the "Real Property Statutes of Washington Territory, 1843 to 1849", at page 69 says: "The act creating Vancouver County cannot be found among the laws now in existence."

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