

Organic Act of 1853

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act, all that portion of Oregon Territory lying and being south of the forty-ninth degree of north latitude, and north of the middle of the main channel of the Columbia River, from its mouth to where the forty-sixth degree of north latitude crosses said river, near Fort Walla Walla, thence with said forty-sixth degree of latitude to the summit of the Rocky Mountains, be organized into and constitute a temporary government by the name of the Territory of Washington: *Provided*, That nothing in this act contained shall be construed to affect the authority of the government of the United States to make any regulation respecting the Indians of said Territory, their lands, property, or other rights, by treaty, law, or otherwise, which it would have been competent to the government to make if this act had never been passed: *Provided further*, That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, or that may have been so occupied as missionary stations prior to the passage of the act establishing the Territorial government of Oregon, together with the improvements thereon, be, and is hereby, confirmed and established to the several religious societies to which said missionary stations respectively belong.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Washington shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the

United States. The governor shall reside in said Territory, shall be the commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of Superintendent of Indian Affairs; he may grant pardons and remit fines and forfeitures for offenses against the laws of said Territory, and respites for offenses against the laws of the United States until the decision of the President can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said Territory, where, by law, such commissions shall be required, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted,* That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive department; he shall transmit one copy of the laws and journals of the Legislative Assembly within thirty days after the end of each session, and one copy of the executive proceedings and official correspondence semi-annually, on the first days of January and July in each year, to the President of the United States, and two copies of the laws to the President of the Senate and to the Speaker of the House of Representatives, for the use of Congress. And in case of the death, removal, resignation, or absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or absence, or until another Governor shall be duly appointed and qualified to fill such vacancy.

SEC. 4. *And be it further enacted,* That the Legislative power and authority of said Territory shall be vested in a Legislative Assembly, which shall consist of a Council and House of Representatives. The Council shall consist of nine members, having the qualifications of voters, as hereinafter prescribed, whose term of service shall continue three years. Immediately after they shall be assembled, in consequence of their first election, they shall be divided as equally as may be into three classes. The seats of the members of Council of the first class, shall be vacated at the expiration of the first year, of the second class at the expiration of the second year, and of the third class at the expiration of the third year, so that one third may be chosen every year; and if vacancies happen, by resignation or otherwise, the same shall be filled at the next ensuing election. The House of Representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of representatives may be increased by the Legislative Assembly, from time to time, in proportion to the increase of qualified voters: *Provided,* That the whole number shall never exceed thirty. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving to each section of the Territory representation in the ratio of its qualified voters, as nearly as may be. And the members of the Council and of the House of Representatives shall reside in, and be inhabitants of, the district or county or counties, for which they may be elected, respectively. Previous to the first election, the Governor shall cause a census or enumeration of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken, by such persons,

and in such mode, as the Governor shall designate and appoint; and the persons so appointed shall receive a reasonable compensation therefor. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who shall superintend such election and the returns thereof, as the Governor shall appoint and direct; and he shall at the same time declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this act; and the Governor shall, by his proclamation, give at least sixty days' previous notice of such apportionment, and of the time, places, and manner of holding such election. The persons having the highest number of legal votes in each of said council districts for members of the Council shall be declared by the Governor to be duly elected to the Council, and the persons having the highest number of legal votes for the House of Representatives shall be declared by the Governor to be duly elected members of said House: *Provided*, That in case two or more persons voted for shall have an equal number of votes, and in case a vacancy shall otherwise occur in either branch of the Legislative Assembly, the Governor shall order a new election; and the persons thus elected to the Legislative Assembly shall meet at such place, and on such day, within ninety days after such elections, as the Governor shall appoint. But thereafter the time, place, and manner of holding and conducting all elections by the people, and the apportioning the representation in the several counties or districts to the Council and House of Representatives, according to the number of qualified voters, shall be prescribed by law, as well as the day of the commencement of the regular session of the Legislative Assembly: *Provided*, That no session in any one year shall

exceed the term of sixty days, except the first session, which shall not exceed one hundred days.

SEC. 5. *And be it further enacted,* That every white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this act, and shall possess the qualifications hereinafter prescribed, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the Legislative Assembly: *Provided,* That the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and those above that age who shall have declared on oath their intention to become such, and shall have taken an oath to support the Constitution of the United States and the provisions of this act: *And provided further,* That no officer, soldier, seaman, mariner, or other person in the army or navy of the United States, or attached to troops in the service of the United States, shall be allowed to vote in said Territory, by reason of being on service therein, unless said Territory is, and has been for the period of six months, his permanent domicil: *Provided further,* That no person belonging to the army or navy of the United States shall ever be elected to or hold any civil office or appointment in said Territory.

SEC. 6. *And be it further enacted,* That the Legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or

other property of nonresidents be taxed higher than the lands or other property of residents. All the laws passed by the Legislative Assembly shall be submitted to the Congress of the United States, and, if disapproved, shall be null and of no effect: *Provided*, That nothing in this act shall be construed to give power to incorporate a bank or any institution with banking powers, or to borrow money in the name of the Territory, or to pledge the faith of the people of the same for any loan whatever, directly or indirectly. No charter granting any privileges of making, issuing, or putting into circulation any notes or bills in the likeness of bank-notes, or any bonds, scrip, drafts, bills of exchange, or obligations, or granting any other banking powers or privileges, shall be passed by the Legislative Assembly; nor shall the establishment of any branch or agency of any such corporation, derived from other authority, be allowed in said Territory; nor shall said Legislative Assembly authorize the issue of any obligation, scrip, or evidence of debt, by said Territory, in any mode or manner whatever, except certificates for service to said Territory. And all such laws, or any law or laws inconsistent with the provisions of this act, shall be utterly null and void. And all taxes shall be equal and uniform; and no distinctions shall be made in the assessments between different kinds of property, but the assessments shall be according to the value thereof. To avoid improper influences, which may result from intermixing in one and the same act such things as have no proper relation to each other, every law shall embrace but one object, and that shall be expressed in the title.

SEC. 7. *And be it further enacted*, That all township, district, and county officers not herein otherwise provided for, shall be appointed or elected in such manner as shall be provided by the Legislative Assembly of the Territory of

Washington.

SEC. 8. *And be it further enacted,* That no member of the Legislative Assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first Legislative Assembly; and no person holding a commission or appointment under the United States shall be a member of the Legislative Assembly, or shall hold any office under the government of said Territory.

SEC. 9. *And be it further enacted,* That the judicial power of said Territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said Territory annually, and they shall hold their offices during the period of four years, and until their successors shall be appointed and qualified. The said Territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointments, respectively reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of the probate courts and of justices of the peace, shall be as limited by law: *Provided,* That justices of the peace shall not have jurisdiction of any case in which the title to land shall in any wise come in question, or where the debt or damages

claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception, and appeals, shall be allowed in all cases from the final decisions of said district court to the supreme court under such regulations as may be prescribed by law; but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the circuit court of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed two thousand dollars, and in all cases where the constitution of the United States, or acts of Congress, or a treaty of the United States, is brought in question; and each of the said district courts shall have and exercise the same jurisdiction in all cases arising under the constitution of the United States and the laws of said Territory, as is vested in the circuit and district courts of the United States; writs of error and appeal in all such cases shall be made to the supreme court of said Territory the same as in other cases. Writs of error, and appeals from the final decisions of said supreme court, shall be allowed and may be taken to the supreme court of the United States in the same manner as from the circuit courts of the United

States, where the value of the property, or the amount in controversy, shall exceed two thousand dollars, and each of said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and also of all cases arising under the laws of said Territory, and otherwise. The said clerk shall receive in all such cases the same fees which the clerks of the district courts of the Territory of Oregon receive for similar services.

SEC. 10. *And be it further enacted,* That there shall be appointed an attorney for said Territory, who shall continue in office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall receive the same fees and salary as is provided by law for the attorney of the United States for the Territory of Oregon. There shall also be a marshal for the Territory appointed, who shall hold his office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President, and who shall execute all processes issuing from the said courts when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulation and penalties, and be entitled to the same fees, as are provided by law for the marshal of the Territory of Oregon, and shall, in addition, be paid the sum of two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted,* That the governor, secretary, chief justice, and associate justices, attorney, and marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the

United States. The governor and secretary to be appointed as aforesaid shall, before they act as such, respectively take an oath or affirmation before the district judge, or some justice of the peace in the limits of said Territory duly authorized to administer oaths and affirmations by the laws in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices, which said oaths, when so taken, shall be certified by the person before whom the same shall have been taken; and such certificates shall be received and recorded by the said Secretary among the executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affirmation before the said Governor or Secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted, by the person taking the same, to the Secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified and recorded in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of fifteen hundred dollars as Governor, and fifteen hundred dollars as Superintendent of Indian affairs. The Chief Justice, and Associate Justices, shall each receive an annual salary of two thousand dollars. The Secretary shall receive an annual salary of fifteen hundred dollars. The said salaries shall be paid quarterly, from the dates of the respective appointments, at the Treasury of the United States; but no such payment shall be made until said officers shall have entered upon the duties of their respective appointments. The members of the legislative assembly

shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars each for every twenty miles' travel in going to and returning from said sessions, estimated according to the nearest usually traveled route. And a chief clerk, one assistant clerk, a sergeant-at-arms, and door-keeper, may be chosen for each house; and the chief clerk shall receive five dollars per day, and the said other officers three dollars per day, during the session of the legislative assembly; but no other officers shall be paid by the United States: *Provided*, That there shall be but one session of the legislative assembly annually, unless, on an extraordinary occasion, the Governor shall deem it expedient and proper to call the legislature together. There shall be appropriated, annually, the sum of fifteen hundred dollars, to be expended by the Governor, to defray the contingent expenses of the Territory, including the salary of a clerk of the executive department; and there shall also be appropriated, annually, a sufficient sum to be expended by the Secretary of the Territory, and upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the Governor and Secretary of the Territory shall, in the disbursement of all moneys intrusted to them, be governed solely by the instructions of the Secretary of the Treasury of the United States, and shall, semi-annually, account to the said Secretary for the manner in which the aforesaid sums of money shall have been expended; and no expenditure, to be paid out of money appropriated by Congress, shall be made by said legislative assembly for objects not specially authorized by the acts of Congress making the appropriations, nor beyond the sums thus appropriated for such objects.

SEC. 12. *And be it further enacted,* That the laws now in force in said Territory of Washington, by virtue of the legislation of Congress in reference to the Territory of Oregon, which have been enacted and passed subsequent to the first day of September, eighteen hundred and forty-eight, applicable to the said Territory of Washington, together with the legislative enactments of the Territory of Oregon, enacted and passed prior to the passage of, and not inconsistent with, the provisions of this act, and applicable to the said Territory of Washington, be, and they are hereby, continued in force in said Territory of Washington until they shall be repealed or amended by future legislation.

SEC. 13. *And be it further enacted,* That the legislative assembly of the Territory of Washington shall hold its first session at such time and place in said Territory as the Governor thereof shall appoint and direct; and at said first session, or as soon thereafter as they shall deem expedient, the legislative assembly shall proceed to locate and establish the seat of government for said Territory, at such place as they may deem eligible; which place, however, shall thereafter be subject to be changed by said legislative assembly. And the sum of five thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Washington, to be there applied by the Governor to the erection of suitable buildings at the seat of government.

SEC. 14. *And be it further enacted,* That a delegate to the House of Representatives of the United States, to serve for the term of two years, who shall be a citizen of the United States, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as have been heretofore

exercised and enjoyed by the delegates from the several other Territories of the United States to the House of Representatives, but the delegate first elected shall hold his seat only during the term of the Congress to which he shall be elected. The first election shall be held at such time, and places, and be conducted in such manner, as the Governor shall appoint and direct; of which, and the time, place, and manner of holding such elections, he shall give at least sixty days' notice by proclamation; and at all subsequent elections the time, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly. The delegate from said Territory shall be entitled to receive the same per diem compensation and mileage at present allowed the delegate from the Territory of Oregon.

SEC. 15. *And be it further enacted,* That all suits, complaints, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts established within and for said Territory of Oregon, by act of Congress, entitled "An act to establish the territorial government of Oregon," approved August fourteen, one thousand eight hundred and forty-eight, wherein the venue in said cases, suits at law, or in chancery, or criminal proceedings, shall be included within the limits hereinbefore declared and established for the said Territory of Washington; then, and in that case, said actions so pending in the Supreme or Circuit Courts of the Territory of Oregon shall be, by the clerks of said courts, duly certified to the proper courts of said Territory of Washington; and thereupon said causes shall, in all things concerning the same, be proceeded on, and

judgments, verdicts, decrees, and sentences rendered thereon, in the same manner as if the said Territory had not been divided. All bonds, recognizances, and obligations of every kind whatsoever, valid, under the existing laws, within the limits of said Territory of Oregon, shall be held valid under this act, and all crimes and misdemeanors against the laws now in force within the said limits of the Territory of Washington may be prosecuted, tried, and punished in the courts established by this act, and all penalties, forfeitures, actions, and causes of action, may be recovered and enforced, under this act, before the Supreme and Circuit Courts established by this act as aforesaid: *Provided*, That no right of action whatever shall accrue against any person for any act done in pursuance of any law heretofore passed by the legislative assembly of the Territory of Oregon, and which may be declared contrary to the Constitution or laws of the United States.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and other judicial and ministerial officers, who shall be in office within the limits of said Territory of Washington when this act shall take effect, shall be and they are hereby authorized and required to continue to exercise and perform the duties of their respective offices, as officers of said Territory, until they or others shall be duly elected or appointed, and qualified, to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 17. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated out of any moneys in the Treasury not otherwise appropriated, to be expended, by and under the direction of the Governor of Washington, in the purchase of a library, to

be kept at the seat of government for the use of the Governor, legislative assembly, Judges of the Supreme Court, secretary, marshal, and Attorney of said Territory, and such other persons, and under such regulations, as shall be prescribed by law.

SEC. 18. *And be it further enacted,* That until otherwise provided for by law, the Governor of said Territory may define the judicial districts of said Territory, and assign the judges who may be appointed for said Territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts by proclamation, to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem expedient and proper.

SEC. 19. *And be it further enacted,* That all officers to be appointed by the President, by and with the advice and consent of the Senate, for the Territory of Washington, who, by virtue of the provisions of any law of Congress now existing, or which may be enacted during the present session of Congress, are required to give security for moneys that may be intrusted with them for disbursement, shall give such security at such time and place, and in such manner, as the Secretary of the Treasury may prescribe.

SEC. 20. *And be it further enacted,* That when the lands in said Territory shall be surveyed under the direction of the Government of the United States preparatory to bringing the same into market or otherwise disposing thereof, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the

purpose of being applied to common schools in said Territory. And in all cases where said sections sixteen and thirty-six, or either or any of them, shall be occupied by actual settlers prior to survey thereof, the County Commissioners of the counties in which said sections so occupied as aforesaid are situated, be, and they are hereby, authorized to locate other lands to an equal amount in sections, or fractional sections, as the case may be, within their respective counties, in lieu of said sections so occupied as aforesaid.

SEC. 21. *And be it further enacted,* That the Territory of Oregon and the Territory of Washington shall have concurrent jurisdiction over all offenses committed on the Columbia River, where said river forms a common boundary between said Territories.

Approved, March 2, 1853. [10 U.S. Statutes at Large, c 90 p 172.]