CONSTITUTIONAL PROVISIONS

THE

CONSTITUTION

OF THE

STATE OF ARKANSAS.

FRAMED AND ADOPTED BY THE CONVENTION WHICH ASSEMBLED AT LITTLE ROCK, JANUARY 7TH, 1868; AND RATIFIED BY THE REGISTERED ELECTORS OF THE STATE, AT THE ELECTION BEGINNING MARCH 18TH, 1868.

WITH

MARGINAL NOTES,

A Full Documentary History of the Constitution,

AND A COPIOUS INDEX.

TO WHICH IS PREFIXED

THE CONSTITUTION OF THE UNITED STATES,

WITH AN INDEX THERETO.

BY JAMES M. POMEROY,
OF THE BAR OF PULASKI CO.

By Authority.

LITTLE ROCK.
1870.

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Persons ineligible to office of Governor.

SECTION THIRTEEN. No member of Congress or any other person holding any office under the United States or this State, shall execute the office of Governor.

Compensation of acting Governor.

SECTION FOURTEEN. The Lieutenant Governor, and the President of the Senate *pro tempore* while performing the office of Governor, shall receive the same compensation as the Governor.

Official acts of Governor to be authenticated by Great Seal of the State.

SECTION FIFTEEN. All official acts of the Governor—his approval of the laws excepted—shall be authenticated by the great Seal of the State, which Seal shall be kept by the Secretary of State.

Notaries Public.

SECTION SIXTEEN. The Governor shall, by and with the advice and consent of the Senate, appoint a convenient number of Notaries Public, not to exceed six for each county, who shall discharge such duties as are now, or as may hereafter be prescribed by law.

Commissions.

SECTION SEVENTEEN. All commissions issued to persons holding office under the provisions of this Constitution shall be in the name, and by the authority of the people of the State of Arkansas, sealed with the great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Governor, Chief Justice, etc., to reside at seat of government.

SECTION EIGHTEEN. The Governor, Chief Justice, Secretary of State, Treasurer, Auditor, Attorney General and Superintendent of Public Instruction, shall severally reside, and keep all public records, books, papers and documents which may pertain to their respective offices, at the seat of government.

Public records to be there kept.

Returns of elections for officers of Executive Department.

SECTION NINETEEN. The returns of every election for Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General and Superintendent of Public Instruction, shall be sealed up and transmitted to the seat of government by the returning officers and directed to the presiding officer of the Senate, who, during the first week of the session shall open and publish the

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same in presence of the members then assembled. The person having the highest number of votes shall be declared elected, but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a joint vote of both houses. Contested elections shall likewise be determined by both houses of the General Assembly in such manner as is or may hereafter be prescribed by law.

Case of tie.

Contested elections.

SECTION TWENTY. The Secretary of State shall keep a fair record of all official acts and proceedings of the Governor, and shall when required lay the same and all papers, minutes and vouchers relative thereto, before the General Assembly, and shall perform such other duties as are now, or may hereafter be prescribed by law.

Duties of Secretary of State.

SECTION TWENTY ONE. The Auditor, Treasurer, Attorney General, and Superintendent of Public Instruction, shall perform such duties as are now, or may hereafter be prescribed by law.

Duties of other officers of Executive Department.

SECTION TWENTY TWO. In case of the death, impeachment, removal from the State or other disability of the Secretary of State, Treasurer, Auditor, Attorney General, and Superintendent of Public Instruction, the vacancies in their several offices thus occasioned shall be filled by appointment of the Governor, which appointment shall be made for the unexpired terms of said officers, or until said disabilities are removed, or until elections are held to fill said vacancies.

Death or disability of Secretary of State, etc.

SECTION TWENTY THREE. Until the General Assembly shall otherwise provide, the Governor shall appoint a suitable person, who shall be styled Commissioner of Public Works and Internal Improvements, who shall hold his office for the term of four years, and until his successor is duly commissioned and qualified. It shall be the duty of the Commissioner of Public Works and Internal Improvements to superintend all public

Commissioner of Public Works and Internal Improvements.

Duties.

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West's Arkansas Code Annotated Currentness
Constitution of the State of Arkansas of 1874
Article 6. Executive Department

→§ 4. Contested elections; executive officers

Contested elections for Governor, Secretary of State, Treasurer of State, Auditor of State, and Attorney General shall be determined by the members of both houses of the General Assembly, in joint session; who shall have exclusive jurisdiction in trying and determining the same, except as hereinafter provided in the case of special elections; and all such contests shall be tried and determined at the first session of the General Assembly after the election in which the same shall have arisen.

HISTORICAL NOTES

2004

Technical changes were made to conform with the official Arkansas Code of 1987 as approved by the Arkansas Code Revision Commission.

LIBRARY REFERENCES

Elections 275.
Westlaw Key Number Search: 144k275.
C.J.S. Elections § § 248, 252.

NOTES OF DECISIONS

Jurisdiction 1

1. Jurisdiction

Const.1868, art. 6, § 19, providing that contested elections for governor and other officers therein named should be determined by the general assembly, created that body a judicial tribunal, with exclusive jurisdiction over such contests. Baxter v. Brooks, 1874, 29 Ark. 173, Unreported. Constitutional Law 70.1(12); Elections 275

Const. Art. 6, § 4, AR CONST Art. 6, § 4

Current through 2003 Second Extraordinary Session and the November 2, 2004, General Election.

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West's Annotated Indiana Code Currentness
+ Constitution of the State of Indiana [Annotated]
+ Article 5. Executive.

> > § 6 Contested elections of governor and lieutenant governor

Section 6. Contested elections for Governor or Lieutenant Governor, shall be determined by the General Assembly, in such manner as may be prescribed by law.

CROSS REFERENCES

Contest of election of state-wide elective officers, see IC 3-1-29-1 et seq.

LIBRARY REFERENCES

1999 Main Volume

Elections ⇐ 270.

WESTLAW Topic No. 144.
C.J.S. Elections § 245.

RESEARCH REFERENCES

2004 Electronic Pocket Part Update

Encyclopedias

Ind. Law Encycl. Elections § 65, Determination And Judgment; Certification Of Determination.

Ind. Law Encycl. State § 30, Governor.

Ind. Law Encycl. State § 31, Lieutenant-Governor.

UNITED STATES CODE ANNOTATED

Method of electing President and Vice-President, see U.S.C.A. Const. Amend. 12.

NOTES OF DECISIONS

In general 1

1. In general

A claimant of the office of Lieutenant-Governor can not maintain an information in the nature of a quo warranto to settle the title to that office, as this section vests exclusive jurisdiction of such controversies in the General Assembly. Robertson v. State ex rel. Smith, 1887, 10 N.E. 582, 109 Ind. 79, rehearing denied 10 N.E. 643, 109 Ind. 79. States ⇐ 42; Quo Warranto ⇐ 3

Const. Art. 5, § 6, IN CONST Art. 5, § 6

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West's North Carolina General Statutes Annotated Currentness
Constitution of North Carolina
➡ Article III. Executive (Refs & Annos)

Section 1. Executive power

The executive power of the State shall be vested in the Governor.

<<CONSTITUTION OF NORTH CAROLINA>>

<A complete revision to the North Carolina Constitution of 1868 was proposed in Laws 1969, c. 1258 for submission to the voters at the general election of 1970. The revision was adopted by the electorate at the election of November 3, 1970 to take effect on July 1, 1971. In addition to this revision, amendments separately submitted at the November, 1970, were also adopted and are incorporated in the 1970 Constitution.>

Sec. 2. Governor and Lieutenant Governor: election, term, and qualifications

(1) Election and term. The Governor and Lieutenant Governor shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) Qualifications. No person shall be eligible for election to the office of Governor or Lieutenant Governor unless, at the time of his election, he shall have attained the age of 30 years and shall have been a citizen of the United States for five years and a resident of this State for two years immediately preceding his election. No person elected to the office of Governor or Lieutenant Governor shall be eligible for election to more than two consecutive terms of the same office.

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Sec. 3. Succession to office of Governor

(1) Succession as Governor. The Lieutenant Governor-elect shall become Governor upon the failure of the Governor-elect to qualify. The Lieutenant Governor shall become Governor upon the death, resignation, or removal from office of the Governor. The further order of succession to the office of Governor shall be prescribed by law. A successor shall serve for the remainder of the term of the Governor whom he succeeds and until a new Governor is elected and qualified.

(2) Succession as Acting Governor. During the absence of the Governor from the State, or during the physical or mental incapacity of the Governor to perform the duties of his office, the Lieutenant Governor shall be Acting

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Governor. The further order of succession as Acting Governor shall be prescribed by law.

(3) Physical incapacity. The Governor may, by a written statement filed with the Attorney General, declare that he is physically incapable of performing the duties of his office, and may thereafter in the same manner declare that he is physically capable of performing the duties of his office.

(4) Mental incapacity. The mental incapacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of two-thirds of all the members of each house of the General Assembly. Thereafter, the mental capacity of the Governor to perform the duties of his office shall be determined only by joint resolution adopted by a vote of a majority of all the members of each house of the General Assembly. In all cases, the General Assembly shall give the Governor such notice as it may deem proper and shall allow him an opportunity to be heard before a joint session of the General Assembly before it takes final action. When the General Assembly is not in session, the Council of State, a majority of its members concurring, may convene it in extra session for the purpose of proceeding under this paragraph.

(5) Impeachment. Removal of the Governor from office for any other cause shall be by impeachment.

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Sec. 4. Oath of office for Governor

The Governor, before entering upon the duties of his office, shall, before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States and of the State of North Carolina, and that he will faithfully perform the duties pertaining to the office of Governor.

<<CONSTITUTION OF NORTH CAROLINA>>

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Sec. 5. Duties of Governor

(1) Residence. The Governor shall reside at the seat of government of this State.

(2) Information to General Assembly. The Governor shall from time to time give the General Assembly information of the affairs of the State and recommend to their consideration such measures as he shall deem expedient.

(3) Budget. The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that

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the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter.

(4) Execution of laws. The Governor shall take care that the laws be faithfully executed.

(5) Commander in Chief. The Governor shall be Commander in Chief of the military forces of the State except when they shall be called into the service of the United States.

(6) Clemency. The Governor may grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to regulations prescribed by law relative to the manner of applying for pardons. The terms reprieves, commutations, and pardons shall not include paroles.

(7) Extra sessions. The Governor may, on extraordinary occasions, by and with the advice of the Council of State, convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

(8) Appointments. The Governor shall nominate and by and with the advice and consent of a majority of the Senators appoint all officers whose appointments are not otherwise provided for.

(9) Information. The Governor may at any time require information in writing from the head of any administrative department or agency upon any subject relating to the duties of his office.

(10) Administrative reorganization. The General Assembly shall prescribe the functions, powers, and duties of the administrative departments and agencies of the State and may alter them from time to time, but the Governor may make such changes in the allocation of offices and agencies and in the allocation of those functions, powers, and duties as he considers necessary for efficient administration. If those changes affect existing law, they shall be set forth in executive orders, which shall be submitted to the General Assembly not later than the sixtieth calendar day of its session, and shall become effective and shall have the force of law upon adjournment sine die of the session, unless specifically disapproved by resolution of either house of the General Assembly or specifically modified by joint resolution of both houses of the General Assembly.

(11) Reconvened sessions. The Governor shall, when required by Section 22 of Article II of this Constitution, reconvene a session of the General Assembly. At such reconvened session, the General Assembly may only consider such bills as were returned by the Governor to that reconvened session for reconsideration. Such reconvened session shall begin on a date set by the Governor, but no later than 40 days after the General Assembly adjourned:

(a) For more than 30 days jointly as provided under Section 20 of Article II of this Constitution; or

(b) Sine die.

If the date of reconvening the session occurs after the expiration of the terms of office of the members of the General Assembly, then the members serving for the reconvened session shall be the members for the succeeding term.

<<CONSTITUTION OF NORTH CAROLINA>>

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Constitution.>

Sec. 6. Duties of the Lieutenant Governor

The Lieutenant Governor shall be President of the Senate, but shall have no vote unless the Senate is equally divided. He shall perform such additional duties as the General Assembly or the Governor may assign to him. He shall receive the compensation and allowances prescribed by law.

<<CONSTITUTION OF NORTH CAROLINA>>

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Sec. 7. Other elective officers

(1) Officers. A Secretary of State, an Auditor, a Treasurer, a Superintendent of Public Instruction, an Attorney General, a Commissioner of Agriculture, a Commissioner of Labor, and a Commissioner of Insurance shall be elected by the qualified voters of the State in 1972 and every four years thereafter, at the same time and places as members of the General Assembly are elected. Their term of office shall be four years and shall commence on the first day of January next after their election and continue until their successors are elected and qualified.

(2) Duties. Their respective duties shall be prescribed by law.

(3) Vacancies. If the office of any of these officers is vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another to serve until his successor is elected and qualified. Every such vacancy shall be filled by election at the first election for members of the General Assembly that occurs more than 60 days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in this Section. When a vacancy occurs in the office of any of the officers named in this Section and the term expires on the first day of January succeeding the next election for members of the General Assembly, the Governor shall appoint to fill the vacancy for the unexpired term of the office.

(4) Interim officers. Upon the occurrence of a vacancy in the office of any one of these officers for any of the causes stated in the preceding paragraph, the Governor may appoint an interim officer to perform the duties of that office until a person is appointed or elected pursuant to this Section to fill the vacancy and is qualified.

(5) Acting officers. During the physical or mental incapacity of any one of these officers to perform the duties of his office, as determined pursuant to this Section, the duties of his office shall be performed by an acting officer who shall be appointed by the Governor.

(6) Determination of incapacity. The General Assembly shall by law prescribe with respect to those officers, other than the Governor, whose offices are created by this Article, procedures for determining the physical or mental incapacity of any officer to perform the duties of his office, and for determining whether an officer who has been temporarily incapacitated has sufficiently recovered his physical or mental capacity to perform the duties of his office. Removal of those officers from office for any other cause shall be by impeachment.

(7) Special Qualifications for Attorney General. Only persons duly authorized to practice law in the courts of this State shall be eligible for appointment or election as Attorney General.

<<CONSTITUTION OF NORTH CAROLINA>>

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<A complete revision to the North Carolina Constitution of 1868 was proposed in Laws 1969, c. 1258 for submission to the voters at the general election of 1970. The revision was adopted by the electorate at the election of November 3, 1970 to take effect on July 1, 1971. In addition to this revision, amendments separately submitted at the November, 1970, were also adopted and are incorporated in the 1970 Constitution.>

Sec. 8. Council of State

The Council of State shall consist of the officers whose offices are established by this Article.

<<CONSTITUTION OF NORTH CAROLINA>>

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Sec. 9. Compensation and allowances

The officers whose offices are established by this Article shall at stated periods receive the compensation and allowances prescribed by law, which shall not be diminished during the time for which they have been chosen.

<<CONSTITUTION OF NORTH CAROLINA>>

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Sec. 10. Seal of State

There shall be a seal of the State, which shall be kept by the Governor and used by him as occasion may require, and shall be called "The Great Seal of the State of North Carolina". All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State of North Carolina", and signed by the Governor.

<<CONSTITUTION OF NORTH CAROLINA>>

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Sec. 11. Administrative departments

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Not later than July 1, 1975, all administrative departments, agencies, and offices of the State and their respective functions, powers, and duties shall be allocated by law among and within not more than 25 principal administrative departments so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may, but need not, be allocated within a principal department.

<<CONSTITUTION OF NORTH CAROLINA>>

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N.C.G.S.A. Art. VI, § 5
c

West's North Carolina General Statutes Annotated Currentness
Constitution of North Carolina
+ Article VI. Suffrage and Eligibility to Office (Refs & Annos)

(Information regarding effective dates, repeals, etc. is provided subsequently in this document.)

> >Sec. 5. Elections by people and General Assembly

All elections by the people shall be by ballot, and all elections by the General Assembly shall be viva voce. A contested election for any office established by Article III of this Constitution shall be determined by joint ballot of both houses of the General Assembly in the manner prescribed by law.

< <CONSTITUTION OF NORTH CAROLINA> >

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HISTORICAL AND STATUTORY NOTES

The provisions comprising this section are similar to provisions contained in North Carolina Constitution of 1868, Article 2, § 9; Article 3, § 3, Article 6, § 6.

LIBRARY REFERENCES

Elections ⚖ 161.
States ⚖ 30, 46.
Westlaw Key Number Searches: 144k161; 360k30; 360k46.
C.J.S. Elections § 149.
C.J.S. States §§ 44, 61, 80, 84, 102.

RESEARCH REFERENCES

Encyclopedias

Strong's N.C. Index 4th, Elections § 77, Marking and Depositing Ballots.

Strong's N.C. Index 4th, Elections § 96, Contests to Unseat Member of General Assembly.

Strong's N.C. Index 4th, State § 8, In General.

NOTES OF DECISIONS

In general 1
Absentee voting 2
Ballot boxes 4
Secret ballot 3

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1. In general

Voter's exercise of franchise should be free from extraneous influences (Const. art. 6, § 6). Withers v. Board of Com'rs of Harnett County, 1929, 146 S.E. 225, 196 N.C. 535. Elections ⇐ 213

2. Absentee voting

Absentee Voters Law (Pub.Laws 1917, c. 23, as amended by Pub.Laws 1919, c. 322) does not conflict with Const. art. 6, § 6, declaring that all elections by the people shall be by ballot. Jenkins v. State Board of Elections of North Carolina, 1920, 104 S.E. 346, 180 N.C. 169, 14 A.L.R. 1247. Elections ⇐ 27

3. Secret ballot

Secrecy of voting is implied by provision for elections by ballot (Const. art. 6, § 6). Withers v. Board of Com'rs of Harnett County, 1929, 146 S.E. 225, 196 N.C. 535. Elections ⇐ 213

Voter does not waive constitutional right to secret ballot, unless he has knowledge of his rights and of surrounding facts enabling him to protect himself (Const. art. 6, § 6). Withers v. Board of Com'rs of Harnett County, 1929, 146 S.E. 225, 196 N.C. 535. Elections ⇐ 213

The privilege of voting a secret ballot, given by Const. art. 6, § 6, is entirely a personal one, and a secret ballot is not compulsory, so far as the voter is concerned, under Consol.St. § 5979. Jenkins v. State Board of Elections of North Carolina, 1920, 104 S.E. 346, 180 N.C. 169, 14 A.L.R. 1247. Elections ⇐ 213

While a voter is entitled to cast a secret ballot and has the right to keep the vote secret after it is cast so that the County Board of Elections is prohibited from disclosing any information that would identify the provisional voter, the board may release a copy of the voter"s application to vote provisionally if any information that could be used to identify the voter is removed. Op.Atty.Gen., Gheen, Nov. 6, 1997.

4. Ballot boxes

Maintenance of ballot box with separate slots labeled for and against tax held to render school district tax election void as depriving electorate of secrecy (Const. art. 6, § 6). Withers v. Board of Com'rs of Harnett County, 1929, 146 S.E. 225, 196 N.C. 535. Elections ⇐ 217

Voters at election at which ballot boxes were maintained with separate slots for and against tax held not to waive secrecy, where fact that all votes were counted irrespective of slot was not disclosed (Const. art. 6, § 6). Withers v. Board of Com'rs of Harnett County, 1929, 146 S.E. 225, 196 N.C. 535. Elections ⇐ 217

N.C.G.S.A. Art. VI, § 5, NC CONST Art. VI, § 5

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OTHER

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L. Stanton	1,686
Ella M. Buck	1,686
Harold K. Rockhill	1,686
W. A. Davis	1,686

UNITED STATES SENATOR

Mon C. Wallgren	Democratic	404,716
Stephen F. Chadwick	Republican	342,589

REPRESENTATIVES IN CONGRESS

FIRST DISTRICT

Warren G. Magnuson	Democratic	113,988
Fred J. Wettrick	Republican	71,110

SECOND DISTRICT

Henry M. Jackson	Democratic	66,214
Payson Peterson	Republican	49,209

THIRD DISTRICT

Martin F. Smith	Democratic	60,529
Russell V. Mack	Republican	48,700
Henry P. Huff	Communist	230

FOURTH DISTRICT

Knute Hill	Democratic	50,493
Frank Miller	Republican	48,003

FIFTH DISTRICT

Charles H. Leavy	Democratic	67,582
Walt Horan	Republican	54,258

SIXTH DISTRICT

John M. Coffee	Democratic	71,536
Paul A. Preus	Republican	42,334

GOVERNOR

C. C. Dill	Democratic	386,706
Arthur B. Langlie	Republican	392,522
P. J. Ater	Socialist Labor	426
John Brockway	Communist	1,674

LIEUTENANT GOVERNOR

Victor A. Meyers	Democratic	408,521
Charles R. Maybury	Republican	332,233
Victor M. Ellison	Communist	1,816

SECRETARY OF STATE

Belle Reeves	Democratic	430,521
Albert Johnson	Republican	295,477

STATE TREASURER

Otto A. Case	Democratic	418,751
Homer R. Jones	Republican	310,030

STATE AUDITOR

Cliff Yelle	Democratic	429,547
George W. Blanchard	Republican	288,704

ATTORNEY GENERAL

Smith Troy	Democratic	432,647
E. W. Anderson	Republican	279,706

COMMISSIONER OF PUBLIC LANDS

Progressive Jack Taylor	Democratic	389,323
John A. Gellatly	Republican	335,135

STATE INSURANCE COMMISSIONER

William A. Sullivan	Democratic	421,314
Fred C. Becker	Republican	283,340

SUPERINTENDENT OF PUBLIC INSTRUCTION

Pearl A. Wanamaker	Non-Partisan	257,742
Stanley F. Atwood	Non-Partisan	173,344

JUDGES OF THE STATE SUPREME COURT

POSITION NO. 1.

Walter B. Beals	308,083

POSITION NO. 2.

Bruce Blake	291,766

POSITION NO. 3.

Samuel M. Driver	277,610

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the State of Washington, at Olympia, this 13th day of January, A. D., 1941.

(THE SEAL OF THE STATE OF WASHINGTON 1889)

BELLE REEVES,
Secretary of State.

PROTEST TO ELECTION RETURN

Before the members of the legislature of the State of Washington of 1941 session, sitting jointly as a judicial body to hear and determine election contests.

In the matter of the Contest of the Election of Governor of the State of Washington.
BEN S. SAWYER, et al.

Contestants

vs.

ARTHUR B. LANGLIE,

Contestee.

AFFIDAVIT OF SERVICE

R. P. FULKERSON, being first duly sworn, on oath deposes and says:

That during all of the times herein mentioned he was and now is a citizen of the United States and a resident of the State of Washington, and over the age of twenty-one

(21) years at the time of service of the Notice of Election Contest by him upon Arthur B. Langlie.

That upon the 11th day of January affiant served Arthur B. Langlie in Seattle, Washington, with a Notice of Election Contest by delivering to and leaving personally with Arthur B. Langlie a true copy of the original Notice of Election Contest in this matter.

R. P. FULKERSON.

Subscribed and sworn to before me this 11th day of January, 1941.

JUNE FOWLES,
Notary Public in and for the State of Washington, residing at Olympia.

(Notarial Seal)

BEFORE THE MEMBERS OF THE LEGISLATURE OF THE STATE OF WASHINGTON OF 1941 SESSION, SITTING JOINTLY AS A JUDICIAL BODY TO HEAR AND DETERMINE ELECTION CONTESTS

In the matter of the Contest of the Election of Governor of the State of Washington

BEN S. SAWYER et al,
Contestants

vs

ARTHUR B. LANGLIE,
Contestee

NO._____

NOTICE OF ELECTION CONTEST

Comes now Ben S. Sawyer, in his own behalf and on behalf of other Electors, and hereby gives notice to Arthur B. Langlie that he contests the alleged election of Arthur B. Langlie as Governor of the State of Washington, and respectfully alleges and shows:

(1) That whereas under and by virtue of authority of the Constitution of the State of Washington the matter of election contests for all executive officers, and therefore for Governor, has been exclusively lodged with the Legislature as a special judicial body to jointly hear and determine such contests.

(3) That said Ben S. Sawyer is now and was at all time herein inferred and/or mentioned a regular qualified elector of the State of Washington. That said Sawyer voted as such in Olympia, Thurston County, State of Washington, in said General Election on November 5, 1940, and among the officers voted for included that of Governor.

(4) That in all the precincts in all the counties of the State of Washington valid votes for said C. C. Dill, were erroneously not counted for him by the Judges and Inspectors of Election and/or by the Canvassing Boards.

(5) That these errors were patent and readily apparent on the face of the ballots but nevertheless and notwithstanding were not counted for said Dill. That if said valid votes had been added to the votes received by and accredited to Dill, they would have changed the result of the election by giving said Dill a greater number of votes than those received by said Langlie.

(6) That in said precincts many ballots showed a cross in the circle at the head of the Democratic ticket; and also on the same ballots showed a cross in the square after the name of said Langlie on the Republican ticket. That many of said ballots were not counted on the ground that it was double-voting, while many of said votes were counted for said Langlie.

(7) That were all the votes thus cast to be determined by this Honorable Judicial Body to be double-voting, and therefore that such votes were invalid, then and in that event the grand total of votes received by said Langlie would be less than the grand total of votes received by said Dill.

(8) That if it should be determined by this Judicial Body that such votes as described, is not double-voting, but a vote that should be accredited to said Dill, then and in that event it would change the result of the election in that amount of such votes added to those received by and accredited to candidate Dill would result in said Dill receiving more votes than those received by said Langlie and if those votes, which were erroneously accredited to Langlie were counted for said Dill and deducted from the votes Langlie was erroneously given it would give to candidate Dill a further larger vote than that received by said Langlie.

Wherefore said Contestant asks that a recount of the votes as aforesaid be ordered so that it may be determined, who in law and fact, has been elected Governor of this state and who is entitled to be inducted into office thereof. And that no Certificate of Election issue to either candidate, nor neither be inducted into office or declared elected until this contest has been fully heard and determined.

And that said Elector has such other plenary aid and relief, as such Elector, in the interest of the Sovereign State of Washington as is meet and just in the premises.

BEN S. SAWYER,
Attorney Pro se, et al.

STATE OF WASHINGTON }
COUNTY OF THURSTON. } ss

Ben S. Sawyer on oath says, that he is the party named in the foregoing notice of contest as Contestant. That he has heard read the same, knows the contents thereof and varily believes the same to be true.

BEN S. SAWYER.

Subscribed and sworn to before me this 10th day of January, 1941.

GEO. H. FUNK,
Notary Public in and for the State of Washington duly commissioned and sworn as such and residing at Olympia

(Notarial Seal)

N. B. Please serve any copies of responsive instruments or pleadings to this Notice of Contest, on Contestant at his office and P. O. address, to wit: No. 7 Funk Bldg. Olympia, Washington.

Senator Rosellini moved that the notice of election contest be referred to a special joint committee composed of nine members, three to be appointed from the Senate and six from the House of Representatives, the committee to report on the protest at ten o'clock tomorrow morning.

Mr. Hurley:

"Mr. Speaker, point of order. The joint rules provide that no other business than that for which the Joint Session was called may be acted upon during the Joint Session. I respectfully submit to you that this Joint Session was called for the purpose of canvassing the vote of the constitutional elective State officers as provided in Article III, Section 4, of the State Constitution. This relates to certifying the results of the election, and that is all the business this Joint Session can do at this time. I do not doubt but that another Joint Session can be called for the consideration of this protest, but I do not believe the protest can be considered at this Joint Session."

The Speaker:

"Mr. Hurley, I will have to rule you out of order. The Joint Session was called for the purpose of canvassing the vote of the constitutional election of the State officers and the consideration of all matters pertaining thereto."

Mr. Hurley:

"Mr Speaker, I appeal from the decision of the Chair."

The Speaker:

"An appeal has been made from the decision of the Chair. Shall the decision of the Chair be the judgment of the House? As many as are in favor of it will say 'Aye'. As many as are opposed will say 'No'."

The appeal from the ruling of the Chair was lost on a voice vote.

The Speaker announced that the question before the Joint Session was the motion by Senator Rosellini that the protest of the election of Arthur B. Langlie as Governor of the State of Washington be referred to a committee of nine members, three to be chosen from the Senate and six from the House of Representatives, and that the committee report back at a Joint Session at 10:00 a. m. tomorrow.

A roll call was demanded, and the demand was sustained.

Paul Ashley
via
Ward

Constit.

THE JOURNAL OF THE
WASHINGTON STATE
CONSTITUTIONAL CONVENTION
1889

with Analytical Index
by
Quentin Shipley Smith

Edited by
Beverly Paulik Rosenow

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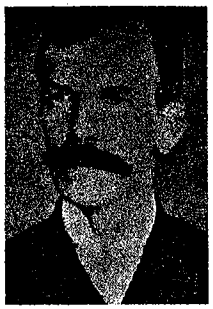
of it in 1877. For ten years he was auditor of the territory. He had been Grand Secretary of the Grand Lodge of Masons for twenty-eight years, Grand High Priest of the Royal Arch Masons, and was a Knight Templar and thirty-third degree Mason-Scottish Rite.

Reed served on the following committees: State Institutions and Public Buildings, chairman; Revision, Adjustment and Enrollment; State, County and Municipal Indebtedness; credentials; rules for Convention.

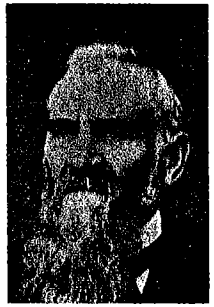


Albert Schooley

A delegate from the Seventeenth District, he lived in Florence on Puget Sound.

Schooley served on the following committees: Harbors, Rivers, Tidewaters and Navigable Streams; State, School and Granted Lands.

B. L. Sharpstein



A Democrat from the Tenth District, the sixty-one year old lawyer lived in Walla Walla.

He had been a member of the territorial council.

Sharpstein served on the following committees: Miscellaneous Subjects, Schedule and Future Amendments, chairman; Judicial Department; Corporations Other Than Municipal.

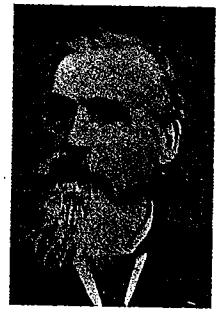
John A. Shoudy

A delegate from the Fifth District, the forty-six year old merchant lived in Ellensburg.

Born in Illinois, he came to Puget Sound in 1861 and in 1865 took up land on the present site of Ellensburg.

Shoudy served on the following committees: Engrossment, chairman; Corporations Other Than Municipal; State, School and Granted Lands.

Louis Sohns



A Republican from the Twelfth District, the sixty-two year old manufacturer and banker lived in Vancouver.

Born in Germany, Sohns came to Washington in 1852 where he engaged in manufacturing and established and became president of the First National Bank of Vancouver. He was mayor of Vancouver for six years, and he was a trustee of the Washington School for Defective Youths.

Sohns served on the following committees: Preamble and Bill of Rights; Apportionment and Representation; Revenue and Taxation; rules for Convention.

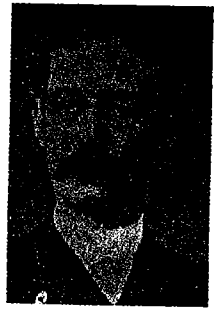
George H. Stevenson

A Democrat from the Twelfth District, the thirty-one year old fisherman lived in Cascades.

Born in Missouri, he came to Washington where he served in the territorial legislature in 1887-88. He was auditor of Skamania county for four years.

Stevenson served on the following committees: Legislative Department; Revision, Adjustment and Enrollment; Harbors, Rivers, Tidewaters and Navigable Streams.

Theodore L. Stiles



A Republican from the Twenty-second District, the forty-one year old lawyer lived in Tacoma.

Born in Ohio in 1848, he was educated at Amherst College and Columbia Law College. He practiced law in New York City from 1873 to 1877, when he came to Washington.

Stiles served on the following committees: County, City and Township Organization, chairman; Judicial Department; State, School and Granted Lands; rules for Convention.

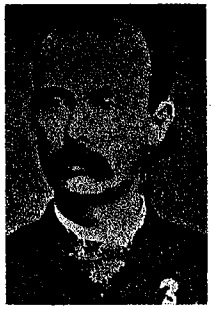
George Turner

A Republican from the Second District, the thirty-nine year old lawyer and judge lived in Spokane Falls.

Born in Missouri in 1850, Turner came to Washington in 1884 where he became an associate justice of the territorial court. He had been a member of the national Republican conventions of 1876, 1880 and 1884. He was opposed for election to the Convention by the Northern Pacific Railway, the Knights of Labor, and Women's Sufferage and Prohibition groups, but was elected by a three hundred majority.

Turner served on the following committees: Judicial Department, chairman; Harbors, Rivers, Tidewaters and Navigable Streams; State Medicine and Public Health.

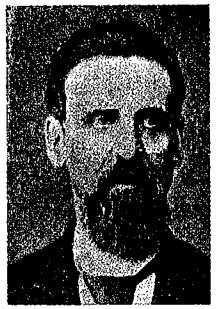
J. F. Van Name



A delegate from the Thirteenth District, the thirty-two year old teacher and lawyer lived in Kelso.

Born in Illinois, he came to Washington in 1882. He had been clerk of the second judicial district.

Van Name served on the following committees: Apportionment and Representation; Printing, Mileage and Contingent Expenses; Engrossment.



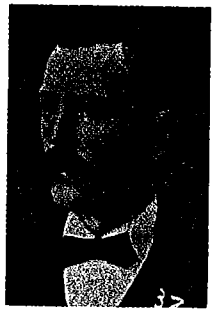
C. H. Warner

A Democrat from the Sixth District, the fifty-three year old Colfax resident was engaged in flour milling.

Born in New York, Warner came to Washington in 1879. He had taught and practiced law in earlier years. He had been registrar of the Walla Walla Land Office and a member of the territorial legislature in 1883 and 1885.

Warner served on the following committees: Preamble and Bill of Rights, chairman; School and Granted Lands; credentials; rules for Convention.

Allen Weir



A Republican from the Fifteenth District, the thirty-five year old Port Townsend resident was a newspaperman, logger and political appointee.

Born in California, Weir came to Washington in 1860 where he worked in logging camps and on a newspaper in Port Townsend. In 1879 he was clerk of the territorial council. He was a member of the Board of Regents of the territorial University for three terms, a justice of the peace, an acting Commissioner for shipping on Puget Sound, and a United States commissioner appointed by the territorial Supreme Court.

Weir served on the folowing committees: Executive Department and Pardoning Power, chairman; Harbors, Rivers, Tidewaters and Navigable Streams. Before the election of permanent officers of the Convention, he served as temporary Secretary.

J. J. Weisenburger

A delegate from the Sixteenth District, the thirty-three year old lawyer lived in Whatcom.

He was born in Illinois in 1855. He had been city attorney and a justice of the peace.

Weisenburger served on the following committees: Judicial Department; Corporations Other Than Municipal; Mining and Mining Interests.

Arnold J. West

A delegate from the Fourteenth District, the fifty year old Aberdeen resident was engaged in lumbering and manufacturing.

Born in Ireland, he came to Washington by way of Canada in 1884.

West served on the following committees: Apportionment and Representation; Harbors, Tidewaters and Navigable Streams; Federal Relations, Boundaries and Immigration; rules for Convention.

ARTICLE III THE EXECUTIVE

A move was made to eliminate the Lieutenant Governor as an elective officer for reasons of economy. It failed, as the majority believed that a man who might become Governor should be elected.

A similar effort to drop the office of Commissioner of Public Lands was defeated because of the argument that state-owned lands were so valuable they would need special attention.

Four-year terms were given to all officers instead of to only the Governor and Lieutenant Governor as the report of the committee recommended.

A determined attempt was made to reduce the Governor's check on the Legislature by trying to lower the number of votes necessary to override a veto from two-thirds to three-fifths. When this failed, an effort was made to establish it at a two-thirds vote of all members instead of two-thirds of those present. However, those preferring the strong traditional veto power prevailed.

Qualifications for office-holding were lowered considerably by the Convention from those suggested by the report of the committee.

The Committee for the Executive Department was appointed July 9. (p. 19)

Members: Weir, chairman; Fairweather, Hicks, Clothier, and Hungate.

Section 1

Present Language of the Constitution:

> **EXECUTIVE DEPARTMENT. The executive department shall consist of a governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, and a commissioner of public lands, who shall be severally chosen by the qualified electors of the state at the same time and place of voting as for the members of the legislature.**

Original language as present.[1]

Proposition submitted to Convention by Suksdorf, July 11:

1. **Executive Department Consists of Whom:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 1; Wash., **Const.** (1878), Art. 9, sec. 1; Colo., **Const.** (1876), Art. 4, sec. 1. [Very similar; except that Wash. adds "other officers."]

To have an elective state statistician with the same term as Governor. (p. 54)

Proposition submitted to Convention by Weir, July 12:

Same as final except for minor wording. (p. 79)

Text as given in report of committee, July 23:

Same as final except for minor wording. (p. 130)

Consideration by committee of the whole, July 25:[2]

Motion: Sharpstein moved to strike out Lieutenant Governor.

Action: Motion lost 38 to 31.

All papers agree on this vote except **Standard** which gives it as 35 to 21.

Discussion as follows:

For: Godman attacked the character of the men who held this office by calling them political manipulators. McElroy said that he did not want to see the Legislature become an employment bureau and he agreed with Dunbar and Eshelman that the office was superfluous. The **Times** reports that Browne also thought this office unnecessary while the other papers record Browne as opposed to the motion.

Against: Weir said a Lieutenant Governor was needed to supervise the many state institutions which would be necessary. Browne, Dyer, and Buchanan said that if the Senate speaker was taken to the Governor's office it would remove from the floor an elected representative. Gowey and Lillis thought the people should elect for the office a man who might become Governor. Cosgrove opposed striking. According to the **Times**, J. Z. Moore pointed out that a Vice President had been provided for by the first constitutional convention of the United States and he thought that that body compared favorably with this one.

Motion: Mires moved to amend by offering a substitute which

2. **Seattle Times, Spokane Falls Review, Tacoma Daily Ledger**, July 26; **Puget Sound Weekly Argus** [Port Townsend, Wash.], August 1; **Washington Standard** [Olympia, Wash.], August 2, 1889.

left out the offices of Lieutenant Governor, Commissioner of Public Lands, and Auditor, and authorized the Legislature to create all necessary offices.

Action: Motion lost.

Motion: Sharpstein moved to strike out the office of Commissioner of Public Lands.

Action: Motion lost.

Discussion as follows:

The two following motions, Buchanan's and Gowey's, were brought up during the discussion of this motion so the comments were closely interrelated and have been separated as best possible.

For: Sharpstein favored a board composed of state officers to perform these duties. Eldridge and Godman did not see why the office was being argued over when there had been no policy yet made regarding the state lands themselves. Gowey thought the Secretary of State could perform these duties.

Against: Bowen and Weir said that this office was important because of the amount and value of the state-owned lands. Prosser and Lillis asserted that there were millions of dollars involved in these lands and thought this called for able management. Blalock favored the committee report without amendment. Cosgrove thought that to eliminate this office would be false economy.

Motion: Buchanan moved to substitute to provide a Board of Land Commissioners similar to that of Wisconsin and composed of the Governor, Treasurer, and Attorney General.

The **Times** reports that it was the Lieutenant Governor instead of the Governor.

Action: Motion lost with only Buchanan voting in its favor.

Discussion as follows:

Against: Weir said that the Wisconsin board had only to sell the lands and apply the proceeds, while in Washington the land and its treatment were to be so varied that a

separate department with a responsible head would be better than a board. Stiles did not think the Constitution was a proper place to provide for boards. Bowen thought there should be an executive head to carry out any such board's decisions. He proposed that the officers named in Buchanan's motion be an advisory board but withdrew the proposition as out of order. Gowey and Prosser also opposed this substitute.

Motion: Gowey moved to make the Secretary of State ex officio commissioner.

Action: Motion lost.
The **Times** records it received twelve votes.

Discussion as follows:

For: Gowey said the Secretary of State could easily handle these additional duties.

Against: Kinnear did not think the Secretary of State could properly carry out these additional duties. Weir also spoke against the motion.

Motion: Mires moved to strike the office of Auditor.

Action: Motion lost 31 to 31.

Final action by Convention, July 26:

Motion: Durie moved to strike the office of Lieutenant Governor.

Action: Motion lost 40 to 30. (p. 180)

Voting for: Berry, Blalock, Comegys, Dunbar, Durie, Eshelman, Godman, Gray, Griffitts, Henry, Jeffs, McCroskey, McDonald, McReavey, Mires, Neace, Newton, J. M. Reed, Sharpstein, Shoudy, Stevenson, Sturdevant, E. H. Sullivan, Tibbetts, Travis, Van Name, Warner, West, and Willison. **Not voting:** Browne, Dickey, and Kellogg. **On leave:** Morgans and Glascock.

Section 2

Present Language of the Constitution:

GOVERNOR, TERM OF OFFICE. The supreme executive power of this state shall be vested in a governor, who shall hold his office for a term of four years, and until his successor is elected and qualified.

Original language same as present.[3]

Proposition submitted to Convention by Weir, July 12:

Same as final. (p. 79)

Text as given in report of committee, July 23:

Same as final. (p. 131)

Consideration by committee of the whole, July 25:[4]

Motion: Sharpstein moved to change the Governor's term from four years to two.

Action: Motion lost.

Section 3

Present Language of the Constitution:

OTHER EXECUTIVE OFFICERS, TERMS OF OFFICE. The lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, and commissioner of public lands, shall hold their offices for four years respectively, and until their successors are elected and qualified.

Original language same as present.[5]

Proposition submitted to Convention by Weir, July 12:

That the Lieutenant Governor, Superintendent of Public Instruction, and Commissioner of Public Lands have two-year terms and the other officers four-year terms. (p. 79)

Text as given in report of committee, July 25:
That the Lieutenant Governor have a four-year term and the other officers two-year terms. (p. 131)

3. **Governor:** Ore., **Const.** (1857), Art. 5, sec. 1; Wash., **Const.** (1878), Art. 7, sec. 1; Hill, Prop. Wash. **Const.**, Art. 5, sec. 4. [Similar; Wash. drops the limitations on number of terms of office.]

4. **Times, Review, Ledger,** July 26, 1889.

5. **Other Officers:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 2; Wash., **Const.** (1878), Art. 9, sec. 1; Ore., **Const.** (1857), Art. 6, sec. 1; Wis., **Const.** (1848), Art. 6, sec. 1; Cal., **Const.** (1879), Art. 5, sec. 17. [Similar. Most constitutions provide for these officers. The details vary greatly.]

Consideration by committee of the whole, July 25:[6]

Motion: Crowley moved to make the term for all officers four years.

Action: Motion carried.

Final action by Convention, July 26:

Decision of committee of the whole 47 to 22. (p. 177)

Voting against: Berry, Clothier, Durie, Griffitts, Hayton, Hicks, Hungate, Jeffs, McElroy, McReavey, Mires, R. S. More, Newton, J. M. Reed, Sharpstein, Stevenson, Tibbetts, Travis, Warner, West, Willison, and Hoyt. **Not voting:** Browne, Gowey, Gray, and Shoudy. **Absent:** Glascock and Morgans.

Section 4

Present Language of the Constitution:

RETURNS OF ELECTIONS, CANVASS, ETC. The returns of every election for the officers named in the first section of this article shall be sealed up and transmitted to the seat of government by the returning officers, directed to the secretary of state, who shall deliver the same to the speaker of the house of representatives at the first meeting of the house thereafter, who shall open, publish and declare the result thereof in the presence of a majority of the members of both houses. The person having the highest number of votes shall be declared duly elected, and a certificate thereof shall be given to such person, signed by the presiding officers of both houses; but if any two or more shall be highest and equal in vote for the same office, one of them shall be chosen by the joint vote of both houses. Contested elections for such officers shall be decided by the legislature in such manner as shall be determined by law. The terms of all officers named in section one of this article shall commence on the second Monday in January after their election until otherwise provided by law.

6. Times, Review, Ledger, July 26, 1889.

Original language same as present.[7]

Text as given in report of committee, July 23:

Same as final except that it named only the Governor and Lieutenant Governor instead of "the officers." (p. 131)

Consideration by committee of the whole, July 25:[8]

Query: Stiles asked if contests weren't decided through the courts.

Answer: Weir said that these partisan contests should be determined by the Legislature.

Motion: Lillis moved to strike the last sentence.

Action: Motion lost 25 to 18.

Discussion as follows:

For: Lillis thought state officers should have a fixed date to enter terms of office.

Against: Weir thought that the Committee on Schedules should fix the dates for starting all these terms.

Final action by Convention, July 26:

Motion: Lillis moved to substitute "officers named in the first section" for "Lieutenant Governor and Governor."

Action: Motion carried. (p. 180)

Motion: Griffitts moved to substitute "such officers" for "Lieutenant Governor and Governor" near the end of the section.

Action: Motion carried. (p. 185)

Section 5

Present Language of the Constitution:

GENERAL DUTIES OF GOVERNOR. The governor

7. **Returns on Election of Executive Officers:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 3. [Identical.] Ore., **Const.** (1857), Art. 5, sec. 4; Wash., **Const.** (1878), Art. 7, sec. 3. [Similar.] **Certificate of Election:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 3; Ore., **Const.** (1857), Art. 5, sec. 6; Wash., **Const.** (1878), Art. 7, sec. 3 (Similar in form). [Identical except that Wash. applies the authority of "all officers."]

8. Review, July 26, 1889.

may require information in writing from the officers of the state upon any subject relating to the duties of their respective offices, and shall see that the laws are faithfully executed.

Original language same as present.[9]

Text as given in report of committee, July 23:
Same as final. (p. 131)

Section 6

Present Language of the Constitution:

MESSAGES. He shall communicate at every session by message to the legislature the condition of the affairs of the state, and recommend such measures as he shall deem expedient for their action.

Original language same as present.[10]

Text as given in report of committee, July 23:

Same as final except for minor wording. (p. 131)

Section 7

Present Language of the Constitution:

EXTRA LEGISLATIVE SESSIONS. He may, on extraordinary occasions, convene the legislature by proclamation, in which shall be stated the purposes for which the legislature is convened.

Original language same as present.[11]

Text as given in report of committee, July 23:

"He may on extraordinary occasions convene the Legislature by proclamation, and shall state to both houses when assembled the purposes for which they are convened." (p. 132)

Consideration by committee of the whole, July 25:[12]

9. **Duties of Governor:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 4. [Identical except that Wash. substitutes "State" for "executive department."]
10. **Message:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 5. [Identical.]
11. **Convene Extraordinary Sessions:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 6. [Identical except for slight change of words.]
12. **Times**, July 26; **Review**, July 27, 1889.

Motion: Griffitts moved a reconsideration of Section 7.

Action: Reconsideration ordered.

Motion: Griffitts moved to strike out all after "state" and to substitute therefor "In the call therefor the purpose for which the Legislature is convened."

Action: Motion carried.

Motion: Dyer moved to amend by adding "and shall have no power when so convened to act upon any other matter not so stated in the proclamation."

Action: Motion lost.

Discussion as follows:

For: Dyer thought that this was a provision common to the majority of constitutions. He said it would help curb excessive legislation.

Against: Turner said it would be a restriction on the representatives of the people. J. Z. Moore pointed out that important matters might come up between the date of the Governor's call and the meeting of the Legislature. Weir was also opposed.

Motion: Shoudy moved to amend by adding "and all their acts shall be as valid as if transacted in regular session." He said that courts had sometimes held that only matter stated in the call was legally acted upon.

Action: Motion lost.

Motion: Buchanan moved to substitute "the Governor" for "he."

Action: Motion lost.

Final action by Convention, July 26:

Motion: Godman moved to substitute "in which shall be stated" for "and shall state in the call thereof."

Action: Motion carried. (p. 181)

Section 8

Present Language of the Constitution:

COMMANDER-IN-CHIEF. He shall be commander-in-

chief of the military in the state except when they shall be called into the service of the United States.

Original language same as present.[13]

Text as given in report of committee, July 23:

Same as final. (p. 132)

Deleted Section

Text as given in report of committee, July 23:

"In case of disagreement between the two houses in respect to the time of adjournment, he shall have power to adjourn the Legislature to such time as he may think proper, but not beyond the regular meetings thereof." (Section 8, p. 132)

Consideration by committee of the whole, July 25:[14]

Motion: Griffitts moved to strike the section.

Action: Motion carried.

Discussion as follows:

For: Griffitts thought this section gave the Governor too much power when used in conjunction with the smaller house. Buchanan said he wanted no Cromwells in the state and so favored the amendment.

The **Review** states that Weir, Dunbar, Godman, Dyer, Stiles and Durie also debated this motion, but does not give their positions.

Section 9

Present Language of the Constitution:

PARDONING POWER. The pardoning power shall be vested in the governor under such regulations and restrictions as may be prescribed by law.

Original language same as present.[15]

13. **Commander-in-Chief:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 8. [Identical.]
14. **Review, Ledger,** July 26, 1889.
15. **Pardoning Power:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 9. [Identical.] Wash., **Const.** (1878), Art. 8, sec. 5. [Similar.]

Text as given in report of committee, July 23:

Same as final. (Section 10, p. 132)

Consideration by committee of the whole, July 25:[16]

Motion: Gowey moved to substitute by making the Secretary of State and the Attorney General a Governor's Council to act with him on pardons.

Action: Motion lost.
The **Times** states it received three votes.

Discussion as follows:

For: Gowey said that the older states were instituting boards of pardons.

Against: Cosgrove opposed political machinery to deal with criminals. He said that the section already permitted the Legislature to experiment and this prerogative would be eliminated under the amendment. Turner and Weir stressed the idea that the pardoning power should be placed in a single person who then would be responsible and be more likely not to abuse this power.

Section 10

Present Language of the Constitution:

VACANCY IN OFFICE OF GOVERNOR. In case of the removal, resignation, death or disability of the governor, the duties of the office shall devolve upon the lieutenant governor; and in case of a vacancy in both the offices of governor and lieutenant governor, the duties of the governor shall devolve upon the secretary of state. In addition to the line of succession to the office and duties of governor as hereinabove indicated, if the necessity shall arise, in order to fill the vacancy in the office of governor, the following state officers shall succeed to the duties of governor and in the order named, viz.: Treasurer, auditor, attorney general, superintendent of public instruction and commissioner of public lands. In case of the death, disability, failure or refusal of the person regularly elected to the office of governor to qualify at the time provided by law, the duties of the office

16. **Times, Review, Ledger,** July 26; **Standard,** August 2, 1889.

shall devolve upon the person regularly elected to and qualified for the office of lieutenant governor, who shall act as governor until the disability be removed, or a governor be elected; and in case of the death, disability, failure or refusal of both the governor and the lieutenant governor elect to qualify, the duties of the governor shall devolve upon the secretary of state; and in addition to the line of succession to the office and duties of governor as hereinabove indicated, if there shall be the failure or refusal of any officer named above to qualify, and if the necessity shall arise by reason thereof, then in that event in order to fill the vacancy in the office of governor, the following state officers shall succeed to the duties of governor in the order named, viz.: Treasurer, auditor, attorney general, superintendent of public instruction and commissioner of public lands. Any person succeeding to the office of governor as in this section provided, shall perform the duties of such office only until the disability be removed, or a governor be elected and qualified; and if a vacancy occur more than thirty days before the next general election occurring within two years after the commencement of the term, a person shall be elected at such election to fill the office of governor for the remainder of the unexpired term. [1909 p 642 § 1. Approved November, 1910.]

Original language:[17]

In case of the removal, resignation, death, or disability of the Governor, the duties of the office shall devolve upon the Lieutenant Governor, and in case of a vacancy in both the offices of Governor and Lieutenant Governor, the duties of Governor shall devolve upon the Secretary of State, who shall act as Governor until the disability be removed or a Governor be elected.

Text as given in report of committee, July 23:

Same as final. (Section 11, p. 132)

17. **Lieutenant-Governor Shall Act as Governor:** Wash., Const. (1878), Art. 7, sec. 6; Hill, Prop. Wash. Const., Art. 5, sec. 12. [Similar, although they do not provide for Lieutenant-Governor. The idea of the office of the Lieutenant-Governor probably came from Cal. or Wis.]

Section 11

Present Language of the Constitution:

REMISSION OF FINES AND FORFEITURES. The governor shall have power to remit fines and forfeitures, under such regulations as may be prescribed by law, and shall report to the legislature at its next meeting each case of reprieve, commutation or pardon granted, and the reasons for granting the same, and also the names of all persons in whose favor remission of fines and forfeitures shall have been made, and the several amounts remitted and the reasons for the remission.

Original language same as present.[18]

Text as given in report of committee, July 23:

Same as final. (Section 12, p. 132)

Section 12

Present Language of the Constitution:

VETO POWER. Every act which shall have passed the legislature shall be, before it becomes a law, presented to the governor. If he approves, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, which house shall enter the objections at large upon the journal and proceed to reconsider. If, after such reconsideration, two-thirds of the members present shall agree to pass the bill it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of the members present, it shall become a law; but in all such cases the vote of both houses shall be determined by the yeas and nays, and the names of the members voting for or against the bill shall be entered upon the journal of each house respectively. If any bill shall not be returned by the governor within five days, Sundays excepted, after it shall be presented to him, it shall become a law without his signature, unless the general adjournment shall prevent its return, in which case it shall become a law unless the governor, within ten days next after

18. **Governor May Remit Fines, etc:** Ore., Const. (1857), Art. 5, sec. 14. (Hill, Prop. Wash. Const., Art. 5, sec. 14, identical with Ore.). [Identical.]

the adjournment, Sundays excepted, shall file such bill with his objections thereto, in the office of secretary of state, who shall lay the same before the legislature at its next session in like manner as if it had been returned by the governor. If any bill presented to the governor contain several sections or items, he may object to one or more sections or items while approving other portions of the bill. In such case he shall append to the bill, at the time of signing it, a statement of the section, or sections; item or items to which he objects and the reasons therefor, and the section or sections, item or items so objected to, shall not take effect unless passed over the governor's objection, as hereinbefore provided.

Original language same as present.[19]

Proposition submitted to Convention by Power, July 12:

That the Governor be given no veto power. (p. 77)

Text as given in report of committee, July 23:

Same as final except that it added that the Governor shall not be eligible to the office of United States Senator or any other office during the term for which he was elected. (p. 132)

Consideration by committee of the whole, July 26:[20]

Motion: Power moved to change two-thirds to three-fifths of the members present to be able to override a veto.

Action: Motion lost 41 to 30.

Motion: Browne moved to change two-thirds to a majority.

Action: Motion lost 49 to 18.

Discussion as follows applying to both motions:

For: Jones thought the experience of Congress showed the wisdom of reducing the number necessary to override a veto. Power, Jones, Gowey, and E. H. Sullivan wanted

19. **Duties of Governor in Regard to Enactment of Laws:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 15. [Identical except for slight changes in minor words.] Ore., **Const.** (1857), Art. 5, sec. 15; Cal., **Const.** (1879), Art. 4, sec. 16; Wis., **Const.** (1848), Art. 5, sec. 10; Wash., **Const.** (1878), Art. 7, sec. 7. [Similar. Veto of Individual Sections.] Hill, Prop. Wash. **Const.**, Art. 5, sec. 15. [Almost identical; Ore. did not add this clause until 1920.]

20. **Review**, July 26; **Times, Ledger**, July 27; **Argus**, August 1; **Standard**, August 2, 1889.

no veto power at all as they believed it gave the Governor too much legislative control. E. H. Sullivan cited the example of Ohio, which had neither the veto nor the Governor's signature on her bills. He thought the three branches of government should be kept distinct in function. Dyer alluded to the ill results of an unbridled use of the veto. He said when parties were evenly balanced, a few men could control all legislatures by a pact with the Governor. But neither he nor P. C. Sullivan wished to abolish it entirely. Warner said there was too little time at the end of the session for proper consideration of bills by the Governor. Crowley said the veto power was a relic of monarchy and wanted to limit it. Cosgrove thought the Legislature should take on its own responsibilities and not shift them to the Governor, while Stiles favored a majority vote to override a veto since he thought the veto power should be used only in an advisory fashion. Gowey again referred to Ohio as an example. Henry and Lillis said a majority provision would not remove the veto entirely as it would make the Legislature think the matter over, and they were in favor of this. Suksdorf favored abolishing the veto entirely as did Browne who thought checks on the Legislature should be made by the Constitution and not by the Governor. Dunbar also spoke in favor of the three-fifths amendment.

Against: Griffitts thought the Convention should follow the established paths. Turner cited the French Revolution as one example of taking all checks from the executive and he stated that the veto power was one of the fundamental principles of government. Weir explained that the committee thought what was good enough for Congress would be good enough for the state. Godman thought a regular "old-fashioned presidential kind of veto" was a good check in the government. Prosser, Buchanan, J. Z. Moore, and Kinnear also spoke in favor of retaining the veto power.

Motion: Schooley moved to amend so as to allow the Governor ten days in which to consider a bill during the session and twenty days after adjournment.

The **Ledger** reports the motion was to change from five to

ten days the time for signing bills and from ten to twenty days the time for an act to become law on the failure to receive the Governor's signature.

Action: Motion lost.

Motion: Turner moved to strike the clause making the Governor ineligible for United States Senator during his term.

Motion: Gowey moved to amend this motion by striking the whole sentence to which Turner referred and thus to include other offices. Turner accepted the amendment.

Action: Motion as amended carried 29 to 26.

Discussion as follows:

For: Turner explained that the United States Constitution fully fixes the qualifications for U. S. Senators. Bowen said that the clause was superfluous.

Final action by Convention, July 26:

Decision of committee of the whole to strike the Governor's ineligibility to office of Senator accepted 48 to 21. (p. 177)

Voting against: Clothier, Comegys, Crowley, Fairweather, Griffitts, Hicks, Hungate, Jeffs, Jones, Kinnear, Manly, McElroy, R. S. More, Newton, J. M. Reed, P. C. Sullivan, Tibbetts, Warner, Weir, Willison. **Not voting:** Browne, Gowey, and Kellogg. **On leave:** Glascock and Morgans.

Decision of the committee of the whole to strike out ineligibility to other offices accepted 35 to 33. (p. 178)

Voting against: Allen, Clothier, Comegys, Crowley, Durie, Fairweather, Godman, Griffitts, Henry, Hicks, Hungate, Jeffs, Jones, Kinnear, Manly, McElroy, McReavey, Mires, R. S. More, J. M. Reed, Sharpstein, Stevenson, Sturdevant, E. H. Sullivan, P. C. Sullivan, Tibbetts, Van Name, Warner, Weir, Weisenburger, West, Willison and Winsor. **Not voting:** Browne, Gowey, Kellogg, Newton, and Shoudy. **On leave:** Glascock and Morgans.

Motion: Dyer moved to reduce the size of the vote to override a veto from two-thirds to three-fifths.

Action: Motion lost 42 to 31. (p. 181)

Voting for: Allen, Blalock, Cosgrove, Crowley, Dickey, Dunbar, Dyer, Eldridge, Eshelman, Fay, Gowey, Gray, Hayton, Henry, Jeffs, Jones, Joy, Kellogg, Lillis, Lindsley, Newton, Power, J. M. Reed, Shoudy, Stiles, Suksdorf, E. H. Sullivan, P. C. Sullivan, Tibbetts, Warner, and Winsor. **Not voting:** Browne. **On leave:** Glascock and Morgans.

Discussion as follows:[21]

For: Stiles said he found new evidence to sustain his vote of the day before to limit the veto power. He said twenty-five states had begun with no veto or a simple majority to override. Eleven had had no veto for several years. He concluded by saying that the result at that time was that nine states had no veto or needed only a simple majority to override.

Against: Turner said that these facts argued against Stiles rather than for him. He pointed out that the tendency was to come to a veto.

Motion: Godman moved to strike the word "present." This would have made a two-thirds vote of all members necessary to pass over a veto.

Action: Motion lost 46 to 20. (p. 185)

Voting for: Berry, Blalock, Clothier, Durie, Godman, Griffitts, Jeffs, Kinnear, Manly, McCroskey, McElroy, Mires, J. Z. Moore, R. S. More, Neace, Prosser, Schooley, Tibbetts, Turner, Van Name. **Not voting:** McReavey, and T. M. Reed. **On leave:** Browne, Cosgrove, Glascock, Morgans, Newton and Travis.

Discussion as follows:[22]

For: Godman thought it was dangerous to leave the word "present" in since that would allow a mere two-thirds of a majority to override a veto. In answer to Buchanan's objection, Godman thought that the Legislature would have enough power to compel attendance.

Against: Buchanan thought it was dangerous to allow

21. Review, July 27, 1889.
22. Ibid.

one-third of the Legislature to prevent action by merely absenting themselves or refusing to vote.

Motion: Weisenburger moved to restrict the item to appropriation bills.

Action: Motion lost. (p. 185)

Discussion as follows:[23]

For: Weisenburger thought this power was dangerous when used on other than appropriations bills. Stiles supported the motion.

Against: Lillis opposed.

Motion: Turner moved to restrict the Governor's power of vetoing separate sections to the actual time when the Legislature was in session.

Action: Motion lost.

Discussion as follows:[24]

Against: Griffitts thought that this would hold the temptation to insert improper sections into appropriations bills at the very end of the session so the Governor couldn't veto them. Weir agreed and also opposed.

The **Review** states that Buchanan, J. M. Reed, Gowey, E. H. Sullivan, and Allen also debated the motion but does not give their positions.

Section 13

Present Language of the Constitution:

VACANCY IN APPOINTIVE OFFICE. When, during a recess of the legislature, a vacancy shall happen in any office, the appointment to which is vested in the legislature, or when at any time a vacancy shall have occurred in any other state office, for the filling of which vacancy no provision is made elsewhere in this Constitution, the Governor shall fill such vacancy by appointment, which shall expire when a successor shall have been elected and qualified.

23. Ibid.
24. Ibid.

Original language same as present.[25]

Text as given in report of committee, July 23:

Same as final. (p. 133)

Section 14

Present Language of the Constitution:

(This section stricken by the 20th Amendment; see Article 28; section 1.)

Original language:[26]

SALARY. The governor shall receive an annual salary of four thousand dollars, which may be increased by law, but shall never exceed six thousand dollars per annum.

Text as given in report of committee, July 23:

Same as final except that it begins "He" instead of "the governor."

Consideration by committee of the whole, July 26:[27]

Motion: Sharpstein moved to substitute three thousand dollars for four thousand dollars.

Action: Motion lost 37 to 26.

Motion: Turner moved to strike "but shall never exceed six thousand dollars."

Action: Motion lost 18 ayes, and noes not counted.

Motion: Dyer moved to change six thousand dollars to eight thousand dollars.

Action: Motion lost.

Motion: Warner moved to change six thousand dollars to four thousand dollars.

Action: Ruled out as nugatory.

25. **Vacancies Filed by Appointment:** Hill, Prop. Wash. Const., Art. 5, sec. 16. [Identical.]
26. **Salary of Governor:** Varies in all constitutions which specifically provide the amount of the salary.
27. **Review,** July 27, 1889.

Motion: McElroy moved to strike all but the annual salary of four thousand dollars.

Action: Motion lost.

Final action by Convention, July 26:

Motion: Turner moved to strike out all after the words "increased by law." This would have removed the maximum limit for salary.

Action: Motion lost 47 to 21. (p. 183)

Voting for: Allen, Dickey, Dyer, Eshelman, Fay, Gowey, Jamieson, Jones, Joy, Minor, Power, Prosser, T. M. Reed, Shoudy, Stiles, P. C. Sullivan, Tibbetts, Turner, Van Name, and Weisenburger. **Not voting:** Browne, Crowley, Newton, Sohns, and Hoyt. **On leave:** Glascock and Morgans.

Motion: Sharpstein moved to change four thousand dollars to three thousand dollars.

Action: Motion lost 46 to 21. (p. 184)

Voting for: Berry, Blalock, Burk, Clothier, Durie, Eldridge, Godman, Griffitts, Jeffs, McCroskey, McElroy, Neace, T. M. Reed, Sharpstein, Stevenson, Suksdorf, Van Name, Warner, West, and Willison. **Not voting:** McReavey, and Travis. **On leave:** Browne, Cosgrove, Glascock, Morgans, and Newton.

Deleted Section

Text as given in report of committee, July 23:

"He (the Governor) shall issue writs of election to fill such vacancies as may have occurred in the legislative assembly." (p. 133)

Consideration by committee of the whole, July 26:[28]

Motion: Griffitts moved to strike the entire section.

Action: Motion carried.

Final action by Convention, July 26:

Decision of committee of the whole accepted. **(p. 178)**

28. **Ledger**, July 27, 1889.

Section 15

Present Language of the Constitution:

COMMISSIONS, HOW ISSUED. All commissions shall issue in the name of the state, shall be signed by the governor, sealed with the seal of the state, and attested by the secretary of state.

Original language same as present.[29]

Text as given in report of committee, July 23:

Same as final except that it added that the Governor would forfeit his office and any further office if he accepted bribes or used his position to bribe or threaten the Legislature. (Section 17, p. 133)

Consideration by committee of the whole, July 26:[30]

Motion: It was moved to strike out all after the word "state," so that the entire forfeiture clause would be eliminated.

Action: Motion carried.

The **Review** credits Dunbar with this motion, while the **Post-Intelligencer** cites Turner.

Motion: Stiles moved to strike the rest of the section.

Action: Motion lost 30 to 23.

Discussion as follows:

Against: Griffitts thought that the section could do no harm and that it might prove useful to determine certificates at the first election.

Final action by Convention, July 26:

Decision of committee of the whole accepted. (p. 178)

Section 16

Present Language of the Constitution:

LIEUTENANT GOVERNOR, DUTIES AND SALARY. The lieutenant governor shall be presiding officer of the state

29. **Governor Issues Commissions:** Ore., **Const.** (1857), Art. 5, sec. 8 (Hill, Prop. Wash. **Const.**, Art. 5, sec. 18; Ind., **Const.** (1851), Art. 15, sec. 6, identical with Ore.). [Identical.]

30. **Post Intelligencer, Review**, July 27, 1889.

senate, and shall discharge such other duties as may be prescribed by law. He shall receive an annual salary of one thousand dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[31]

Text as given in report of committee, July 23:

Same as final except that it set fifteen hundred dollars for salary. (p. 134)

Consideration by committee of the whole, July 26:[32]

Motion: Gowey moved to substitute one thousand dollars for fifteen hundred dollars.

Action: Motion lost.

Motion: McReavey proposed to pay the Lieutenant Governor a per diem rate which should never exceed three thousand dollars per annum while acting as presiding officer of the Senate.

Action: Motion lost.

Motion: Sharpstein moved to amend so that the salary would be five hundred dollars.

Action: Motion lost.

Discussion as follows:

For: Sharpstein thought that five hundred dollars would be enough for just presiding over the Senate.

Against: Weir said that fifteen hundred dollars was a reasonable sum. Dunbar stated that he was opposed to a Lieutenant Governor but if there was to be one, enough salary should be offered to attract a good man.

Motion: Dunbar moved to strike the clause restricting the

31. **Lieutenant Governor Presides Over Senate:** Cal., Const. (1879), Art. 5, sec. 15; Wis., Const. (1848), Art. 5, sec. 8. [Similar in this extent only.]
32. **Review,** July 27, 1889.

Legislature from increasing the salary over three thousand dollars.

Action: Motion lost.

Final action by Convention, July 26:

Motion: Clothier moved to amend to add that the Lieutenant Governor shall vote only when the Senate is equally divided.

Action: Motion lost. (p. 181)

Motion: McReavey moved to make the pay per diem while presiding over the Senate. This payment could be in salary form but not to exceed two thousand dollars.

Action: Motion lost 42 to 27. (p. 181)

Voting for: Berry, Blalock, Clothier, Comegys, Cosgrove, Durie, Fay, Godman, Griffitts, Henry, Hungate, Kellogg, McReavey, Mires, Neace, Newton, J. M. Reed, Sharpstein, Sohns, Stevenson, Stiles, Travis, Van Name, Warner, West, Willison, and Winsor. **Not voting:** Browne, Gray, McCroskey, McDonald. **On leave:** Morgans and Glascock.

Motion: Gowey moved to insert one thousand dollars for fifteen hundred dollars.

Action: Motion carried 39 to 31. (p. 182)

Voting against: Allen, Buchanan, Burk, Coey, Crowley, Dallam, Dickey, Dunbar, Dyer, Fairweather, Hayton, Hicks, Jamieson, Jones, Joy, Kinnear, Lillis, Manly, Minor, J. Z. Moore, R. S. More, Prosser, T. M. Reed, Schooley, Sturdevant, Suksdorf, E. H. Sullivan, P. C. Sullivan, Turner, Weir, Weisenburger. **Not voting:** Browne, Gray, and McDonald. **On leave:** Glascock and Morgans.

Section 17

Present Language of the Constitution:

SECRETARY OF STATE, DUTIES AND SALARY. The secretary of state shall keep a record of the official acts of the legislature, and executive department of the state, and shall, when required, lay the same, and all matters relative thereto, before either branch of the legislature, and shall per-

form such other duties as shall be assigned him by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[33]

Text as given in report of committee, July 23:

Same as final except that it modified "record" with the adjective "fair" and used "legislative assembly" instead of "Legislature."

Consideration by committee of the whole, July 26:[34]

Motion: Buchanan moved to change "fair" to "correct" so that the Secretary of State would be required to keep a correct record. E. H. Sullivan suggested "true."

Motion: Dunbar moved to amend so as to strike "fair" entirely.

Action: Dunbar's motion was adopted.

Final action by Convention, July 26:

Motion: Stiles moved to add that the Secretary of State be Commissioner of Public Printing and procure work by contract. (p. 184)

Action: Motion lost.

Discussion as follows:[35]

For: Dyer favored the motion because it was the closest to the public printer that he favored.

Against: J. Z. Moore said that the matter was covered in the legislative report.

33. **Duties of Secretary of State:** Hill, Prop. Wash. **Const.**, Art. 5, sec. 19; Cal., **Const.** (1879), Art. 5, sec. 18. [Identical except that Wash. drops the word "fair" from the Hill Constitution and the word "correct" from the Cal. Const.] Ore., **Const.** (1857), Art. 6, sec. 2. [Similar.]
34. **Times, Review,** July 27, 1889.
35. **Review,** July 27, 1889.

Section 18

Present Language of the Constitution:

SEAL. There shall be a seal of the state kept by the secretary of state for official purposes, which shall be called, "The Seal of the State of Washington."

Original language same as present.[36]

Text as given in report of committee, July 23:

Same as final. (p. 134)

Final action by Convention, July 26:

Motion: Dyer moved to insert "Great" before "Seal" so that it would read "The Great Seal of the State of Washington."

Action: Motion lost. (p. 179)

Section 19

Present Language of the Constitution:

STATE TREASURER, DUTIES AND SALARY. The treasurer shall perform such duties as shall be prescribed by law. He shall receive an annual salary of two thousand dollars. which may be increased by the legislature, but shall never exceed four thousand dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[37]

Text as given in report of committee, July 23:

Same as final except that it set the salary at twenty-five hundred dollars. (p. 134)

Consideration by committee of the whole, July 26:[38]

Motion: Dunbar moved to strike twenty-five hundred dollars and insert "two thousand dollars."

Action: Motion carried 27 to 24.

36. **Shall Keep State Seal:** Ore., **Const.** (1857), **Art. 6, sec. 3** (Hill, Prop. Wash. **Const.**, Art. 5, sec. 20, identical with Ore.). [Identical.]
37. **Duties of State Treasurer:** Ore., **Const.** (1857), **Art. 6, sec. 4** (Hill, Prop. Wash. **Const.**, Art. 5, sec. 21, identical with Ore.). [Identical.] Wash., **Const.** (1879), Art. 9, sec. 3. [Similar.]
38. **Post Intelligencer, Review,** July 27, 1889.

Final action by Convention, July 26:

Decision of committee of the whole (on Section 21) accepted 37 to 34. (p. 178)

Voting against: Allen, Bowen, Buchanan, Coey, Cosgrove, Crowley, Dickey, Dunbar, Dyer, Fairweather, Fay, Gray, Jamieson, Jones, Lillis, Lindsley, Manly, J. Z. Moore, R. S. More, Prosser, Power, T. M. Reed, Schooley, Shoudy, Sohns, Stiles, Sturdevant, E. H. Sullivan, P. C. Sullivan, Tibbetts, Turner, Weir, Weisenburger, and Hoyt. **Not voting:** Browne and Newton. **On leave:** Glascock and Morgans.

Section 20

Present Language of the Constitution:

STATE AUDITOR, DUTIES AND SALARY. The auditor shall be auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed three thousand dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[39]

Text as given in report of committee, July 23:

Same as final except for minor wording. (Section 22, p. 135)

Consideration by committee of the whole, July 26:[40]

Motion: Dunbar moved to substitute twenty-five hundred dollars for two thousand dollars.

Action: Motion lost by 20 ayes and noes not counted.

Final action by Convention, July 26:

Motion: T. M. Reed moved to change "two" to "three" and "three" to "four." (Section 22)

Action: Motion lost 60 to 7. (p. 183)

39. **Duties of State Auditor:** Hill, Prop. Wash. Const., Art. 5, sec. 22. [Identical.]

40. **Review, July 27, 1889.**

Voting for: Dickey, Jamieson, Lindsley, Minor, Power, T. M. Reed, Weisenburger. **Not voting:** Browne, Dunbar, Eshelman, Gowey, Sohns, and Weir. **On leave:** Glascock and Morgans.

Motion: Gowey moved to put "twenty-five hundred" for "three thousand."

Action: Motion lost. (p. 183)

Section 21

Present Language of the Constitution:

ATTORNEY GENERAL, DUTIES AND SALARY. The attorney general shall be the legal adviser of the state officers, and shall perform such other duties as may be prescribed by law. He shall receive an annual salary of two thousand dollars, which may be increased by the legislature, but shall never exceed thirty-five hundred dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[41]

Text as given in report of committee, July 23:

Same as final. (Section 23, p. 135)

Section 22

Present Language of the Constitution:

SUPERINTENDENT OF PUBLIC INSTRUCTION, DUTIES AND SALARY. The superintendent of public instruction shall have supervision over all matters pertaining to public schools, and shall perform such specific duties as may be prescribed by law. He shall receive an annual salary of twenty-five hundred dollars, which may be increased by law, but shall never exceed four thousand dollars per annum. (As to salary this section is repealed by 20th Amendment. See Article 28, Section 1.)

Original language same as present.[42]

41. **Duties of Attorney General:** Hill, Prop. Wash. Const., Art. 5, sec. 23. [Identical except that Wash. uses "state officers" instead of naming them separately.]

42. **Duties of Superintendent of Public Instruction:** Wash., Const. (1878), Art. 9, sec. 3. [Similar in part.]

Text as given in report of committee, July 23:

Same as final except it gave a salary of eighteen hundred dollars with a maximum of twenty-five hundred dollars. (Section 24, p. 135)

Consideration by committee of the whole, July 26:[43]

Motion: Prosser moved to substitute twenty-five hundred dollars for eighteen hundred dollars and four thousand dollars for twenty-five hundred dollars.

Action: Motion carried 35 to 30.

Discussion as follows:

For: Prosser thought any man qualified to run the state schools should be treated with liberality. Godman agreed with him. J. Z. Moore read and endorsed a letter from Professor Turner of Spokane Falls arguing that the Superintendent of School's salary shauld be equal to the Secretary of State's. Dickey thought that the committee report must be mistaken since the cities of Seattle, Spokane, and Tacoma pay their school superintendents two thousand dollars per year. He said the whole state shouldn't pay less. Lillis favored the increase and stressed the importance of this officer.

Against: Buchanan said that eighteen hundred dollars per year was six dollars per day and he thought this sufficient. Griffitts and Durie opposed the motion and Weir defended the committee report.

Motion: Travis moved to go back to two thousand dollars and thirty-five hundred dollars.

Action: Motion not seconded.

Motion: Buchanan moved to strike the restriction on future increases.

Action: Motion lost.

Final action by Convention, July 26:

Decision of committee of the whole (on Section 24) accepted 36 to 34. (p. 179)

43. **Post Intelligencer, Review,** July 27, 1889.

Voting for: Allen, Blalock, Coey, Cosgrove, Crowley, Dallam, Dickey, Dunbar, Dyer, Eldridge, Eshelman, Godman, Gray, Hayton, Jamieson, Jones, Joy, Lillis, Lindsley, Minor, Mires, J. Z. Moore, Power, Prosser, T. M. Reed, Schooley, Sohns, Stiles, Sturdevant, Suksdorf, P. C. Sullivan, Tibbetts, Turner, Weir, Weisenburger, and Winsor. **Not voting:** Browne, Comegys, and Newton. **On leave:** Glascock and Morgans.

Section 23

Present Language of the Constitution:

COMMISSIONER OF PUBLIC LANDS—COMPENSATION. The commissioner of public lands shall perform such duties and receive such compensation as the legislature may may direct.

Original language same as present.[44]

Text as given in report of committee, July 23:

Same as final. (Section 25, p. 135)

Consideration by committee of the whole, July 26:[45]

Motion: Weir moved to create a Board of Commissioners and to fix the salary of the Commissioners.

Action: Motion not seconded.

Section 24

Present Language of the Constitution:

RECORDS, WHERE KEPT, ETC. The governor, secretary of state, treasurer, auditor, superintendent of public instruction, commissioner of public lands and attorney general shall severally keep the public records, books and papers relating to their respective offices, at the seat of government, at which place also the governor, secretary of state, treasurer and auditor shall reside.

Original language same as present.[46]

44. **Duties of Land Commissioners:** Seems to be original.

45. **Review,** July 27, 1889.

46. **Certain Offices to be Kept at Capital:** Hill, Prop. Wash. Const., Art. 5, sec. 24. [Almost identical.] Wash., Const. (1878), Art. 9, sec. 1. [Similar.]

Text as given in report of committee, July 23:

Same as final except that it omitted the Superintendent of Public Instruction and the Commissioner of Public Lands in the first of the section and it left out the Governor in stating the residence of certain officers. (Section 26, p. 135)

Consideration by committee of the whole, July 26:[47]

Motion: Dyer moved that the Governor should also reside at the seat of government.

Action: Motion carried.

Motion: Bowen moved to add the Commissioner of Public Lands to the list of officers who shall keep records at the seat of government.

Action: Motion carried.

Motion: Godman moved to strike the entire section as he thought it was legislative.

Action: Motion lost.

Motion: Schooley moved that the Superintendent of Public Schools should keep records at the capitol.

Action: Motion carried 26 to 24.

Motion: Suksdorf moved that all state officers reside and keep records at the capitol.

Action: Motion withdrawn.

Discussion as follows:

Against: Turner pointed out that this would include judges of the Supreme Court. Griffitts and Gowey also opposed.

Motion: Henry offered a substitute rearranging the section.

Action: Motion lost.

Motion: Durie moved to strike the section.

Action: Motion lost.

Discussion as follows:

For: Godman thought the section was purely legislative.

47. **Post Intelligencer, Review, July 27, 1889.**

Against: Griffitts and Dyer opposed. Warner thought the Governor, Secretary of State, and Treasurer should always live at the capitol.

Motion: Tibbetts moved to strike all the amendments made except the one requiring the Governor to live at the capitol.

Action: Motion lost.

Motion: E. H. Sullivan moved a substitute for the entire section which provided that the Governor, Secretary of State, and Treasurer reside at the capitol.

Motion: Power moved to amend by adding "and keep their offices thereat." Sullivan accepted the amendment.

Action: Motion lost.

Final action by Convention, July 26:

Decision of committee of the whole (on Section 26) accepted. (p. 179)

Section 25

Present Language of the Constitution:

QUALIFICATIONS, COMPENSATION, OFFICES WHICH MAY BE ABOLISHED. No person, except a citizen of the United States and a qualified elector of this state, shall be eligble to hold any state office. The compensation for state officers shall not be increased or diminished during the term for which they shall have been elected. The legislature may in its discretion abolish the offices of the lieutenant governor, auditor and commissioner of public lands. [1955 p 1861, Senate Joint Resolution No. 6. Approved November 6, 1956.]

Original language:[48]

No person, except a citizen of the United States and a qualified elector of this state, shall be eligible to hold any state office, and the State Treasurer shall be ineligible for the term suc-

48. **Eligibility to State Office:** Wis., **Const.** (1848), Art. 5, sec. 2; Ill., **Const.** (1870), Art. 7, sec. 6; Colo., **Const.** (1876), Art. 7, sec. 6. [Similar in part.] **Treasurer Ineligible for Second Term:** Wash., **Const.** (1878), Art. 9, sec. 4; Neb., **Const.** (1875), Art. 5, sec. 3. [Similar.] **Certain Offices May Be Abolished:** Cal., **Const.** (1879), Art. 5, sec. 19. [Similar with regard to surveyor-general.]

ceeding that for which he was elected. The compensation for state officers shall not be increased or diminished during the term for which they shall have been elected. The Legislature may in its discretion abolish the office of the Lieutenant Governor, Auditor and Commissioner of Public Lands.

Text as given in report of committee, July 23:

"No person, except a citizen of the United States and a resident of the state or territory at least two years shall be eligible to hold any state office. No person shall be eligible to hold the office of Governor or Lieutenant Governor unless he be at least thirty-five years old, and shall have resided in the state or territory at least five years preceding his election to such office. No person shall be eligible to hold the office of State Treasurer more than two consecutive terms. The compensation of state officers shall not be increased or diminished during the term for which they shall have been elected." (Section 27, p. 135)

Consideration by committee of the whole, July 26:[49]

Motion: E. H. Sullivan moved to strike "at least thirty-five" and add "a qualified elector."

Action: It is not clear what happened to this motion, or if it was merely a proposal not made formally into a motion.

Motion: Sharpstein moved to add as a substitute for the section as follows: "No person, except a qualified elector of this state, shall be eligible to hold any state office, and no person shall be eligible to hold the office of State Treasurer more than two consecutive terms. The compensation for state officers shall not be increased or diminished during the term for which they shall have been elected."

Action: Motion carried.

Final action by Convention, July 26:

Decision of committee of the whole (on Section 27) accepted. (p. 179)

49. **Post Intelligencer, Review,** July 27, 1889.

Motion: J. Z. moore moved to amend to make the Governor and Treasurer ineligible for the succeeding term.

Motion: Dunbar moved to amend the amendment by striking our "Governor."

Action: Dunbar's motion carried; a vote on Moore's motion as amended carried 62 to 9. (p. 180)

Voting against: Coey, Crowley, Henry, McDonald, R. S. More, Shoudy, P. C. Sullivan, Van Name, and Weir. **Not voting:** Browne and Kellogg. **On leave:** Glascock and Morgans.

Motion: Stiles moved to insert "citizen of the United States" in the first line.

Action: Motion carried. (p. 182)

Motion: Godman moved to add that the Legislature may abolish the offices of Lieutenant Governor, Auditor, and Commissioner of Public Lands.

Action: Motion carried 37 to 32. (p. 182)

Voting against: Allen, Bowen, Buchanan, Clothier, Coey, Cosgrove, Dallam, Dickey, Dyer, Fairweather, Fay, Gowey, Hayton, Hungate, Jones, Joy, Kinnear, Lillis, Lindsley, Manly, Minor, J. Z. Moore, R. S. More, Power, Prosser, T. M. Reed, Schooley, Shoudy, Tibbetts, Van Name, Weir, and Winsor. **Not voting:** Browne, Gray, Hicks, and McDonald. **On leave:** Glascock and Morgans.

Motion: Suksdorf moved that no other state officer should hold office for more than two terms in succession.

Action: Motion (to amend Section 27) lost. (p. 186)

Passage of Article

Article on Executive approved by Convention, July 29, by a vote of 58 to 7. (p. 189)

Voting against: Eldridge, J. M. Reed, Sharpstein, Turner, Warner, Weisenburger, and West. **Not voting:** McElroy.

Absent: Berry, Browne, Dallam, Lillis, McReavey, Morgans, Weir, and Willison.