

**STATUTES AND
CONSTITUTION RELATING
TO ELECTIONS IN THE
STATE OF OREGON, 1913**

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Statutes and constitution relating to elections in the state of Oregon, 1913 by Various

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VARIOUS

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STATUTES AND CONSTITUTION

RELATING TO

ELECTIONS

IN THE

STATE OF OREGON

1913

COMPILED FROM

LORD'S OREGON LAWS AND THE SESSION LAWS OF 1911 AND 1913

ALSO

Such Provisions of the Constitution of Oregon, and Such
Statutes of the United States, as Pertain to
Elections in This State

Compiled by
BEN W. OLCOTT
Secretary of State



SALEM, OREGON
WILLIS S. DUNIWAY, STATE PRINTER
1913

LAW AUTHORIZING THIS COMPILATION.

§ 3413. Election Laws to Be Compiled and Supplies Furnished by Secretary of State.

It shall be the duty of the Secretary of State, not less than six months before every biennial election in this State, to compile the election laws of the State and index the same and cause a sufficient number thereof to be printed in appropriate pamphlet form for the convenience of the electors of the State. He shall at the same time and in the same manner cause to be printed a sufficient number of copies of such of the provisions of the laws pertaining to elections and relating to and regulating the duties of election boards as are necessary for the use of such boards at the several elections; also suitable poll books, required by and in accordance with Section 3324; also tally sheets, required by and in accordance with Section 3326; also register of nominations books, required by Section 3341; also receipts, required by and in accordance with Section 3400; needles for stringing ballots and stubs, as required by Sections 3325 and 3409, and indelible copying pencils, suitable for canceling the names of candidates not voted for, as required by Section 3404; and he shall forthwith proceed and distribute the same to the several county clerks in the State in appropriate quantities. The bills for furnishing said pamphlet copies of the election laws, for ruling, printing and binding such poll books, blanks, receipts, register of nominations, and tally sheets, and procuring said needles and pencils, and for preparing and delivering the same, as required by this act, shall be audited by the Secretary of State and paid out of any moneys in the treasury not otherwise appropriated. [L. 1913, Chap. 329, p. 644.]

NOTE.—This compilation of the statutes of this State relating to elections and the registration of voters contains only such statutes as relate to or in any manner affect the duties and authority of judges and clerks of election, and other officers directly connected therewith. Those statutes which are purely local in their application are mostly omitted from this compilation and for such information reference should be made to Lord's Oregon Laws, and the Session Laws of 1911 and 1913.

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CONSTITUTIONAL PROVISIONS RELATING TO ELECTIONS

PROVISIONS OF CONSTITUTION OF THE UNITED STATES RELATING TO ELECTIONS.

ARTICLE I.

§ 4. Election of Senators and Representatives—Sessions of Congress.

The times, places, and manner of holding elections for senators and representatives shall be prescribed in each State by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in each year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

ARTICLE II.

§ 1. Executive Power—Electors of President and Vice-President.

The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice-President, chosen for the same term, be elected as follows:

Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the State may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

The balance of this section omitted, as it defines the qualifications of President, salary, etc.

ARTICLE XIV.

§ 1. Citizenship, and Rights Thereof.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United

ARTICLE XV.

States and of the State wherein they reside. No State shall make or enforce any laws which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

ARTICLE XV.

§ 1. Right to Vote.

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude.

ARTICLE XVII.

"The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislatures.

"When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies; *provided*, that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

"This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution."

Adopted in lieu of the first paragraph of Section 3 of Article I, and also so much of paragraph two of the same section as relates to the filling of vacancies.

PROVISIONS OF CONSTITUTION OF OREGON RELATING TO
ELECTIONS.

ARTICLE I.

BILL OF RIGHTS.

§ 18. Private Property Taken for Public Uses.

Private property shall not be taken for public use, nor the particular services of any man be demanded, without just compensation; nor, except in case of the State, without such compensation first assessed and tendered.

§ 20. Exclusive Privileges.

No law shall be passed granting to any citizen or class of citizens privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

§ 26. Assemblages of the People.

No law shall be passed restraining any of the inhabitants of the State from assembling together in a peaceable manner to consult for their common good; nor from instructing their representatives; nor from applying to the legislature for redress of grievances.

ARTICLE II.

SUFFRAGE AND ELECTIONS.

§ 1. Elections Free.

All elections shall be free and equal.

The Lockwood law, providing a method for holding primary elections for the selection of delegates to nominating conventions, imposes no restraint upon electors and does not deny them their proper influence and is not in conflict with this section: *Ladd v. Holmes*, 40 Or. 167, 66 Pac. 714.

To be "free" means that the voter shall be left to the untrammelled exercise, whether by civil or military authority, of his right or privilege; that is to say, no impediment or restraint of any character shall be imposed upon him, either directly or indirectly whereby he shall be hindered or prevented from participation at the polls. The word "equal" has a different signification; every elector has the right to have his vote counted for all it is worth in proportion to the whole number of qualified electors desiring to exercise their privilege; so that the terms free and equal, used as they are correlatively, signify, not only that the election shall be open and untrammelled to all persons endowed with the elective franchise, but shall be closed to all not in the enjoyment of such privilege: *Ladd v. Holmes*, 40 Or. 167, 66 Pac. 714.

§ 2. Qualifications of Electors.

In all elections not otherwise provided for by this Constitution, every citizen of the United States, of the age of twenty-

one year and upwards, who shall have resided in the State during the six months immediately preceding such election; and every person of foreign birth of the age of twenty-one years and upwards, who shall have resided in this State during the six months immediately preceding such election, and shall have declared his or her intention to become a citizen of the United States one year preceding such election, conformably to the laws of the United States on the subject of naturalization, shall be entitled to vote at all elections authorized by law.

NOTE.—The foregoing amendment was proposed by the people by initiative petition and approved by a majority of votes cast thereon at the general election held November 5, 1912. There were 61,265 votes cast for said amendment and 57,104 votes cast against and under the provisions of law by proclamation of the Governor, dated November 20, 1912, took effect on said date.—
SECRETARY OF STATE.

§ 3. Idiots, Insane, and Convicts.

No idiotic or insane person shall be entitled to the privileges of an elector; and the privilege of an elector shall be forfeited by a conviction of any crime which is punishable by imprisonment in the penitentiary.

The term "conviction," as used here, is used in the primary and ordinary sense, and signifies proving or finding that the defendant is guilty either by the verdict of the jury, or his plea to that effect, and does not include the punishment which follows thereon. A crime is punishable by imprisonment in the penitentiary when by any law it may be so punished, and the fact that it also may be or is otherwise punished does not change its grade or character in this respect; hence where the punishment provided by statute for a certain crime was either imprisonment in the penitentiary, or a fine, and a person upon conviction by pleading guilty was punished by a fine, but not by imprisonment, he forfeited his right to vote under this provision of the Constitution: *United States v. Watkins*, 6 Fed. 152.

The authority of this decision is perhaps avoided by the amendment to section 1230, of 1895, which reads: "Felony is a crime which is punishable with death or by imprisonment in the penitentiary of this State. When a crime punishable by imprisonment in the penitentiary is also punishable by a fine or imprisonment in the county jail in the discretion of the court, it shall be deemed a misdemeanor for all purposes after a judgment imposing punishment other than imprisonment in the penitentiary."

This section does not operate as a restriction on the pardoning power. Pardon by the Governor restores to the person receiving it the privileges of an elector forfeited by the crime: *Wood v. Fitzgerald*, 3 Or. 158.

§ 4. Residence.

For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum at public expense; nor while confined in any public prison.

Though an employee of the United States, or of the State, does not gain or lose a residence by reason of his presence or absence in such service, he may, by appropriate steps, gain a residence at such point as he may desire independently of such employment: *Wood v. Fitzgerald*, 3 Or. 568.

§ 5. Soldiers, Seamen, and Marines Not to Vote—Residence Of.

No soldier, seaman, or marine in the army or navy of the United States, or of their allies, shall be deemed to have acquired a residence in the State in consequence of having been stationed within the same; nor shall any such soldier, seaman, or marine have the right to vote.

§ 6. Negroes, Chinamen, Etc.

No negro, Chinaman, or mulatto shall have the right of suffrage.

Negroes or mulattoes born or naturalized in the United States and subject to the jurisdiction thereof by virtue of the fourteenth amendment are now citizens of the United States and the State wherein they reside, and, therefore, by virtue of the fifteenth amendment, are entitled to the right of suffrage in this State the same as white persons; and the same is true of all persons born or naturalized in the United States and subject to the jurisdiction thereof: *The Slaughterhouse Cases*, 16 Wall. 71. See note on Article II, Section 2, *ante*.

§ 7. Bribery at Elections.

Every person shall be disqualified from holding office during the term for which he may have been elected, who shall have given or offered a bribe, threat, or reward to procure his election.

A promise by a candidate for a county office to the voters of his county that if elected he will pay a certain part of the salary of the office into the county treasury, though very objectionable on the grounds of public policy, is not an offer of a bribe or reward within the meaning of this section, unless the voters sought to be influenced thereby are taxpayers of the county, or would in some way be benefited by the performance of the offer: *State v. Dustin*, 5 Or. 375.

§ 8. Election Laws.

The legislative assembly shall enact laws to support the privilege of free suffrage, prescribing the manner of regulating and conducting elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, and other improper conduct.

§ 9. Penalty for Dueling.

Every person who shall give or accept a challenge to fight a duel, or who shall knowingly carry to another person such challenge, or who shall agree to go out of the State to fight a duel, shall be ineligible to any office of trust or profit.

§ 10. Lucrative Offices.

No person holding a lucrative office or appointment under the United States or under this State shall be eligible to a seat in the legislative assembly; nor shall any person hold