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Inventory of the County Archives  
of  
**OREGON**

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No. 2

Benton County

FEDERAL WORKS AGENCY  
WORK PROJECTS ADMINISTRATION  
Oregon Historical Records Survey

FEDERAL WORKS AGENCY  
WORK PROJECTS ADMINISTRATION

OF OREGON

HARRISON E. DEVEREAUX

STATE ADMINISTRATOR

TWELFTH FLOOR-BEDELL BUILDING  
PORTLAND, OREGON

May 15, 1942

We take pleasure in sending you, with the compliments of Judge H. C. Herron and Commissioners W. H. Malone and O. B. Kyle, a copy of the Inventory of the County Archives of Oregon, No. 2, Benton County just issued.

It was through the interest and sponsorship of the Benton County judge and commissioners that we were able to publish this.

You will be particularly interested in the history of Benton County. If records are destroyed this will preserve for history lovers and for posterity a summary of the significant events concerning the county from territorial days to the present. The text has been carefully documented. Hence it will be usable in upper grade and high schools, as well as in colleges. Graduate students will find it of unusual assistance. We believe, also, that it will prove good reading for anyone.

County inventories have acquired a special value since certain momentous events have taken place. The entries in the latter half of the book, while rather dull reading perhaps, will be of use to such agencies as the U. S. Department of Justice, Federal Social Security, selective service boards, etc., because they contain information as to the whereabouts, dates, accessibility and contents of records relating to citizenship, age, residence, and the like.

Please address comments or inquiries regarding this, or the other publications of the Oregon Historical Records Survey which are listed in the rear of the inventory, to us "Attention Hildegarde Enke, Assistant State Supervisor, 427 S. W. 11th Avenue, Portland, Oregon."

Very truly yours,

HARRISON E. DEVEREAUX  
State Administrator

INVENTORY OF THE COUNTY ARCHIVES  
OF OREGON

NO. 2. BENTON COUNTY (CORVALLIS)

Prepared by

The Oregon Historical Records Survey  
Service Division  
Work Projects Administration

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Portland, Oregon  
The Oregon Historical Records Survey  
April 1942

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## FOREWORD

The Inventory of the County Archives of Oregon is one of a number of guides to historical materials prepared throughout the United States by workers on Historical Records Survey projects of the Work Projects Administration. The publication herewith presented, an inventory of the archives of Benton County, is number 2 of the Oregon series.

The Historical Records Survey program was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local governments, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of the day-to-day administration by the officials of the county, and also the needs of lawyers, businessmen, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by Historical Records Survey projects attempt to do more than give merely a list of records -- they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives. Up to the present time approximately 1800 publications have been issued by the Survey throughout the country.

The successful conclusion of the work of Historical Records Survey projects, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The Survey program was organized by Luther H. Evans, who served as Director until March 1, 1940, when he was succeeded by Sargent B. Child. The Survey operates as a Nation-wide series of locally sponsored projects in the Division of Community Service Programs, of which Mrs. Florence Kerr, Assistant Commissioner, is in charge.

HOWARD O. HUNTER  
Commissioner of Work Projects

## PREFACE

Benton County's fame does not rest solely upon the fact that Oregon State College is in it. True, this institution is known as one of the few outstanding seats of experiments and discoveries in the field of agronomy, and recently acquired first page fame through the triumph of its football team in the Rose Bowl battle. But Benton County, qua county, is important and interesting historically; and its history has been written with extensive documentation as Section A of this volume.

A new importance has attached to the inventories of counties west of the Cascades. The National Committee on the Conservation of Cultural Resources and the State Committee, which is an officially recognized division of the State Civilian Defense Council, has urged the publication of catalogues showing the location and content summary of public records; and this inventory, which will be placed in national as well as State and local depositories, is to be considered a valuable contribution to the defense plans of these committees.

The space of a preface does not permit an adequate presentation of the values of a county inventory - the utility of its legal essays and entries to lawyers, abstractors, newspapers, historians, and county officials - the value of its entries to the Department of Justice, Federal Social Security, selective service boards, and other agencies interested in questions of birth, age, citizenship, and proof of other legal rights - the unique usefulness of its sections on history and governmental structure as teaching project material in upper grades, high schools, colleges, and civic organization study circles.

It is recommended, however, that the county court, the clerk, the superintendent of schools, and the public library keep a copy readily available for public use; and that the local newspapers inform the public of the availability and contents of these copies.

The Historical Records Survey, under the direction of Dr. Luther H. Evans, was initiated as a Nation-wide program in January 1936, a unit of the Federal Writers' Project of the Works Progress Administration. In November 1936, the Historical Records Survey became an independent part of Federal Project No. 1. Until August 31, 1939, the project operated entirely under the sponsorship of the Federal Government. However, in September 1939, the project was localized, the University of Oregon becoming the legal sponsor of the Oregon Historical Records Survey. The project is now a program within the Service Division of the Work Projects Administration.

Since March 1940 Sargent B. Child has been National Director of the Historical Records Survey. Dr. Donald M. Erb, President of the University of Oregon, and Dr. Dan E. Clark, Chairman of the History Department of the University, act as sponsor's representative, respectively in business and editorial capacities.

The Inventory of the County Archives of Oregon will, when completed, consist of 36 separate publications, one for each county in the State.

The volumes are numbered to correspond to an alphabetical listing of the counties; thus, Benton County is No. 2 of the series. Inventories of State and municipal archives, of church records, and guides to manuscript collections and imprints appear as separate publications.

The completion of the Benton County Inventory depended in great part on the cooperation of Benton County officials. To Judge H. C. Herron and Commissioners W. H. Malone and O. B. Kyle special appreciation must be expressed, for it was through their interest that Benton County co-sponsored publication of this volume. The Benton County Court provided the funds used to mimeograph and bind the inventory.

The Benton County Inventory and other publications of the Oregon Historical Records Survey are issued for free distribution to State and local officials, public libraries, universities, colleges, and historical societies in Oregon, and to a number of important libraries and agencies outside of the State. A list of these publications will be found at the end of this volume. Requests for information regarding this volume or other units of the inventory series should be addressed to the State Supervisor, Oregon Historical Records Survey, 427 S. W. 11th Avenue, Portland, Oregon.

T. J. EDMONDS  
State Supervisor

April 1942  
Portland, Oregon

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## A. BENTON COUNTY HISTORICAL SKETCH

Introduction. Immigrants to Oregon first settled in the Willamette Valley where they found fertile land, a salubrious climate, and an abundant water supply. Arriving at Oregon City after the long treck overland they spread southward. The Indians were, for the most part, peaceful and friendly; hunting and fishing were plentiful; and an almost inexhaustable supply of timber waited the axe and saw to convert it into houses, barns, and fences.

The good lands adjacent to Oregon City were soon taken up and the tide spread westward into the Tualatin and south along the foothills of the Cascade Range. Soon settlers were crossing to the west side of the Willamette and pressing on southward toward the upper valley. However, although French-Canadian trappers had visited the region and camped in the shadow of Mary's Peak, which they named St. Mary's Peak, no white man claimed any land within the confines of the present Benton County until 1845.

In that year a number of claims were located near the mouth of Mary's River and in King's Valley. (1) In the following two years settlement was comparatively rapid. Then came the gold rush to California and most of the populace was lured to the Sacramento Valley by the prospect of easy riches. Some came back with gold but others returned not richer, but wiser men. (2) In the fifties more and more settlers arrived and towns sprang up in many parts of the county. By the time Oregon had attained statehood the county listed 2,479 residents. (3) The census for 1860 gave Benton a population of more than 3,000, voters to the number of 748, and \$1,293,047 in taxable property. (4)

Natural Setting. Benton County is in the central Willamette Valley, the western boundary being near the summit of the Coast Range and the eastern boundary being washed by the waters of the Willamette River. Polk County bounds the area on the north, Lincoln County on the west, Lane County on the south, and Linn County across the Willamette River on the east. The county is made up of two dissimilar provinces varying greatly in topography and elevation. The eastern part along the river is a plain of varying width broken here and there by low hills and comprises about twenty percent of the area of the county. This plain was originally

1. David D. Fagan, An Illustrated History of Benton County, p. 323.
2. James R. Robertson, "The Social Evolution of Oregon," OHQ, III (1902), 19-23.
3. Survey of Population, Miscellaneous Papers, Benton County.
4. Thomas W. Prosch, "Oregon in 1863," OHQ, XIV (1913), 64.

prairie land but where it has not been brought under cultivation it has grown to brush and oak scrub. Westward the valley breaks sharply upward into the rugged foothills and crests of the Coast Range. (5)

The Willamette River in this region has an elevation of about 200 feet; the valley floor is level or gently undulating, seldom rising above 350 feet elevation. The mountain area rises to a general elevation of approximately 2,000 feet. Mary's Peak, near the west county line, attains an elevation of 4,097 feet and is the highest point in the Coast Range in Oregon. (6)

The Coast Range is very rough, cut into steep walled valleys and precipitous peaks almost covered by fine stands of timber, the trees rising from an almost impenetrable cover of lesser growth. These mountains are drained by small streams that wind tortuously between the high timbered hills. The principal stream of the county is Mary's River, which, with its tributaries, drains three-fourths of the area. Just south of Mary's Peak a small part of the county lies in the coast drainage area of the upper Alsea River. King's Valley lies in a loop of the Luckiamute River in the northwest part of the county. (7)

Benton County, like its neighbors, has a comparatively mild climate, with rainy winters and dry summers. The annual average rainfall varies from 40.82 inches at Corvallis to 60.10 at Summit in the western part of the county. Over 70 percent of the rainfall is in the five months of November to March inclusive, and more than 50 percent in November, December, and January. (8) Very little of the precipitation, even in the mountains, is in the form of snow. The wettest year on record at Corvallis was in 1896 when the total precipitation was 57.76 inches; and the year of lightest rainfall was in 1908, with a total of 33.29 inches. (9) At Summit a precipitation of 76.21 inches was recorded in 1927, while only 43.04 inches of rain fell in 1929. (10) The summers are usually very dry, July and August often having no rainfall whatever; the annual average is about one-half inch. (11)

5. Oregon State Immigration Commission, Oregon Almanac, 1915, pp. 90-95, hereinafter cited as Oregon Almanac; for a complete treatise on the topography, soil, and climate of Benton County see Soil Survey of Benton County, Oregon, Field Operations, Bureau of Soils, U. S. Department of Agriculture, 1920.
6. Oregon Almanac, p. 90.
7. Ibid.
8. Oregon State Planning Board, Basic Data Summary of Oregon Counties, Index 3, p. 2, hereinafter cited as Basic Data Survey.
9. United States Department of Agriculture (Weather Bureau), Climatic Survey of the United States, Section 3, Western Oregon, p. 13.
10. Ibid., p. 29.
11. Ibid., pp. 13, 29.

The average maximum temperature at Corvallis is 62.2 degrees, the average minimum is 41.2 degrees, and the general annual average is 51.8 degrees. The average season for killing frosts is between September 20 and April 20. The month with the highest average temperature is August with 81.1 degrees; the month with the lowest average temperature is January with 32.9 degrees. The highest recorded temperature was 103 degrees and the lowest -14 degrees. The average growing season between killing frost is 183 days. (12) Snow is common in the Coast Range, but remains on the ground only a short time on the valley floor of the eastern part of the county.

The soils of Benton County are similar to soils developed in a humid climate, having developed under conditions of mild winters with comparatively heavy rainfall, and warm dry summers. There are three groups, mixed in origin but chiefly formed from basaltic rock decomposition. About twenty percent of the arable land is included in the recently formed alluvial soils of the river bottoms. These soils are generally brown in surface and subsoil, permeable and well drained except for seasonal overflows. They are nonacid and fairly well supplied with essential minerals. The alluvial soils of the older valley filling comprise about thirty percent of the tillable land of the county. They are found on the valley slopes and terraces. The surface soil is commonly brown and the subsoil a lighter brown, heavy and less permeable than the subsoil of the newer valley soils. The residual soils, formed where they lie by the weathering of the rock, comprise about half the tillable lands and practically all of the forest lands of the county. They are of varying shades of red, well drained, and friable. (13)

The uncut timber of the county is estimated at a little more than three billion board feet, more than nine-tenths of which is Douglas fir. There are rather large amounts of white fir and hemlock, and smaller amounts of western red cedar, red alder, white oak, black cottonwood, bigleaf maple, and ash. Noble fir, silver fir, and ponderosa pine occur in inconsequential amounts. The land area of the county in forests amounts to a total of 53.7 percent, or 233,789 acres. Of this acreage 156,325 acres are in private ownership, 2,915 acres are State lands, 5,559 acres are county lands, 1,610 acres are municipally owned, 55,185 acres are in the public domain, and 2,195 are in the Siuslaw National Forest. (14)

Indians. At the coming of the white trappers of the Astor Pacific Fur Company the Benton County region was inhabited by small tribes of the Calapooia Nation of Indians. In 1806 Lewis and Clark had merely stated that "as far as the Indians with whom we conversed had ever penetrated that country (the Willamette Valley), it was inhabited by a nation called Calahpoewah, a very numerous people whose villages, nearly

12. Basic Data Survey, Index 3, p. 2.

13. See Soil Survey of Benton County cited in note 5.

14. Basic Data Survey, Index 3, p. 4.

forty in number, are scattered along each side of the Multnomah (Willamette), which furnishes them with their chief subsistence, fish, and the roots along its banks." (15)

Alexander Ross of the Astorians wrote concerning the explorations of Donald McKenzie in 1812 and of Duncan McDougall in 1813: "The Wallamitte quarter has always been considered by the whites as the garden of the Columbia... The natives are very numerous and well disposed, yet they are an indolent and sluggish race and live exceedingly poor in a very rich country. When our people were traveling there, the moment the report of a gun was heard, forth came the natives; men, women, and children would follow the sound like a swarm of bees, and feast and gormandize on the offal of the game like so many vultures round a dead carcass; yet every Indian has his quiver full of arrows, and few natives are more expert with the bow." (16)

The Indians of the area Ross listed were the Longuetonguebuff and the Lamalle tribes. (17) Hodge calls the latter Chelamela and says they were a small Kalapooian group living on Long Tom Creek and were included in the Dayton treaty of 1855. (18) Other tribes mentioned by Hodge were the Cheponafa, a subdivision of the Lakmiut, residing at the forks of St. Mary's Creek (Marys River), and the Lakmiut in the northern part of the county. (19)

The principal tribe of the region, however, seems to have been the "Long Toms" given various names by the early explorers and travelers. The river on which they dwelt was called Sam Tomleaf and Lamitambuff by John Work in 1834, (20) Lumtumbuff by Wilkes in 1841, (21) Longtabuff by David Douglas in 1826, (22) and Long Tom Bath by the Reverend George H. Atkinson in his diary in July, 1848. (23)

The Kalapooian family to which these tribes belonged formerly constituted a large and powerful group; but the Kalapooian tribes appear to have suffered severe losses by epidemic disease about 1824 after which they became numerically weak. They are described as being indolent, yet they were able to hold their territory against encroaching tribes. They

15. James K. Hosmer, History of the Expedition of Lewis and Clark, II, 240.
16. Alexander Ross, Adventures of the First Settlers on the Oregon or Columbia River, edited with historical introduction and notes by Milo Milton Quaife, pp. 252-254.
17. Ibid., 254.
18. F. W. Hodge, Handbook of American Indians, Pt. I, p. 242.
19. Hodge, op. cit., Pt. I, pp. 244, 754.
20. "John Work's Journey from Fort Vancouver to Umpqua River, and Return, in 1834," with introduction and comments by Leslie M. Scott, OHQ, XXIV (1923), 250, 264.
21. Charles Wilkes, Narrative of the U.S. Exploring Expedition, V, 222.
22. David Douglas, Journal, (London, 1914), p. 236.
23. "Diary of Rev. George H. Atkinson, Part IV," edited by E. Ruth Rockwood, OHQ, XL (1939), 352.

were at constant war with the coast tribes and also suffered much from the white pioneer. Slavery existed in a modified form, marriage was by purchase and was accompanied by certain curious ceremonials. (24)

At the treaty of Dayton, made in 1855, the Benton County tribes ceded their lands to the Americans. (25) Reporting in 1858 concerning the Willamette Valley Indians in the early fifties J. Ross Brown, special agent, wrote: "The Willamette Valley Indians... numbering 660 are divided into numerous small bands, each under the control of a petty chief. The tribe is very poor, and has neither power or disposition to go to war. During the disturbances of 1855 they remained in the valley, seeking only to save their lives. They were once a powerful race, overrunning the whole Willamette Valley, which they inhabited in common with the Molalla, the Santiams, and other branches and offshoots of the same original tribe. The encroachments of the Klickitats, a warlike and powerful tribe, from the north of the Columbia River, gradually reduced them to a state of dependency; and since 1845, when emigrants began to fill the valley, they have been dwindling away, and are now a degenerate remnant, suffering from disease, and addicted to all the evil habits of the whites. They have worked a great deal among the settlers, and when not in reach of whiskey are docile and expert in all kinds of farming operations." (26)

In the 1840's and early 1850's the Klickitats, who had come from the north side of the Columbia east of Mt. Adams, descended into the Willamette Valley and virtually dispossessed the few remaining Kalapuyas and other tribes reducing them to a semi-vassal state. The main source of Klickitat success was in their use of firearms which they had obtained from Hudson's Bay Company posts. (27) The Reverend H. Atkinson in his diary stated in July 1848, that "the Klikitats (in Benton County) are becoming troublesome. They got into a quarrel with a man and threatened to shoot him. They provoke the whites. They have a hundred warriors. I was then within three miles of their camp." (28)

When in 1851 a treaty was made with the Willamette Valley tribes to purchase their lands, the pretensions of the Klickitats were ignored. They were told that their country lay east of the Cascades in Washington and that they should return thither. However, they ignored the treaties and continued their defiance of the white settlers. They were tried for

24. A. S. Gatchet, "The Kalapuya People," Journal of American Folklore, XII (1899), 212-214.
25. Charles J. Kappler, Indian Affairs, Laws and Treaties, II, 498-500.
26. J. Ross Brown, "Report on Indian Affairs in the Territory of Oregon and Washington." 35th Cong. 1st Sess. (House of Representatives) Ex. Doc. No. 39.
27. J. Ross Brown, in letter to Commissioner of Indian Affairs, reviewing the Indian wars of 1855-56. Dec. 4, 1857. Ser. 955, S. E. 38, 1857, pp. 1-11.
28. "Diary of Rev. George H. Atkinson, Part IV," edited by E. Ruth Rockwood, CH, XL (1939), 352.

trespass, but the courts could find no law to suit the case. Finally in the spring of 1855 the Superintendent of Indian Affairs for Oregon, ordered them removed to their own country. They left reluctantly swearing vengeance on the whites. The war of 1855-57 may be partly attributed to this forced removal. (29)

At the treaty of Champoeg in 1851 the commissioners agreed to set aside lands in the foothills on each side of the Willamette as a residence for the Indians who ceded their valley lands to the government. However, this treaty was not ratified. (30) The confederated bands of the Willamette Valley were again treated with on January 22, 1855, the lands of the valley ceded and temporary reservations set aside. (31) A year later the Grande Ronde Reservation was started when Joel Palmer, Superintendent of Indian Affairs for Oregon, purchased 6,000 acres of land near the headwaters of the Yamhill River, and in the spring of 1856 gathered the remnants of the Kalapooias, as well as other tribes, to the reservation. (32) In April 1856 Lieut. Phil Sheridan was placed in charge of the military guard of the reservation and constructed Fort Yamhill and Fort Hoskins and a military blockhouse on Yaquina Bay. (33) With the gathering of the bands on the Grande Ronde the country was freed of Indians.

Exploration. The first mention of the Willamette Valley is by members of the Lewis and Clark Expedition. (34) Sergeant Ordway wrote in his journal under date of April 3, 1806: "in the evening Capt. Clark & party returned to Camp and informed us that they had been and took a view of the River which the Indians informed us of and that it is a very large River & is 500 yd wide and is supposed to head with the waters of California. they went 7 miles up sd River. their guide informed them that a large nation lived up the fork of this River by the name of Clackamas Nation of 30 towns, and that another Nation lives along distance up this River where it gets small by the name of Callap-no-wah Nation who are very numerous." (35)

The first record of white men in the upper valley is of three Canadian boatmen who deserted from Fort Astoria on November 10, 1811, and fled to the Willamette. However, their stay was brief as they were

29. S. A. Clarke, Pioneer Days of Oregon History, I, 320-322. Clarke paraphrases a report made by J. Ross Brown in 1857 to the Commissioner of Indian Affairs.
30. C. F. Coan, "Federal Indian Relations in the Pacific Northwest, 1849-1852," OHQ, XXII (1921), 55-56.
31. C. F. Coan, "The Adoption of the Reservation Policy in Pacific Northwest, 1853-55," OHQ, XXIII (1922), 16-17.
32. Ethel M. Peterson, Oregon Indians and Indian Policy, 1849-1871, pp. 57, 45-46.
33. Phil H. Sheridan, Personal Memoirs, I, 90-124.
34. James K. Hosmer, op. cit., II, 240.
35. Ordway's Journal, edited by M. M. Quaife (1916), p. 336.

captured by Indians on November 18, ransomed and taken back to Astoria on November 24. (36) This escapade evidently led to an exploration of the valley, as on December 5, 1811, Robert Stuart with a number of men and an Indian guide set out for the Willamette. (37) How far up the valley they went is not known, but a second group under Donald McKenzie set out on April 1, 1812, spent some time in the valley and penetrated as far south as the East fork, now known as McKenzie River. (38) It is more than probable that they passed through the present Benton County.

William Wallace and J. C. Halsey, led an expedition into the Willamette Valley in November 1812, to establish a trading post. They spent the subsequent six months in the valley exploring it thoroughly. It can be said with a fair degree of certainty that these men investigated the Mary's River country during their travels. (39)

In February 1814, the Fort on the Willamette was in charge of William Henry. The valley was full of elk and deer and a force of hunters was kept at this post to secure meat for the fort at Astoria. (40) These hunters as well as the American "free trappers" ranged far and wide through the valley. The Henry-Thompson Journals record on December 30, 1813, "Belair set off (from Astoria) for the Willamette, with two Canadians and four Sandwich Islanders to hunt beaver until May 1st, for whose service he pays us 180 lbs of beaver." (41) The Journals further record on February 18, 1814: "A canoe arrived from the Willamette with three American freemen, Milligan, Flannigan, and Bakor." (42) On March 20th was recorded the fact that "the last of the free Americans, John Day, (Alexander) Carson, and (William) Canning, arrived from the Willamette." (43) From these statements it is evident that many men had

36. Gabriel Franchere, Narrative of a Voyage to the Northwest Coast of America in the Years 1811, 1812, 1813, and 1814, pp. 132-138; see also Robert Stuart, Discovery of the Oregon Trail, p. 277.
37. Franchere, op. cit., p. 142; see also, H. H. Bancroft, History of Northwest Coast, II, 177.
38. Franchere, op. cit., p. 143; Stuart, op. cit., pp. 32-33, 278-279; see also Alexander Ross, Adventures of the First Settlers on the Oregon or Columbia River, pp. 252-257; see also Bancroft, Northwest Coast, II, 194-195.
39. Franchere, op. cit., p. 163, 168-171; Elliot Coues, ed., Henry and Thompson Journals: New Light on the Early History of the Pacific Northwest, II, 752, hereinafter cited as Henry-Thompson Journals; Bancroft, Northwest Coast, II, 207.
40. Franchere, op. cit., pp. 221-222; see also Bancroft, Northwest Coast, II, 244.
41. Henry-Thompson Journals, II, 780.
42. Ibid., II, 837.
43. Ibid., II, 857; for an extended description of conditions of the valley in 1814 see Henry-Thompson Journals, II, 810-820; see also Fred S. Perrine, "Early Days on the Willamette," OR, XXV (1924), 295-312.

probably penetrated the Mary's River country even at this early date.

Early in 1816 trouble arose with the Willamette Valley tribes over hunting rights, the natives demanding tribute of the trappers for the right to exploit their lands. The fur hunters refused tribute and a fight ensued. Outnumbered, the trappers withdrew from the valley for some time. However, this difficulty was remedied later in the year by a treaty with the Indians. (44)

In 1819, after being driven from the Cowlitz region north of the Columbia because of trouble with the natives, the hunters for a time confined their activities to the Willamette, trapping thoroughly the upper valley and even penetrating to the headwaters of the Umpqua River. Here they fired upon a band of unoffending Indians killing fourteen after which they retired again to the Willamette. (45)

Aside from the trapper-explorers the first white man to make a thorough investigation of the Willamette Valley was David Douglas, the naturalist, who spent some time in the valley in the fall of 1826. The 5th, 6th, and 7th of October, were spent in traversing the county on the southward journey during which time he "killed a very large grey squirrel, 2 feet long from the point of the tail to the snout," had an adventure with a grizzly bear. (46) Douglas and party went on southward to the Umpqua where they spent several weeks exploring and hunting. On the return trip he arrived in the region of the Long Tom River on November 12th during a "very heavy rain." He recorded: "At two o'clock passed Longtabuff River, which falls into the Multnomah;... Nine geese were killed, seven by me and two by Kennedy, which with what were killed the day before made us tolerably independent. Camped on the edge of a small lake where there was abundance of wildfowl. Country open, rich, level, and beautiful..."

The next day, November 13th, he recorded: "During last night four geese were killed by random shots, they sitting in thick shoals on the lake. Our firing and the smoke from our fire attracted several Indians to our camp belonging to the Calapooia tribe, who had very little food and had come to beg a little. I was glad in being able to relieve them..." (47)

Douglas on this expedition accompanied a band of trappers under the direction of Chief Trader John McLeod and Michael La Frambois. (48) In

44. Alexander Ross, Fur Hunters of the Far West, pp. 88-96; Bancroft, Northwest Coast, II, 268-269.

45. Bancroft, Northwest Coast, II, 288-289.

46. David Douglas, Journal, pp. 216-217; see also David Douglas, "Sketch of a Journey to the Northwestern Parts of North America During the Years 1824-'25-'26-'27," OHQ, VI (1905), 79-80.

47. Douglas, Journal, pp. 236-237.

48. Ibid.

1832 these same men led another group of trappers through the upper Willamette Valley to the Umpqua where they established a Hudson's Bay Company post opposite the mouth of Elk Creek. Thenceforward numerous trapping and trading bands traversed the Mary's River region. (49)

The most important of these trapping expeditions as far as geographical knowledge is concerned, was that of John Work who, on May 22, 1834, "Left Vancouver on a Trading & Trapping Trip to the Southward with 12 men." (50) He led his party from the fort to Willamette Slough near Scappoose thence over the ridge to the Tualatin Valley and on up the west side of the Willamette through the present Yamhill, Polk, Benton, Lane and Douglas counties, to the Umpqua River. On June 1, they reached the Benton County region, which he describes.

"The road for the first 14 miles lay through a plain country for about 7 miles across a point to another fork (of the Luckiamuto)... and thence over low hills and a plain 7 miles further to another creek (probably Soap Creek). All the way there is fine soil, and the low ground about the creeks superior pasture land and very extensive to the E. Some woods along banks of the rivers. And on the high ground oaks here and there. The road for the next 4 miles lay along the base of some hills thickly timbered with oak and composed of rich tile soil & pretty well covered with grass... The road now lay along an extensive plain, some parts of it swampy, to Laurie river (51) where we are camped not far from its discharge into a Channel of the Willamet." (52)

On June 2nd, Work recorded: "Fine. Proceeded 18 miles S & camped at the traverse of the Sam Tomeleaf river." (53) This was the present Long Tom River and the camp was near the site of Monroe. During the day they had followed the route of the later Southern Pacific Railroad. The next day the party traveled up Coyote Creek, a branch of the Long Tom and camped ten miles west of the site of Eugene. On the return trip the party again traversed the county.

On the return journey a month later Work records: "July 1. Fine. Continued our course 24 miles W. & W.N.W. down the river & then across a plain to the traverse at Lamitambuff (Long Tom River). Met 2 Indians & traded the meat of a deer... July 2. Fine. Continued our course  $6\frac{1}{2}$  hours across the plain to River Lauries river where we camped. The Indians set fire to the dry grass on the neighboring hills, but none of them

49. Bancroft, Northwest Coast, II, 521-522.
50. "John Work's Journey from Fort Vancouver to Umpqua River, and Return, in 1834," with introduction and comments by Leslie M. Scott, CHQ, XXIV (1923), 239.
51. Laurie River was the present Mary's River; it is called Riviere des Souris, the river of mice, by Duflot de Mofras in his Explorations, II, 210.
52. "John Work's Journey, etc.,," CHQ, XXIV (1923), 249.
53. Ibid., p. 250.

came near us. The plain is also on fire on the opposite side of the Willamet... July 3. Fine. Sent in the morning to an Indian village below to see if they had any beaver. 10 of them visited the camp & traded their beaver..." (54)

During the early forties several reconnaissance expeditions examined the Oregon country traversing the Mary's River area. The first of those was William A. Slacum in 1836, (55) for the United States government, to be followed in 1841 by Charles Wilkes (56) and in 1846 by Lieut. Neil M. Howison. (57) For the French from Mexico came Eugene Duflot de Mofras in the fall of 1841 (58) and for the English came Lieutenant Henry J. Warre and M. Vavasour in 1846. (59) Other explorations and reports of more or less importance were made by Samuel Parker who toured the West in 1835-1836, (60) and by Joel Palmer who came to Oregon in 1845, his report covering the years 1845-1846. (61) The last important expedition was that of Lieut. Theodore Talbot who examined the western part of the county in 1849. (62)

Early Settlement. In 1846 Lieut. Neil M. Howison of the United States Navy reported concerning settlers in Oregon that "nearly all the inhabitants, except those connected with the Hudson's Bay Company, are settled in the Willamette Valley; the extreme southern cottage being on Mary's River, about one hundred miles from the Columbia." (63) The first settlers arrived in the area embraced in the present Benton County in the fall and winter of 1845. Just who was the first of the handful of men known to have been in the region at this early date it is now impossible to say with certainty. However, it is known that Thomas D. Reeves, (64)

54. "John Work's Journey, etc.," OHQ, XXIV (1923), p. 264.
55. See William A. Slacum "Report on Oregon, 1836-37," OHQ, XIII (1912), 175-224.
56. See Charles Wilkes, "Report on the Territory of Oregon," OHQ, XII (1911), 269-299.
57. See Neil M. Howison, "Report on Oregon, 1846," OHQ, XIV (1913), 1-60.
58. See Nollie Bowden Pipos, "Translation of Extract from Exploration of Oregon Territory... Undertaken During Years 1840, 1841, and 1842, by Eugene Duflot de Mofras," OHQ, XXVI (1925), 151-190; see also Duflot de Mofras' Travels on the Pacific Coast, translated, edited and annotated by Margaret Eyer Wilbur.
59. See "Documents relative to Warre and Vavasour's Military Reconnoisance in Oregon, 1845-46," OHQ, X (1909), 1-99.
60. See Rev. Samuel Parker, Journal of an Exploring Tour Beyond the Rocky Mountains.
61. See Joel Palmer, Journal of Travels Over the Rocky Mountains... 1845 and 1846.
62. See Talbot's report, in Phillip T. Tyson, Geology and Industrial Resources of California, pp. 108-116.
63. Howison, op. cit., p. 25.
64. David D. Fagan, An Illustrated History of Benton County, pp. 321, 448; for biography see Portrait and Biographical Record of the Willamette Valley, pp. 1172-1173.

James L. Mulkey, (65) Joseph C. Avery, (66) Andrew Foster, (67) Prior Scott, (68) and a man named McKissick (69) were in the district in or before December 1845. Johnson Mulkey also located a homestead in 1845, but returned to Missouri for his family and did not settle on his claim until 1847. (70)

Reeves and McKissick both built cabins in the latter part of 1845 and lived in them during the winter of 1845-46. (71) Reeves' claim was about three miles northwest of Monroe; (72) it is said that it was the first donation land claim taken up in the county. (73) Two or three months after Reeves settled on his claim the John Lloyd and Andrew Foster families, and Wayman St. Clair, crossed the Mary's River and selected claims. It was while the party was crossing this stream in February 1846, that it received its present name. The name was given by Wayman St. Clair for Mary Lloyd, daughter of John Lloyd, said by George H. Himes to be the first white woman to cross the river. (74) Mary Lloyd married John Foster, son of Isaac Foster, on June 20, 1846. (75) John Lloyd took up land just west of and adjoining that of Thomas Reeves, who had preceded him three or four months. (76) In 1846 his house was described as being "the farthest south in the Willamette Valley." (77) His daughter Nancy married Thomas Reeves in 1846. (78) Andrew Foster settled near Reeves and the Lloyds, (79) and Wayman St. Clair located on Mary's River near the site of Philomath. (80)

Perhaps two of the most important of the first settlers were Joseph C. Avery and James L. Mulkey. Avery arrived at the mouth of Mary's River in the winter of 1845 and staked out a claim. (81) In the spring of 1846

65. Fagan, op. cit., pp. 323-324, 521-522.
66. Ibid., pp. 324, 421-423, 506; for biography see Portrait and Biographical Record of the Willamette Valley, pp. 869-870.
67. Fagan, op. cit., p. 446; see also Portrait and Biographical Record, etc., p. 1279.
68. Fagan, op. cit., p. 526.
69. Ibid., p. 321.
70. Ibid., p. 324.
71. Ibid., p. 321.
72. Metzger, Sectional Map of Benton County, p. 9; Reeves' claim was in Section 9, Township 14, South, Range 4 West of Willamette Meridian.
73. Portrait and Biographical Record, etc., pp. 1172-1173.
74. Lewis A. McArthur, Oregon Geographic Names, p. 215.
75. Harvey W. Scott, History of the Oregon Country, II, 313; hereinafter cited as Scott, Oregon Country; see also interview with Jesse V. Foster, son of John Foster.
76. Metzger, op. cit., p. 9.
77. Scott, Oregon Country, II, 313-314.
78. Portrait and Biographical Record, etc., pp. 1172-1173.
79. Fagan, op. cit., p. 446.
80. Ibid., p. 452.
81. Ibid., p. 324; see also Scott, Oregon Country, II, 240.

he returned and built a cabin on his property. (82) In 1848 Avery went to the California mines but returned the next year and laid out the town-site of Marysville on the north bank of Mary's River near its confluence with the Willamette. (83) Later the name was changed to Corvallis. Avery engaged in farming and the mercantile business, having built a store building on his townsite in 1849. (84) He was appointed postal agent for Oregon and Washington territories in 1853 and was a member of the Oregon Legislatures of 1848-49, 1850-51, 1852, and 1856. (85) Avery's daughter, Gertude, became the wife of B. F. Irvine, for many years editor of the Oregon Journal. (86)

James L. Mulkey came to Oregon in 1844-45, spending that winter near the Whitman mission. In the fall and winter of 1845 in company with Johnson Mulkey he penetrated to the Mary's River country where the two men located claims a couple of miles northwest of the confluence of that river with the Willamette. Here, in or about December 1845, James Mulkey cut and hauled logs for his cabin and erected a "camp" or "shanty." Returning northward he wintered on the Yamhill River and in March 1846, moved with his family to his new claim. (87) Johnson Mulkey returned to the States in 1846 and in 1847 brought his family across the plains to his homestead in the new land. (88)

King's Valley is on the loop of the Luckiamute River where it dips southward into Benton County about thirteen miles northwest of Corvallis. It is about six miles in length and from one to three miles in width. (89) It bears the name of Nahum King who came to the valley in 1846 with his three sons, Isaac, Stephen, and Solomon, and his son-in-law, Roland Chambers. (90) The King family was in the wagon train that followed the "Meek Cut-Off" through eastern Oregon with such disastrous results. Several members of the King family died on the deplorable journey. (91)

The first settlers arrived in the Soap Creek region in 1846. Among them were David Carson, Thomas Read, D. D. Stroud, Robert W. Russel,

- 82. Ibid., pp. 421-423, 506; see also Portrait and Biographical Record, etc., pp. 869-870.
- 83. H. H. Hines, An Illustrated History of Oregon, p. 459.
- 84. Fagan, op. cit., p. 506.
- 85. Scott, Oregon Country, II, 250; see also Oregon Pioneer Association Transactions for 1876, p. 66.
- 86. Interview with Mrs. Martha Fulton, granddaughter of Joseph C. Avery.
- 87. Fagan, op. cit., pp. 323-324, 521-522.
- 88. Ibid., p. 324.
- 89. Benton County Almanac for 1874, p. 6.
- 90. Fagan, op. cit., p. 456.
- 91. A Letter from Luckiamute Valley in 1846; for details see Lawrence A. McNary, "Route of Meek Cut-Off, 1845," OHQ, XXXV (1934), 1-9; see also Fred Lockley, "The McMemes and Tetherows with the Migration of 1845," OHQ, XXV (1924), 354-357.

Smilie Carter, J. S. Halter, Green Berry Smith, Johanon Carter, and Tolbert Carter. This was in what was later known as the Tampico neighborhood. (92) Tolbert Carter's claim near Wells for more than eighty-six years was the home of Mrs. Angelina Beleau Carter, who died in 1937 at the age of 102 years. "For more than eighty years," Mrs. Carter once said, "I carried water from the same spring. My husband was a great lover of books. He was for years a member of the county court. Later he was elected to the State Legislature, and he was State senator when he died in 1899." (93) He was prominent in church life as a licensed preacher and deacon. (94) The North Palestine Church and cemetery was partly on Carter's claim and partly on that of Drury Hodges to the east. (95) Hodges and his wife Mahala started for Oregon from Missouri three weeks after their marriage arriving in Benton County in the fall of 1847. (96)

The Thomas Read claim was about six miles north of Corvallis and a couple of miles southeast of old Tampico (97) on the old Portland and Umpqua Valley wagon road. (98) Part of the Read claim is at present the Peavy Arboretum of the Oregon State College. The old house on the knoll near the highway was built in 1855 by Bushrod Wilson for Thomas Read. All the finished lumber was planed, matched and grooved by hand. (99) Read was married on November 29, 1846, to Nancy White (Hawkins) in one of the first wedding ceremonies performed in the county. (1)

Green Berry Smith was one of the first settlers of the Tampico neighborhood. He crossed the plains in 1845 with the famous "lost wagon train" that attempted to negotiate Meek's Cut-Off with such disastrous results. Mr. Smith, with his brother Alexander and others of the wagon train, came to Benton County in the spring of 1846 and took up land in the Tampico area. (2) He remained for some years in this neighborhood acquiring land and carrying on various business ventures. In the heyday of Tampico he was the recognized "banker" of the town, cautioning borrowers against accepting money that they could not return when due. (3) From the first Green Berry Smith made it a point to gather to himself land. It is recorded that on the 23d day of January 1860, he appeared before the county recorder and announced that he was "the owner of the entire town of Tampico, and the record thereof is hereby cancelled, and, annulled; to the extent that said town aforesaid may be no longer

92. Fagan, op. cit., 455.
93. Interview in 1937 with Mrs. Angelina Beleau Carter.
94. Charles H. Mattoon, Baptist Annals of Oregon, I, 57.
95. Interview with Virgil Carter, son of Tolbert Carter.
96. Interview with Catherine Hodges Vanderpool, daughter of Drury Hodges.
97. See pp. A-35-A-36 of this Sketch.
98. For location see Albany and Corvallis Quadrangles of the Department of the Interior, Geological Survey Maps.
99. Interview with Honorine Read, daughter-in-law of Thomas Read.
1. Fagan, op. cit., p. 525; see also Records of Polk Co. Circuit Court 1846-1847; see also interview with Honorine Read, Corvallis.
2. Fagan, op. cit., 526.
3. Dr. John B. Horner, "Story of Old Tampico," Corvallis Gazette-Times, Feb. 20, 1926.

considered a town." (4) According to Judd Smith, grand-nephew of Green Berry, the latter "owned a strip a mile wide and extending south from Corvallis to Greenberry station, a distance of eight miles. He had more than nine thousand acres on Soap Creek in the north end of the county." (5)

David B. Fagan reported that: "At Philomath in 1845 located Adam E. Wimple, Alexander Leggit and his son Elijah Leggitt, while in 1846 came Wyman St. Clair, Nicholas Owmbey, and Joseph Hughart." (6) Mr. and Mrs. Hughart were the parents of the first white child born in what is now Benton County. Mrs. Hughart died shortly after the child was born and hers is said to be the first death and burial of a white person in the county. (7)

The first settler in the southern part of the county was Thomas D. Reeves, who built and occupied a cabin in the winter of 1845-46. (8) In 1846 came R. B. Hinton, John Lloyd, and A. L. Humphreys. In 1847 Jesse H. Caton became the first settler of the famous Belknap Settlement, to be followed shortly by Ransom Belknap and Jacob Hammer and his wife, the first woman in the settlement. (9) Also in 1847 came the first of the numerous Starr family, Jeremiah Starr. (10) The Balknaps and other Starrs reached the neighborhood in the spring of 1848 after spending the winter near Corvallis. Keturah Belknap wrote in her "chronicle" that: "four of the family Sold their earthly Possessions and on the fifth of May 1847 started to cross the Plains, (NAMELY) Oren Belknap Ransom Belknap Lorenzo D Gilbert and Samule F. Star... after A tedious journey of almost six months, they reached the end of their journey and wintered near where Corvalice now is, in the neighborhood of Mr John Stewart... then in the spring (1848) they started south up the valley to hunt a place to take claims and make themselves Homes, and they found the valley that now is the Balknap settlement and all took claims their." (11) The summer of 1848 more Starrs and Belknaps crossed the plains until there was a sizeable constellation around the headwaters of Muddy Creek. Among this second influx were Jesse Belknap and family, Chatman Hawley and wife who was a daughter of Jesse Belknap, Rev. J. W. Starr and family, and the Newton family. Mrs. Newton was also a daughter of Jesse Balknap. (12) Other settlers mentioned by Keturah Belknap were a Mrs. Wright, whose husband had died crossing the plains, and John Luce, who later married Mrs. Wright. (13)

4. Town Plats and Cemetery Plats, I, 83.
5. Interview with Judd Smith.
6. Fagan, op. cit., p. 452.
7. Ibid., pp. 452, 520-521.
8. See p. A-11 of this Sketch.
9. Fagan, op. cit., p. 448.
10. Ibid., p. 527.
11. "Keturah Belknap's Chronicle of Bellfountain Settlement," edited by Robert Moulton Gatke, OHQ, XXXVIII (1937), 266-267.
12. Ibid., pp. 271-272.
13. Ibid., pp. 270, 272; for John Luce see Fagan, op. cit., pp. 365, 448.

Sometime in 1846 William Dixon took up the land that is now the northern part of Corvallis. He gave forty acres of his claim to the county at its establishment. (14) Others who settled in the immediate neighborhood of Corvallis in 1846 were John Stewart who located one mile northeast; Albert Rinehart, three miles northwest; S. K. Brown, near the townsite; J. C. Alexander, on the south bank of Mary's River; Prior Scott, one mile south; Harvey Young, two miles south; J. C. Kendall, three miles south; Archimedes Stewart, two and a half miles northeast; James Taylor, seven miles north; and two Germans named Hovins and Stemmerman, on Oak Creek. (15)

The John Stewart homestead was on the bank of the Willamette River just below Corvallis. In his home was held the first meeting of the Methodist Church in that region and here was organized the First Methodist Church of Corvallis. "Aunt Mary" Stewart was called the mother of the Methodist Church in Benton County. (16)

A. M. Rainwater settled on the bank of the Willamette opposite the site of Albany in 1847. (17) Solomon K. Brown crossed the plains to Oregon in 1847. In an old account book owned by one of his descendants is the entry: "Jan. 16, 1848. Michael Ridenour and Solomon K. Brown furnished one ox to the Callapooies Indians for land laying on the Willamette River between Mary's River and Long Tom Creek. \$25.00" Mr. Brown explained the entry saying that they did not hope to establish title to the land, but were purchasing the good will of the Indians. (18) Mr. Brown reached Winkle Buttes about ten miles south of Corvallis on November 8, 1847, and built a cabin where the family remained about two years. In forty nine Brown and Ridenour went to the California mines returning to Oregon with their "dust" the next year. Shortly afterward he left the Winkle Butte neighborhood and bought the relinquishment of Adam Wimple's claim at Brown's Bridge on Mary's River. Adam Wimple went to Polk County where he was later hanged for the murder of his girl-wife. (19)

Early in the fifties settlers began straggling over the crest of the Coast Range into the upper Alsea Valley. In 1852 came Emmerson Rettneaur, Thomas and Asbury Ellis, George and S. L. Ryecraft, Thomas and Allen Hugden, and Jacob Holgate. The next year James E. Edwards and Joseph Kellum settled in the valley. In that year also S. L. Ryecraft, David and John Fudge, and Henry Clark, built a sawmill. (20)

14. For details of Wm. Dixon see Fagan, op. cit., pp. 324, 421, 423, 512.
15. Fagan, op. cit., p. 421.
16. Interview with Henrietta (Stewart) Randall, niece of John Stewart; for location of Stewart homestead see Government Field Notes, I, 391.
17. Fagan, op. cit., p. 525.
18. Account Book of S. K. Brown, owned by Terry Brown, Route 2, Corvallis, Oregon.
19. Interview with William C. Brown of Corvallis, grandson of Solomon K. Brown.
20. Fagan, op. cit., pp. 499-500, 505.

A number of pioneer buildings are still in existence in Benton County and some of them well preserved and inhabited. Besides the Thomas Read house north of Corvallis, (21) worthy of mention are the Haman C. Lewis house in Corvallis, the James Watson house and Chambers Mill in King's Valley, the old Bethel Chapel at Evergreen school, the Ransom Belknap house, the St. Clair house, the Wyatt house, the Rainwater barn, and the "old Stage Station."

The Lewis house at 218 N. Third Street in Corvallis was erected in 1852 by Haman C. Lewis and was presumably occupied by Lewis until 1859 when it was bought by Maurice Jacobs. (22) Since 1900 the house has changed hands several times. It was an important social center in pioneer days. Wainscoted and plastered in all rooms, it remains essentially as it was built. Hand-whittled dowels and unevenly fitted floor boards reveal the hand work that went into the making of the building. (23) Mr. Jacobs was a prime mover in retaining the Oregon Agricultural College in Corvallis when the Legislature contemplated relocating the school; when it was suggested that the school might remain if a suitable building were provided, Jacobs pledged the first thousand dollars. (24)

The James Watson house, (25) in King's Valley on the Luckiamute River, is probably the oldest dwelling in Benton County still in use. It is a frame house about thirty feet square and was built by James Watson in 1852. The lumber was sawed nearby and dressed by hand; all doors and windows were hand-made. Part of the house was plastered. The barn, about sixty feet square, with massive hand-hewed timbers, built before the house, is still in good repair. The farm is now owned by James Price, a descendent of the builder. The house cost Watson \$2,400 in gold besides the labor of three members of the family for six months. (26) The house has been photographed, measured, and blueprinted, by the National Parks Service in their Historical Buildings Survey conducted in 1934, and is said to be one of the best designed and best preserved old houses in the State. (27)

Government field notes for Benton County in 1853 record: "The quality of land in this township is above the average. Running the Tp. from the southern to the northern boundary is a very rich valley called Kings Valley, thickly settled with a very industrious and thriving

21. See p. A-13 of this Sketch.
22. Interview with Miss Eder Jacobs of Corvallis.
23. Oregon: End of the Trail, p. 186.
24. Information obtained from Mrs. W. S. McFadden, Bob Johnson, and Miss Eder Jacobs.
25. Government Field Notes, I, 243.
26. Interview with James Price.
27. U. S. Department of the Interior, Historic American Building Survey, p. 177; see also Jamison Parker, "Historic American Buildings Survey," OHQ, XXXV (1934), 32-41, 176-179.

population... There is a sawmill in operation near the west boundary of the township and a grist mill about being erected in the center. As near as could be ascertained, the Tp. contains about 25 settlers." (28) This sawmill was just across the Luckiamute River from the present village of Hoskins; the gristmill was Chambers Mill on the Luckiamute in Section 16. Mrs. Julia Price said when interviewed: "My father was Roland Chambers who built the first grist mill in Kings Valley. The main building stands today about as my father built it." (29) The building is about fifty feet square and three stories high.

The first United Bretheren church in the upper valley was organized at the Union schoolhouse near Philomath in the early fifties; the church erected Bethel Chapel a quarter mile south of the old schoolhouse in 1857. (30) When the Philomath College building was completed in 1867, the congregation began meeting there and the chapel was given over to the Methodists. When Philomath Grange was organized in 1875 that organization bought the building. On the dissolution of the grange a few years later the building passed into the possession of the Plymouth Congregational Church. Many years later this congregation built a new church and Bethel Chapel was moved to the Evergreen community and became the meeting place of the Evergreen United Bretheren Church. It is now used as a playshed for the Evergreen school. (31)

Ransom Belknap crossed the plains in the summer of 1847 and in the spring of 1848 settled in the southern part of Benton County. The first few years in common with most settlers he sheltered his family in a log cabin but in 1855 he erected a pretentious house of sawed lumber. The lumber was cut in the Gilbert Mill on Muddy Creek from pine logs obtained from a stand near Monroe and hauled by ox teams to the mill. All dressing of lumber and making of doors and windows was done by hand. The house has been renovated and remodeled inside somewhat but is essentially as built. It is occupied by Foster Belknap, a grandson of the builder. (32)

The Wyman St. Clair homestead, erected in 1855 a mile north of Philomath, is still standing and occupied although some remodeling has been done and an ell added. St. Clair came to Benton County in February 1846, and it was he who gave the present name to Mary's River. (33) The next year, 1856, another house was built a half mile farther north

28. Government Field Notes, I, 254.
29. Interview with Mrs. Julia Price, Corvallis, Oregon.
30. Interviews with Jerry Hinkle and Elmer Bether.
31. Compiled from interviews with J. E. Hinkle, I. N. Roderick, Mrs. Alice White, and M. M. Long.
32. Interview with Edward H. Belknap, Monroe, Oreg., son of Ransom Belknap.
33. See p. A-11 of this Sketch.

by William Wyatt who had been formerly employed by St. Clair. Miss Eva Wyatt, daughter of William Wyatt, said in a recent interview: "My father came from England to Illinois and in 1847 he crossed the plains to Oregon. He worked first for Wayman St. Clair and did not take a claim until 1850. I was born in 1857 in the house which father had built the year before, and I have lived here ever since... My father, Eldridge Hartless, and George Bethers were the founders of Philomath College." (34)

The old Rainwater warehouse (now used as a barn) is a frame structure 40 by 60 feet with hand-hewed timbers resting on a stone foundation and sixteen stone pillars. The building was erected in the seventies just across the river from Albany for storing wheat and other produce which was loaded onto river steamers by sliding down a chute from the upper floor. Martin Rainwater came from Missouri in 1847 and landed in Oregon with exactly twobits in his pocket. He came up the east side of the Willamette and gave an Indian a handful of tobacco to ferry him across the river at the site of Albany. Here he paced off his homestead claim of 320 acres. Later, when he married Sarah Emmett of Linn County, he added another 320 acres to his holdings. (35) Soon after settling he established a ferry across the river to Albany. (36) Later he sold the ferry and forty acres of land for \$5,000. (37)

The farmhouse of the Sunnybrook Dairy a mile and a half north of Monroe was erected by R. B. Hinton about 1852 at the opening of the "Territorial Road" as a tavern and stage station. Hinton operated the station for many years and was the first postmaster at Starrs Point. It is said that "he got the good will of the Indians by paying them a bushel of potatoes for their right to his claim." (38)

Under a black locust tree planted in the fifties stood the Reuben Shipley cabin until crushed by snow about 1918. Reuben Shipley came to Oregon from Missouri as the slave of Robert Shipley in 1853. Shortly after arrival he was given his freedom by his master.

After his release from bondage Reuben Shipley located on a donation land claim four miles west of Corvallis and near the town of Philomath. In 1857 he married Mary Jane Ford who was the slave of a Mr. Ford who lived near Dallas in Polk County. The morning after the wedding when the couple were preparing to leave for their homestead Reuben Shipley was informed that while Mary was his wife she was still the property of Mr. Ford who had paid for her and that the husband must pay for her also before she would be allowed to leave the premises. Contrary to the advice of Eldridge Hartless, Rev. T. J. Connor and other citizens of

34. Interview with Miss Eva Wyatt, daughter of William Wyatt.
35. Interview with Wm. J. Rainwater, son of Martin Rainwater.
36. Commissioners' Journal, Vol. A, p. 4.
37. Interview with Daytin S. Holloway.
38. Interview with Easter Elizabeth Ralls, granddaughter of Roland Hinton.

Benton County, Reuben Shipley, who himself had been a slave, and had already lost a wife in slavery, paid the ransom price and that evening the couple arrived at their home in the shade of Mary's Peak.

On an 80 acre farm four miles west of Corvallis the industrious couple reared a family of six children--Wallace, Ella, Thomas, Martha, Nellie and Edward. The Shipleys were highly respected by their white neighbors.

Mr. Shipley died in 1873 at the age of 74. Mrs. Shipley lived in Benton County until 1880. In after years she married a Mr. Drake and lived well into the third decade of the present century. When interviewed by Professor J. B. Horner of the Oregon State Agricultural College in 1924 she lacked just ten months of being 100 years of age. She was the last person to be sold as property in Oregon, where "slavery was occasionally practiced, though not authorized by law." (39)

Corvallis and Other Towns. Two men were vitally concerned with the founding and growth of Corvallis. The first was Joseph C. Avery. (40) Deciding that the confluence of Mary's River with the Willamette was an ideal site for a town, he located a claim there in the fall of 1845, erected a small "claim cabin," and went to Oregon City for his family. (41) He returned in the spring of 1846 and found that William F. Dixon had taken up a claim adjoining his on the north. Avery harvested a crop of grain, built a log storeroom to serve as a granary and went to the California gold mines. However, he saw a more certain profit in merchandising than in prospecting for the elusive metal. He established commercial connections in San Francisco, shipped a stock of goods by boat to Portland, and returned to his claim. Ox teams brought his merchandise from Portland to Mary's River, and the granary became a store. He platted a town and sold lots. (42)

Encouraged by his neighbor's success, Dixon platted part of his own claim as a townsite. His house was the second in the corporate limits of Corvallis. Avery selected as a name for the town, Marysville, for the river flowing beside his claim. The fourth house in Marysville, following Avery's cabin and granary and Dixon's house, was the Hartless and St. Clair store, and the fifth was a hotel built by Alfred Rinehart. (43) The first woman settler was Mrs. W. F. Dixon and her son Cyrus was the first child born in the town. (44) By 1851 each section

39. Interview with Mary Shipley Drake by Prof. J. B. Horner, pub. in Corvallis Gazette Times, Feb. 22, 1924; also interview with J. E. Hinkle of Philomath who came to Oregon as a boy of ten in the same train as the Shipleys.
40. See p. A-11-A-12 of this Sketch.
41. Fagan, op. cit., p. 423.
42. Ibid., also interview with Mrs. Martha Fulton, granddaughter of Joseph C. Avery.
43. Fagan, op. cit., p. 423.
44. Ibid., p. 424.

of the town boasted a blacksmith shop and a store, and there was a saloon on Avery's land and a schoolhouse on Dixon's section. (45)

When Benton County was created in 1847, (46) Governor Lane named the house of Joseph Avery as "the meeting place of the United States District Court." (47) In 1850 the Fuller schoolhouse, four miles from Marysville, served as a meeting place for the county court. (48) In 1851 the Territorial Legislature made Marysville the county seat. (49) Avery and Dixon each deeded forty acres of land "for the benefit of the country." (50) A courthouse was erected on block twenty-four and the two plats became one town. (51)

The immigration of 1852 and 1853 created a tremendous demand for merchandise. In 1853, the Canemah brought the first boatload of freight up the Willamette from Oregon City to Marysville. (52) For a time Marysville was considered the head of navigation and freighters made the town the northern terminus of a profitable pack train and stage line business which extended through the southern Oregon settlements as far as the gold fields of the Sacramento Valley. Because Marysville, California, was on the stage route, Avery thought it prudent to rename his town. He made up the name Corvallis by compounding the Latin words for heart and valley. (53) The Legislature concurred and on December 20, 1853, Marysville became Corvallis. (54)

In 1855 Corvallis for a time became the Territorial capital, (55) and the Statesman of Asahel Bush, "official" newspaper of the Legislature, moved to the city and most of the Territorial officers immediately took up residence there. The Legislature met in December to pass one bill, and that was to move the capital back to Salem.

The act incorporating the city of Corvallis passed the Legislature on January 28, 1857, and an election for city officials set for the second Monday in May, 1857. At the election J. B. Congle was named first

45. Ibid., pp. 423-425; for an intimate picture of Corvallis for the half century of 1850-1900 see Bruce Martin, "Bushrod Washington Wilson," OHQ, XXXIX (1938), 270-285.
46. L. 1843-49, p. 50.
47. Circuit Court Journal, Vol. 1, p. 1.
48. County Court Journal, Vol. A, p. 1.
49. L. 1850-51, p. 51.
50. Fagan, op. cit., p. 424; see also the "Propositions" of J. C. Avery and W. F. Dixon, donating 40 acres of land each to the county, in "file of old papers," county clerk's vault, Benton County Courthouse; see also County Court Journal, A, 3.
51. County Court Journal, A, 46, 143, 144, 148.
52. Oregon Spectator, Oct. 7, 1851.
53. McArthur, op. cit., p. 87
54. L. 1853-54, p. 10; Fagan, op. cit., p. 425.
55. L. 1853-54, p. 558; see also Robert C. Clark, History of the Willamette Valley, p. 409-410.

mayor. The first meeting of the city council was held on May 16, 1857, at which an ordinance was passed prohibiting the riding of horses on the side-walks. (56) Efforts were successfully put forth to control the sale of liquor and to bring about the enforcement of law and order among the town's heterogeneous population. The first streets were graded in 1858 and in 1859 a jail was built and a fire hall erected. (57) The city council met in various places, for a time on Third Street, then on Second and Adams Streets. (58) When the new courthouse was finished in 1889, the city rented a room there, which was used for a recorder's office and council chamber until the town hall was completed in 1893.

In a scrap of a diary written by a Reverend Spenser describing a trip through the Willamette Valley in the early 1850's is this entry: "Frid. 5. This morning stayed a few hours in Corvallis. This in many respects is a pleasant location for a town. The variegated scenery back is fine. The Wallamette River flows in front; Marys River intersects it at the upper end of the town. In summer the site is agreeable, but in winter the mud is intolerable. At this time there is something of activity (sic) stir & thrift. There are a number of stores, two three public houses, a Baptist church, a Methodist church nearly finished, a Court House, several comfortable residences, a steam saw-mill, mechanics shops, etc. etc... 1 o'clock P. M. left town--fordeed Marys River--continued enroute to Brookville (sic) 'Starrs-Point' 16 ms." (59)

After the subsidence of the gold rushes and the Indian wars were ended, more roads were built and fields of grain replaced the bands of stock on the farms. Gradually Corvallis was transformed from a place of congregation for ribald freighters, gamblers and saloonkeepers, stockmen and farmers, to a community of law-abiding, home-building citizens. In 1858 the city was a substantial community of warehouses, stores, and residences. (60) However, farming fell on hard times and many of the settlers sold out to large grain producers, thus reducing the potential income of the city's businessmen. Concerning this state of affairs David B. Fagan wrote: "Improvements in Corvallis came to a stand-still...farms, barns, and temporary dwellings fell into decay, or were mortgaged for a cayuse pony or a little ready cash to assist them (the farmers) in following up some mining humbug. When not chasing a golden will-o-the wisp, they employed themselves principally in whittling and depended upon the accidental raising of Spanish calves and colts for the support of large families. The consequence was a few capitalists owned section upon section of land, large numbers were forced to seek other locations, which depleted the population, retarded

56. Minutes of the Common Council, Corvallis, vol. 1, p. 1.
57. See Corvallis Gazette-Times, March 17, 1928.
58. Minutes of Common Council (1874-79), Corvallis, p. 18.
59. Spenser, "Notes of Travel in Wallamette Valley," ms. owned by Verne Bright, Aloha, Oregon.
60. For appearance of Corvallis in 1858 see lithograph by Kuchel & Dresel, 176 Clay Street, San Francisco, California, in Portland Public Library.

progress, stopped the plough, the erection of schoolhouses and of churches. Some of the best farms and orchards in the county were marked with dilapidation and ruin." (61)

In 1872 a missionary of the Episcopal Church wrote: "Just in the heart of the valley, as its name indicates, is the city where our labor lies. There are now 1,000 people in it. It is on the river, on the line of the West Side Railroad; is the county seat; has the State Agricultural College, and is surrounded by the best lands in the valley. The church did not rise side by side with the schoolhouse and the dwelling of man. Not many of the settlers came to preach...those that did come as ministers took up land and forsook their calling. Quite large is the number who were the members of some denomination in the East, but who 'left their religion at the Isthmus' or 'on the plains.' The bible is faulted and decried in every store and hotel and saloon; the Lord's day is not regarded; societies that man organizes are better sustained than any Divine institutions; and the young are growing up to be in almost every respect a worse generation than their fathers." (62)

The city struggled to improve the tone of its spiritual life; law enforcement became more rigid, ordinances were passed against gambling and Sunday games. On December 13, 1871, the Common Council ordained that "all E. O. of roulette, faro or faro bank, and all gaming with cards, gaming tables or gambling devices whatsoever are hereby prohibited from being set up or used...any of the following games, towit: monte, faro, chuck-a-luck, Rondo, red and black, twentyone, or any game played with cards, dice, or balls..." (63) On July 14, 1879, an ordinance was passed "providing for the prevention of keeping houses or places for the purpose of opium smoking, etc." (64) The following year an ordinance prohibited bathing in the nude "in the waters of the Willamette River, Mary's River, or any lake, slough or creek within the corporate limits of Corvallis." (65)

However, the climax to the series of "blue laws" came on May 14, 1883, when the city fathers became so solicitous of the moral turpitude of their charges that they passed an ordinance declaring: "That it shall be unlawful for any person or persons to play the game of cricket, football, baseball, town ball, game of cat, or any game or games of like nature within the corporate limits of the city of Corvallis on the first day of the week, commonly called Sunday." An emergency was declared and the ordinance passed the second and third readings and was put into force immediately. (66)

61. Fagan, op. cit., p. 334.
62. "Corvallis and the Willamette Valley," Spirit of the Missions, XXXVII (1872), 261-263.
63. Book of Ordinances (1870-87), Corvallis, p. 39.
64. Minutes of the Common Council (1874-79), Corvallis, p. 214.
65. Book of Ordinances (1870-87), Corvallis, p. 211.
66. Book of Ordinances (1870-87), Corvallis, p. 335.

In 1875 the old jail was abandoned and a year later the lot on which it stood was sold for "\$150.00 gold coin." (67) City prisoners for some years were kept in the county jail "at a charge of \$5.00 per month, city to pay for fuel used." (68) Fire-fighting equipment had been provided by business men in 1863 and turned over to the city in 1873, in which year the Young America Engine Company was organized. (69) Cisterns were dug and water tanks erected to aid in fire fighting. (70) The city water system grew from a pump and tank at Pittman's Planing Mill, authorized by the city council on May 15, 1876, (71) to the present comprehensive system with a water supply from the Marys Peak area protected by a Federal reserve. (72) A group of citizens organized the Corvallis Water Company in 1885, (73) and took over the Pittman system, (74) installed new pumps and continued to serve the city with water until the early 1900's, when the city brought water from the Marys Peak area. The system was brought to completion in 1935 with the aid of Federal funds. (75)

In 1890 the city realized the metropolitan urge for a street railway system. In that year two or three miles of track were laid. (76) The line owned three cars, each drawn by two horses. The cars were about fourteen feet long and held twelve passengers. Frank Thrasher, a driver, said that the cars were easily derailed, boys on the back platform often rocking the cars from the track. (77)

Railroads came to Corvallis in 1879; on June 20th of that year the council passed an ordinance "granting to W. V. & C. R. R. (Willamette Valley and Coast) right to establish a depot and lay tracks and switch. (78) Thereafter in almost every meeting of the council some phase of railroad activity was discussed. Jerry B. Hinkle, a pioneer resident of Corvallis, commenting on the railroad construction period, said: "As a boy I helped build the first wagon road to Yaquina Bay. Later, as a man, I helped construct the railroad by selling provisions. At one time the company owed me more than \$15,000, but I got every cent of it. T. Egenton Hogg was at the head of the company and was raising the money, but his brother Billy Hogg was supervising construction. He was my friend and helped me press my claim. The trouble I had collecting this money made me cautious

- 67. Minutes of Common Council (1874-79), Corvallis, pp. 44. 73.
- 68. Ibid., p. 44.
- 69. Ibid., p. 30; see also Corvallis Gazette-Times, March 17, 1928.
- 70. Minutes of Common Council (1874-79), Corvallis, pp. 1-2, 44, 82, 90.
- 71. Ibid., pp. 82, 90, 92.
- 72. See Corvallis Gazette-Times, Aug. 23, 26; Sept. 7; Nov. 26, 1935; Jan. 16, 23, 28, 1936.
- 73. Incorporations, Benton Co., vol. C, p. 1.
- 74. Interview (1938) with Johnson Porter.
- 75. Interview with E. L. Strange, Superintendent of Water Works, Corvallis.
- 76. See Corvallis Gazette-Times, Jan. 17; July 11; Nov. 14, 1890.
- 77. Ibid., May 31, 1924.
- 78. Minutes of Common Council (1874-79), Corvallis, p. 210.

and when construction moved west I refused to give them credit. President Hogg was honest but someone must have been crooked or incompetent; \$12,000,000 was spent in building a railroad that brought less than one million at sheriff's sale." (79)

Much of the land that in the seventies and eighties had been used for wheat growing was diverted to dairying and fruit growing, which circumstance again brought a rural trade to the merchants of Corvallis. The town also became the location of a number of manufacturing enterprises. The Benton County Flouring Mills were built in 1890 with a production capacity of 120 barrels of flour a day. (80) Two years later the Corvallis Wagon and Carriage Factory was erected at a cost of \$40,000. The organization employed forty men and turned out six thousand units per year. It was advertised as the only wholesale carriage house west of the Mississippi River. (81) In addition to these, farm implement factories and furniture factories were operated for a time but with no continued success. However, the introduction of dairying and fruit raising necessitated creameries and canneries and these industries have since supplied a commercial payroll.

A log building at the corner of Second and Jackson Streets, erected in 1848 by community effort, housed the first school in Corvallis. It was supported by subscription. (82) In 1852 the county court divided the county into twelve districts; Marysville was in Number Four. (83) The first election of officers was held in this district on November 5, 1852; directors elected were G. H. Murch, John Stewart, and S. M. Stout. The clerk reported the number of persons in the district between the ages of four and twenty-one as forty. (84) A two mill tax was levied for school purposes (85) and district Number Four received \$101.20 from this fund. (86) From this small beginning Corvallis schools continued a steady growth until at present the district accommodates almost two thousand pupils under the instruction of sixty-four teachers. (87) In a half century the city grew from a population of 1,527 (1890) (88) to a population of 8,392 (1940). (89)

The original plat of the townsite of Philomath was filed with the county clerk on March 3, 1867. (90) The area platted is on the lowland

- 79. Interview with Jerry B. Hinkle, Corvallis, Oregon.
- 80. Corvallis, the Metropolis and County Seat of Benton County, Oregon,  
pp. 9, 12.
- 81. Ibid., pp. 11, 16.
- 82. Fagan, op. cit., p. 361.
- 83. County Court Journal, pp. 41-42.
- 84. Record of School District Reports, p. 3 ff.
- 85. County Court Journal, p. 43.
- 86. Ibid., p. 62.
- 87. Oregon School Directory, 1940-41, p. 8; for fuller treatment of schools see pp. A-63-A-71 of this Sketch.
- 88. See Oregon Blue Book, 1917-18, p. 168.
- 89. See Oregon Blue Book, 1941-42, p. 279.
- 90. Town Plats and Cemetery Plats, pp. 85-86.

near Mary's River, but it is hemmed in for much of its circumference by the foothills of the Coast Range.

When the first wave of immigration reached Benton County in the fall of 1845 and the spring of 1846 Wayman St. Clair, William Wyatt, and Eldredge Hartless were first to come to the Philomath region. Hartless took up a claim just to the south of Philomath and St. Clair selected one to the north, while Wyatt located on land that adjoined St. Clair's on the north. A short time later David C. Henderson took up the land between Hartless and St. Clair on which Philomath was later established. Other settlers in the vicinity of Philomath were Adam Wimple, Alexander Leggitt and his son Elijah, Nicholas Ownbey, and Joseph Hughart. In 1850 William Matzger took up the square mile immediately west of Henderson's claim. (91)

Matzger's Mill, located on the Mary's River in the extreme eastern part of section 10, township 12 south and range 3 west, (92) was the first center of settlement in the western part of the county. Matzger built a sawmill soon after his arrival and in 1854 he added a grist-mill. (93) During the sixties a tannery was in operation which manufactured deer hides and cow hides into leather that found ready sale along the Pacific coast. (94) Several residences were built nearby and there was a church and schoolhouse. However, the founding of Philomath halted the growth of the community.

In 1853 several families, members of the United Brethren Church, crossed the plains from Indiana under the leadership of Rev. T. J. Connor and settled in Benton County. (95) Reverend Connor organized the first United Brethren Church in the county at the Union Schoolhouse (96) and in 1857 this organization built Bethel Chapel. (97) In the sixties the only schoolhouse in the region was the Union School in the Plymouth neighborhood. "About this time," said Jerry Hinkle, "Aunt Mary Wyatt conceived the idea that it would be a good plan to have a school more centrally located so that her children and others could attend school without having to go so far. So with T. J. Connor at the helm, a group of interested men of the neighborhood gathered together in 1865, forming the first board and organizing a United Brethren college." (98)

91. Fagan, op. cit., pp. 452, 520-521.
92. Government Field Notes, II, 128 and IV, 284.
93. Fagan, op. cit., pp. 441, 453.
94. Interview with Mrs. Mary Lane, Philomath, granddaughter of William Wyatt and daughter-in-law of Jacob Felger who bought the Matzger Mill in 1867.
95. For a detailed account of this trip see The Diary of Basil N. Longworth, Oregon Pioneer, transcribed and published by the Historical Records Survey, Portland, Oregon, 1938.
96. Interview with Jerry Hinkle, October, 1924.
97. See p. A-17 of this Sketch.
98. Interview with Jerry Hinkle, October, 1924; see also interview with Elmer Bether, Corvallis, Oregon.

William Wyatt and Eldredge Hartless took the lead in a movement which resulted in the purchase of the Henderson claim for a site and endowment for the college. The school was chartered in 1865 under the name of Philomath College; the ground was platted into a townsite, eleven acres reserved for a campus, and the rest placed on sale. With the proceeds a building was constructed; school opened in the fall of 1867. (99) "In the fall of 1865," said Jerry Hinkle, "work was commenced on the college building. In 1866 a kiln was built for drying the brick used; the brick work was done by George Elliott and Lewis Wilson... All the wood used was sawed in the I. B. Hinkle mill." (1)

"While the college buildings were being built," continued Mr. Hinkle, "the town was beginning to develop also. A store was built by George Hinkle in 1867... and a blacksmith shop was erected by Eli Mason. Six or eight houses were built and a charter drawn up providing that no saloons could exist in the town." (2)

Philomath was incorporated in 1882 in accordance with the laws of Oregon. The first officers were: W. T. Bryan, mayor; Julius Brownson, recorder; J. H. Grant, marshall; J. L. Akin, treasurer; and a council of six members. Bryan was retained as mayor in 1883, L. A. Price was recorder, Silas Gilman was marshall, Akin was again treasurer, and the Common Council consisted of J. E. Hinkle, J. A. Hinkle, J. T. Harris, J. E. Gleason, T. J. Wilcox, and E. D. Hamilton. (3)

The population of Philomath has steadily increased for the last half century as indicated in the decennial census. The population in 1900 was 343, in 1910 it was 505, in 1920 it was 591, in 1930 it was 694, and in 1940 it was 856. (4)

The town of Monroe had its beginning in a sawmill constructed in 1853 by Joseph and David White on J. White's donation land claim on the Long Tom River. (5) The first settlement in the neighborhood was made in 1847 when Clayton Hinton and his son Roland took up adjoining claims just north of the site of Monroe. (6) In the years immediately following, other families, notably the Starr-Belknap-Hawley clan, settled to the north and west.

99. Minutes of the Trustees of Philomath College, p. 3 ff.
1. Interview with Jerry Hinkle, Philomath, Oregon.
2. Ibid.
3. Fagan, op. cit., p. 453.
4. Oregon Blue Book, 1917-18, p. 169; Oregon Blue Book, 1941-42, p. 280.
5. Fagan, op. cit., p. 449; others give the date of the establishment of the White Mill as 1852, while McArthur in Oregon Geographic Names gives 1850.
6. Interview with Easter Elizabeth Ralls, granddaughter of Roland Hinton; Fagan, op. cit., p. 448, says that Roland Hinton arrived in 1846, see p. A-14 of this Sketch.

The earliest post office in the vicinity was established in April 22, 1852, on the land claim of Samuel F. Starr who was postmaster and was called Starr's Point. (7) In 1847 the Rev. John McKinney, itinerant preacher, on the trail of the migrating Starr clan crossed the Mary's River and followed the train southward. When he reached Richardson's on the Long Tom he enquired if any movers had passed that way. On learning that several wagons had gone on southward he followed to Hintons and finding where the wagons had left the road he followed "and easily found the trail and he soon came to a place where A claim pen was and a stake with S F Starrs name on it marked Starrs Point, they had not moved on their claim yet he had got a school where they wintered and did not move to his claim till the fall of 48." (8) It was at the site of this claim stake that the first post office was established. On August 16, 1852, Roland B. Hinton became postmaster and the office was moved to the Hinton house on the north-south road up the valley. (9)

In this year also Silas Belknap and George Starr opened a general store near the post office. Since the principal community activity centered around the sawmill of Joseph White, in 1854 Starr and Belknap's store was moved to the neighborhood of the sawmill and the post office was also moved to the site. (10) The settlement has been known by various names since its establishment. It was first known as White's Mill, and one visitor spoke of it in the early fifties as Brookville. Indicative of some confusion of names he wrote: "Continued enroute to Brookville 'Starrs Point' 16 ms. Took tea with another reliable friend. Went to Brookville, some two miles, where was an appointment for preaching. The people were assembled in a good sized schoolhouse, which if well finished would be comfortable for school and meetings."

The writer gives a picture of the settlement at that time. "Looked some at the site of Brookville," he wrote, "rather favorable, is on Long Tom or Bass River. The main road from this Valley to Umpqua, via Apple-gates settlement, passes here. A good sawmill is in operation, and sufficient water power for other machinery, one store, Blacksmith shop, some family residences. With suitable enterprise, there will in all probability be considerable of a town here in a few years." (11)

Bryant and Foster's gristmill, that in 1854 was in operation on Beaver Creek several miles to the northwest, (12) in 1857 moved to Starr's Point (Monroe) and took over the White sawmill. This mill, developed as the Monros Roller Mills, operated well into the twentieth century.

7. Lewis A. McArthur, "Earliest Oregon Postoffices," OHQ, XLI (1940), 56.
8. Robert M. Gatke, "Ketturah Belknap's Chronicle," OHQ, XXXVIII (1937), 268-269.
9. McArthur, "Earliest Oregon Postoffices," OHQ, XLI (1940), 56; see also interview with Mrs. Easter Elizabeth Ralls.
10. Key to Map of Early Sites in Benton County, p. 15.
11. Spenser, "Notes of Travel in Wallamette Valley," ms. owned by Verne Bright, Aloha, Oregon.
12. Government Field Notes, IV, 356.

Just before the Civil War there was a great deal of partisan feeling in the hinterlands of Benton County as evidenced from the following excerpt from the diary of an unidentified pioneer: "Arrived at 'Starr's Point' I stopped to rest and visit among relatives and old friends. One day there had assembled at this place (or more properly at a store where the double distilled extract of corn was dispensed) a considerable crowd of men, the most of whom were violent secessionists; and as 'good Democrats' were supposed to do, they 'filled up' with the 'exhilarating beverage.' From some cause or other the grand old Stars and Stripes had on this day been raised on a pole or staff nearby, and pretty soon these half-t tipsy fellows took offense at the defiant colors, and swore they would tear it down. Two or three of them started to execute the threat. Some of the crowd remonstrated, but to no avail. I being a stranger and a Democrat, I supposed the Republicans present would protect the flag, but seeing no movement in that direction, and that if the flag would be kept floating something must be done, and done quickly, I grabbed an old musket that chanced to be standing in the corner of the store, and at my best speed I made for the flagstaff. I had already served two terms (in Oregon Indian Wars) under the 'old flag.' My great-grandfathers had served with Washington at Brandywine and Valley Forge, my grandfather with Jackson at New Orleans, and I couldn't stand by and see the old emblem disgracefully lowered by a drunken rabble.

"As I ran quickly forward I called for their leader to stop, but he paid no attention to me. Knowing that nearly all men carried pistols those days, and that these men were made desperate by drink, I determined to have the first shot. I took a quick aim, and drew the trigger, the cap burst clear, but no report followed. Then there was a race between me and their leader for the flagstaff (all the rest had stopped when the cap burst). We met at the flagstaff, and just as he was about to cut the halliards to lower the flag my gun went off (it didn't snap that time); the barrel brought down on his head proved more effective than the bullet which refused to leave the barrel. Well, he laid down, and as I now had time to draw my revolver, I sat down and informed the mob that I would shoot the first man who attempted to haul down that flag before sundown, at which time I would lower it myself if I lived that long.

"That settled it. His friends removed my man to the store, and many Union men gathered to my assistance, which had the effect of stopping further demonstration. At the going down of the sun, we lowered the flag - cheering as we did so - and laid it away with the honor we conceived to be due the 'emblem of the free.'"

Monroe was platted on October 6, 1857, (13) and thenceforth the town continued to grow and prosper. The name Monroe, which had come

into general use about the middle sixties, however, was not officially fixed as a name for the post office until February 2, 1874. (14) In that year a writeup of Monroe appeared in the Benton County Almanac, as follows:

"Monroe is a pleasant village, seventeen miles south of Corvallis, on the west bank of the Long Tom, surrounded by wealthy settlements, and in the heart of a rich agricultural district. We here find three stores, kept by W. C. Woodcock and Co., M. Shannon, and Thomas Hinton; one blacksmith shop, Harrison Bowen; one flouring mill, Thomas Reader, proprietor; one harness and saddle shop, Charles Hodes; one hotel, Mrs. Sarah Howard; one boot and shoe shop, John Webber; three physicians, Cal. M. Boswell, L. F. Shipley, and Wm. Mahon; one saloon, George Landerkin; one Public School, M. Clay Starr, Teacher; two carpenters, Wm. J. Kelley and J. M. Lafferty; one lodge each of Masons, Odd Fellows, and Champions of the Red Cross; and one post office." (15)

It was the flour mill developed by Foster and Bryant from White's sawmill, however, that contributed most materially to the growth of the community. Sometime before 1868 the property was acquired by Thomas Reader. In that year the Corvallis Gazette reported: "The flour mill of Thomas Reader is supplied with a granary capable of holding fifteen thousand bushels of grain, which is taken from the wagons by machinery... There are three runs of splendid burrs, which are capable of turning out two hundred and forty bushels of the best flour in twenty-four hours. The mill stands on a good foundation of solid rock, has splendid water power, and the establishment commands a large and good district of farming country." (16) In 1882 Samuel Reader became proprietor of the mill and developed it into one of the largest flouring mills of the State. (17) However, as general crops took the place of wheat, business became less and in the 1900's the mill closed down.

A contributing factor to the growth of Monroe was the stage route that followed the Territorial Road through the town. In January 1869 a company was formed to navigate the Long Tom to Monroe. Snags were cleared out and at one place part of a bridge was removed to enable the steamer to reach the new river port. (18) The project and other like attempts proved unsuccessful.

After the turn of the century there was a new impulse toward growth and in 1913 the town was incorporated and James Baily was elected Mayor and E. D. Lunt recorder. (19) In 1885 Monroe had a population of about 150. (20) In 1940 the population had grown to 311. (21)

14. McArthur, Oregon Geographic Names p. 232.
15. Benton County Almanac for 1874.
16. Corvallis Gazette, April 25, 1868.
17. Fagan, op. cit., p. 450.
18. Alfred L. Lomax, "Siuslaw and Willamette Valleys, 1850-91," OHQ, XXXVI (1935), 234.
19. Record of Council Proceedings, Vol. I, p. 1 ff.
20. Fagan, op. cit., p. 450.
21. Oregon Blue Book, 1941-42, p. 280.

Other attempts were made in the early days to develop towns in the southern part of the county. One of the earliest of these was Jenneyopolis at the western foot of Winkle Butte in section 22, township 13 south, range 5 west of the Willamette meridian. (22) On September 5, 1853, the county court ordered that "License be granted Robert Irwin to keep a Grocery at Jenneyopolis for the term of one year from the date of the expiration of his first license, for the sum of fifty dollars." (23) A post office was established at Jenneyopolis on March 24, 1852, with Richard Irwin as postmaster. It was discontinued April 18, 1857. (24) On April 3, 1854, the county court created precinct No. 5 and named Jenneyopolis "the place of holding elections for the same." (25)

About five miles south of Corvallis, Thomas Norris laid out a town-site on his land claim where it touched the Willamette River and filed the plat with the county clerk on February 1, 1853. (26) The surveyor's record observed shortly thereafter that "The town of Boonville is situated on the west channel of the Wilamette River in sections 26 & 35 (township 12 south, range 5 west). The town as yet does not amount to much, but the location is a good one. Steamboats have been up to it in high water." (27) In 1853, besides the residence of Norris there was a store, a blacksmith shop, and a warehouse. For a number of years during the period of steamboat traffic on the upper Willamette there was an important business in the handling of grain. Reports of warehousemen filed with the county clerk show large holdings of wheat in storage. On May 22, 1875, the Boonville Storage and Warehouse Company was incorporated with a capital stock of \$3,000. The incorporators were Green Berry Smith, Robert L. Buchanan, T. W. B. Smith, and John S. Baker. (28) As late as 1894 Boonville was still known as a shipping point. (29) Perhaps the high water of that and other years changed the course of the river as the site is now situated on a dead-water slough and all buildings have long since disappeared.

Bellfountain is a cross-roads hamlet with a church, schoolhouse, store and filling station, and a dozen or so houses. It is the heart of the old Belknap Settlement (30) of 1847-48, and many of the farms in theseabouts are held by descendants of the original settlers. In 1853 the government surveyor wrote concerning this neighborhood: "There are several good farms near the east boundary and large herds of horses and

22. Government Field Notes, II, 246.
23. County Court Journal, Vol. A, p. 91.
24. MoArthur, Oregon Geographic Names, p. 429; see also McArthur, "Earliest Oregon Postoffices," OHQ, XLI (1940), p. 56.
25. County Court Journal, Vol. A, p. 115.
26. Town Plats and Cemetery Plats, I, 82.
27. Government Field Notes, II, 90.
28. Articles of Incorporation 1865--.
29. "Early Steamboating," Corvallis Gazette, Feb. 12, 1894.
30. Robert M. Gatke, "Ketturah Belknap Chronicle," OHQ, XXXVIII (1937), 265-299.

cattle. The township contains about 18 settlers." The name was given first to the spring and campground about a half mile east of the village. The name is said to have been given in honor of Bellefontaine, Ohio; (31) however this is disputed by some who maintain that it is a combination of the first syllable of the name Belknap (borne by several families of the first immigration) and the word fountain. The large spring of fresh water flowing with undiminished volume throughout the year determined the location of early camp-meetings which were annual events of this devout community.

A description of one of the first of these meetings, held in 1851, is contained in Ketturah Belknap's Chronicle. "So as we had always been in the habit of going to camp meetings every year we voted a camp-meeting and appointed a committie to select the ground so after looking the country over they settled on the grove with the big spring on it on orin Belknaps land, and now its June and its been given out all over the country that there will be a campmeeting in the Belknap neighborhood commencing the 20 of June every body invited to come prepared to camp and so it came to pass that many came some with whole familys with ox teams some on Horse back with their tent and Bedding packed on a poney...George and Ransome Belknap had arranged to furnish meat for the campers so their was a fine small beef killed and quartered and hung up in the trees and all that wanted came and got without money or without price..."

Mrs. Belknap describes vividly the gathering clans, the putting up of tents, the Friday and Saturday services, and then on Sunday: "Love-feast at half past nine Preaching at eleven then Communion, then the Baptisem of the Babys, then dinner, that was short work made tea and coffey set the table and warmed up the chicken gravy and it was ready our cooking was all done on Saturday, for fruit we had dried Apples and peaches, they was shiped from the Sandwick Islands and as nice as I ever saw, (I forgot to tell you Brother Roberts Preached one of his finest Sermonds at Eleven...) Bro Waller Baptised the Babys, Preaching again at 2 o'clock, but I am making this to long, after the two o'clock service we done up our work and took a little respit from our toils, them that was very warm in the cause went to some of the tents and Sang and Prayed and shouted till they was to mutch exhausted to help with the evening service, we had a day long to be remembered..." (32)

In 1937 Bellfountain made a transient bid to fame when its high school basket ball team, recruited from a student body containing only 19 boys, won the state championship. (33)

Alsea Valley, a triangular shaped depression in the Coast Range about ten miles long by three miles broad at its greatest point, was

31. McArthur, Oregon Geographic Names, p. 405.

32. Robert M. Gatke, op. cit., pp. 281-285.

33. See the Oregonian, April 18, 26, 1937.

first settled in 1852. (34) The name Alsea is that of an Indian tribe that dwelt on the lower reaches of the river that drains the valley. (35) One of the early settlers in the valley was Basil Longworth, who came to Oregon with the Connor-Kenoyer train in 1853. On November 17, he wrote: "This morning is again pleasant. Here our paths left the valley (of the south branch of Marys River) and struck into the mountains, passing up and down the mountain sides through dense forests of fir timber. At two o'clock in the evening we found ourselves in the Alsea Valley..."

"18th. This morning is very wet and we commenced hunting claims. James Edwards staked off his claim. His standing stake is near the hill at the southeast corner, the line running one mile or until it reaches Ridenour's claim, then north until it takes in his full claim. The rain fell quite fast and we, of course, did nothing more this day.

"19th. Yesterday he took possession of his claim and today we went to work on it (although the rain was still falling), and cut poles and built a little pen ten feet square -- made boards and covered it -- and moved into it -- baked hot biscuit for supper and did all of this before dark, at which time the rain commenced falling quite fast and continued to do so all night, but the roof turned the water well and we were dry -- warm and merry..."

Mr. Longworth continues in the same vein describing the adventures of settlers in a new land. Among men whom he mentions as coming into the valley about this time to take up land were Thomas Ellis, Jeremiah Mason, Jeremiah Kenoyer, Jeremiah Simeon, and Dillon Mason. (36) Thomas Ellis and his brother Asbury and E. Ridenour are said to be the first to stake claims in the Alsea Valley. (37)

Ruble's Mill, on the north fork of the Alsea River, was built in 1872 and David Ruble, who, with his father Thomas Ruble, inventor of the turbine wheel, 1873, had been running a mill on Rickreall Creek in Polk County, came into the Alsea Valley and erected a sawmill; the following year he added a gristmill. This mill was very important in the development of the isolated community. (38)

In 1863 the first school was established under the tutelage of Jerry G. Clarke. (39) Mrs. Molly Clarke Lilly said in an interview: "Some time before 1860 my parents were married and went to the Alsea Valley where father bought a homestead right about two miles up the South Fork from the present village of Alsea. My father taught the first school in the valley in a log cabin... Silas Howell taught in the same building later." (40)

34. See pp. A-15-A-16 of this Sketch.

35. McArthur, Oregon Geographic Names, p. 6.

36. The Diary of Basil N. Longworth, Oregon Pioneer, pp. 59-68.

37. Interview with Sara Jane Ervin, Philomath, daughter of Thomas Ellis.

38. Fagan, op. cit., p. 500; see also interview with Mrs. Charity Flock, niece of David Ruble.

39. Fagan, op. cit., p. 500.

40. Interview with Molly Clarke Lilly, Route 3, Corvallis, Oregon.

In 1871 the post office of Alsea was established with Thomas Russel as postmaster. (41) In 1874 the Benton County Almanac dilated on the charms of the Alsea. "About sixty families now reside in the upper valley. They have a postoffice, with Thomas Russel, Esq., as P. M.; a good flouring and sawmill, David Ruble, proprietor, and a blacksmith shop by Eli Mason. Also a good school house and a large school." (42)

The principal center of settlement in the northern part of the county is King's Valley in a bend of the Luckiamute River that loops down from Polk County. A letter written by Mariah King, daughter-in-law of Nahum King and wife of Stephen King, to her family in the East and dated from "Luckiamute Valley, Oregon, April 1, 1846," states: "We have made our claim on the Luckiamute, a western branch of the Willamette, not a day's ride from the ocean and 100 miles south of the Columbia River. It is a beautiful country as far as I have seen. Every person eighteen years old holds a section by making improvements and living on it five years. They sow wheat here from October until June, and the best wheat I ever saw... Mills are plenty, no trouble about getting grinding. The water is all soft as it is in Massachusetts. Soda springs are common and fresh water springs without number. It is now the 1st of April and not a particle of snow has fallen in the valley neither have I seen a bit of ice a half inch thick this winter but it rains nearly all winter but this does not hinder them from plowing and sowing wheat. We have the most frost in the spring. They don't make garden until the last of April or the first of May, but it comes good when it does come. There are thousands of strawberries, gooseberries, blackberries, whortleberries, currants and other wild fruits but no nuts except filberts and a few chestnuts. The timber is principally fir and oak.

"You perhaps wish to know how I like the country. I like it well. It is an easy place to make a living. You can raise as many cattle as you please and not cost you a cent, for the grass is green the whole winter and cattle are as fat as if they had been stall fed the whole year round... We have had two weddings in our family. Rolland Chambers and Lovisa King and Amos King to Melinda Fuller. Young men have to pay five dollars a year if they don't live on their claim. The people all look hale and hearty here. We are all looking for Moses Moon and Herman Hallock this fall." (43)

Mr. Willard Price, who, in 1936, kept the village store at King's Valley, said in an interview: "The party consisting of the King family, Lucius Norton, Roland Chambers and others which settled in Kings Valley, came from Ohio by way of Missouri... They crossed the plains in 1845... and stayed the first winter near LaFayette. The men of the party obtained horses and explored southward, locating claims on the Luckiamute... They located enough claims for their party, numbered them and put numbers in a hat to draw lots. Before they drew Roland Chambers made the

41. Fagan, op. cit., p. 500.

42. Benton County Almanac 1874.

43. A Letter from Luckiamute Valley in 1846.

proposition that if they would give him his choice of claims he would build a gristmill... He chose a claim that took in a natural fall in the river of about four feet. Chambers established his water right in 1852 and began grinding in 1853... For more than fifty years the mill ground flour on the stone burrs shipped from France around the Horn. Finally modern machinery was installed. The mill is now used only to grind feed for the surrounding farms." (44)

Fort Hoskins was built in 1856 on the Van Peer donation land claim on the south side of the Luckiamute River in section 29, township 10 south, range 6 west of the Willamette meridian. The Van Peer sawmill, just west of the site of the later Fort Hoskins, was noted by government surveyors in 1853. (45) General Phil Sheridan, while still a lieutenant, was stationed at the fort for several months and built a road through the Coast Range from Fort Hoskins to the Siletz Indian Reservation. (46) Concerning the location of the post Capt. C. C. Augur wrote to his commanding officer at Benecia, California: "A more favorable point than this could not probably be selected -- as there is a fine flouring mill within two miles and a sawmill within a third of a mile, where their respective products can be secured as reasonably probably as at any place in Oregon, and one of the finest agricultural valleys in the Territory about it, where bacon fresh meat vegetables and forage can be procured in ample quantities for the use of the Post." (47)

In a letter written the next day, August 1, 1856, to Colonel S. Cooper, Adjutant General U. S. A., Washington, D. C., Captain Augur wrote: "Colonel: I have the honor to enclose you a return of this post for July. This post was established as stated on the return and I have called it Fort Hoskins in memory of the gallant officer who was killed at Monterey. I respectfully request that the name for the Post be confirmed." (48) The "gallant officer" was Lieutenant Charles Hoskins, killed at the battle of Monterey, Mexico, on September 21, 1846. (49)

Fort Hoskins was garrisoned from 1856 to 1865 with both volunteers and regulars. Among officers stationed here were Captain F. T. Dent, a brother-in-law of Captain Ulysses S. Grant, (50) and Lieutenant Sheridan. (51) After the fort was abandoned the buildings gradually disappeared. The site, on the farm of the Frantz brothers, is now marked by a memorial flagpole and plaque.

44. Interview with Willard Price of King's Valley, Oregon.
45. Government Field Notes, I, 255.
46. P. H. Sheridan, Personal Memoirs, I, 95-97.
47. Letter to Major W. W. Mackall, Benecia, Cal., from C. C. Augur, Capt. 4th Infy. Commanding Fort Hoskins.
48. Letter to Col. S. Cooper, Adjutant General U. S. A., from C. C. Augur, Capt. 4th Infantry, Fort Hoskins, O. T.
49. Oscar W. Hoop, "History of Fort Hoskins, 1856-65," OHQ, XXX (1929), 347; this article contains a complete review of the history of the post.
50. Sheridan, op. cit., I, 97.
51. Ibid., pp. 95-104.

Ten miles east of King's Valley on the old Portland and Umpqua Valley road, in 1853, David D. Davis started a store and stage station beside a sparkling spring among the oak trees. On November 4th of the following year a post office was established at that point under the name of Soap Creek, with Davis as postmaster. (52) When the name of the post office was changed to Tampico is not known, but the settlement soon became a busy little community. Twice a week the stage brought passengers, freight, and mail to Tampico. Occasionally a new settler arrived, driving his weary oxen hitched to a lumbering wagon with patched and weathered tilt that scarcely protected the occupants.

James O'Neal and William Beatty ran the first boarding house and livery stable in Tampico. Beside the stable was a corral in which young Dave English broke wild horses to ride at a dollar a head. It is said that he always "rode straight up" and never "pulled leather" in subduing his mounts. William Griffith was the first blacksmith; later he sold out to Jack Modi. Besides being a skilled blacksmith, Modi also taught singing, conducted debates, and encouraged other gatherings in the little schoolhouse in Tampico. Both the singing classes and debates were popular and attendance was good. (53)

A man by the name of Roberts conducted a tavern at the south end of town. The carpenter shop was run by McDavis. Crouch and Roberts were merchants who brought silk and satin to sell to a class of pioneers that carded, spun, and wove wool which they had shorn from their own sheep and later made into clothes. The firm did not last long and was taken over by Joseph C. Hunter. Davis, who gave Tampico its name, ran a variety store, and William Bowers kept the Arcade Saloon. (54)

"Tampico was a great place for recreation and amusement," said an old resident of the neighborhood. "People would come there from all directions on Saturday to hear the news. Some would have letters from the East and any bits of news were passed around. Then some diversions were always planned, or at least something diverting happened. One day there would be a horse race. Another time there would be a shooting match with, perhaps, a pig for a prize. Sometimes when men had serious differences of opinions they would arrange to settle it at Tampico on Saturday afternoon. Many were the fistic encounters on the green at Tampico." (55)

Overlooking old Tampico was a schoolhouse, according to Prof. John B. Horner, where the first school was taught by Elisha Vineyard, afterward county school superintendent of Benton County. The next teacher was Frank A. McDonough, a clever Irishman who taught his own treatises on mathematics, and was later found cremated on his land claim in the mountains.

52. McArthur, "Earliest Oregon Postoffices," OHQ, XLI (1940), 57.
53. John B. Horner, "Story of Tampico," Corvallis Gazette-Times, February 20, 1926.
54. Ibid.
55. Interview with Mrs. Annie Brown, Suver, Oregon.

Other teachers of note were T. J. Stites, later editor of the Albany Democrat, John Greek Springer, and E. V. Price, who became a Chicago millionaire. (56)

Tampico had the principal race track in that part of the Willamette Valley. It was on this track that some of the fastest horses in the country matched style and speed. Here sped Ben Bolt, owned by James Griffin, and Jack of Clubs under the colors of Jehial Kendall, to defeat or victory. Here Silver Tail, later sold to George Coggins of La Grande for \$1,000, was trained. (57)

However, Tampico flourished less than a decade ere it joined the ranks of Ninevah and Tyre. In the fall of 1857 Tampico was surveyed for William F. Crouch and the plat filed with the recorder, N. C. Odeneal on November 10th. (58) Less than three years later Green Berry Smith appeared before the recorder, declaring that he was the present proprietor and sole owner of the Town of Tampico and that he wished the plat of said town annulled and vacated. (59)

*Sic transit gloria mundi, sic transit Tampico.* As an epitaph for Tampico, Arthur King, grandson of Solomon King of King's Valley, wrote:

"Old Tampico the town stood when  
The West was new and men were men;  
In olden days a lovely town  
Which Father Time hath leveled down.

"But now the old-time stage coach wheel  
With squeaking brake against the steel  
No longer echoes far and wide  
Along the rugged mountain side.

"Old time has worn the buildings down,  
Yet history of the famous town  
Tells how it looked, so I am told,  
When men were men in days of old." (60)

Organization of Benton County. The seventh to be organized in Territorial Oregon, Benton County was created by an act of the Provisional Government on December 23, 1847. (61) The county was named in honor of Senator Thomas Hart Benton of Missouri, who was especially vigorous in his espousal of the Oregon cause on the floor of the Senate. (62)

56. John B. Horner, "Story of Tampico," Corvallis Gazette-Times, Feb. 20, 1926.
57. Ibid.
58. Town Plats and Cemetery Plats, I, 82-83.
59. Ibid., p. 83.
60. From clipping owned by Mrs. Josephine Wells, Corvallis, Oregon.
61. L. 1843-49, p. 50.
62. McArthur, Oregon Geographic Names, p. 28.

When first organized the county had an area larger than many European principalities. Its boundaries are described as follows in the act of creation: "Commencing in the middle of the Willamette River at the southeast corner of Polk County, and running south along the main channel of said river to the middle fork thereof; thence up said middle fork to its source; then due south to the 42d parallel of north latitude; thence west along said parallel to the Pacific Ocean; thence north along the coast of said ocean to the southern boundary of Polk County." (63)

In January 1851 the southern portions of Benton County were cut off to create Umpqua County (64) and Lane County. (65) On December 22, 1853, the northern line of Lane County and the southern line of Benton County were made coincident from the Willamette River to the Pacific Ocean. (66) On February 20, 1893, the western part of Benton County was lopped off in the creation of Lincoln County, (67) leaving the county with its present area of 688 square miles. (68) Benton County is bounded on the east by the Willamette River and Linn County, on the south by Lane County, on the west by Lincoln County and on the north by Polk County. (69)

In the bill creating Benton County the Governor was authorized and required to appoint all necessary county officers to act until their successors were elected and qualified. (70) Who these first county officers were has not been ascertained and any records they might have kept have been lost. However, an inkling of who they might have been is contained in a letter in the possession of the Oregon Historical Society. J. C. Avery, county clerk of Benton County, wrote to Fred Prim, Secretary of the Territory of Oregon as follows: (71)

"Marys Ville, June 20, 1848.

Dear Sir: Supposing it the duty of the County Clerks to send in certificates of the election of certain county officers to the secretary of the Territory of Oregon that the Governor may be notified of their election and commission them; and having no means of ascertaining which the officers are to be thus commissioned I will give you the names of them all. At an election held in the several precincts of Benton County June 5th, A. D. 1848, A. M. Locke, Benjamin David, and S. H. Brown were duly elected Justices of the Peace, D. W. Hofins, sheriff, Arnold Fuller, Treasurer, and William Dixon, coroner.

Your Obedient Servant

J. C. Avery, Clerk B. C."

63. L. 1843-49, p. 50.

64. L. 1850-51, p. 33.

65. L. 1850-51, p. 32.

66. L. 1853-54, p. 13.

67. L. 1893, p. 68.

68. Basic Data Survey, Index 3, p. 1.

69. See State Highway Department Map of Oregon.

70. L. 1843-49, p. 50.

71. Letter from J. C. Avery to Fred Prim.

Sixteen months later, October 15, 1849, another election was held, as evidenced by a "Poll Book of an election held within Benton County at Marysville, Oregon," which reveals that John Lloyd, Aaron Richardson, and Joseph C. Alexander were elected judges of the probate court, Henry P. Locke, probate clerk, Nelson Locke, sheriff, Augustus L. Humphrey, assessor, Arnold Fuller, treasurer, James L. Mulkey, school commissioner, William Knotts and Roland Hinton, justices of the peace. (72) Certificates of election were presented by the Governor to the above named persons on November 1, 1849. The certificate for probate clerk, however, was made out to "Harrison P. Lock." (73)

The above election was evidently held in accordance with a law passed by the Territorial Legislature on September 29, 1849, establishing local government in the several counties. This law provided that judges of probate and other county officers hold office "for three years and until their successors are elected and qualified." (74) However, another election was held "on the first Monday of June A. D. 1850, at Marysville schoolhouse in the county of Benton," and the following were elected to the various offices: judges of probate, E. F. Skinner and George Belknap; sheriff, A. N. Locke; treasurer, A. Fuller; assessor, Samuel Starr; justices of the peace, A. Drum, L. Lloyd, and C. Martin; constables, M. Riggs, D. D. Stroud, and Orin Belknap. (75)

On the first page of the County Court Journal it is recorded that "by virtue of an Act of Congress of the United States of America approved August 14, A. D. 1849, entitled 'An Act to establish the Territorial Government of Oregon,'" and by virtue of several acts by the Legislature of the State of Oregon anent the establishment and conduct of probate courts, the probate court of Benton County met on Monday September 2, 1850, at "Fuller's School House," in said county. A quorum did not appear until September 4th, when O. F. Clark and George Belknap, judges, and William Knotts, the clerk, met for business, organized and adjourned until the next day. (76)

County officers seemed to come and go rather haphazardly in the early fifties. In perusing the County Court Journal for the period it is found that on the 5th of September, 1851, Samuel F. Starr, assessor, made his returns to the county court and that a tax of two mills on the dollar was ordered. The only other business transacted at this term of court was the ordering of a survey of the Benton-Polk county line and the appointment of J. C. Avery to cooperate with the Polk County surveyor in running the line "until it passes all the settlements to the west." (77)

72. Poll Book of an Election Held Within Benton County at Marysville, Oregon, Oct. 15, 1849.
73. State of Oregon, Executive Record 1849-59, p. 32.
74. L. 1849-1850, p. 3.
75. Summary of Election at Marysville, Oregon, date June 3, 1850.
76. County Court Journal, Vol. A, p. 1.
77. Ibid., p. 2.

The county court seems to have skipped the December term and the clerk wrote concerning the April term that court met on April 7, 1851, but "There being no Judges present Court stands adjourned until Tuesday, April 8th, when, no Judges appearing the Court stands adjourned until Wednesday April 9th, When no Judges yet appearing, the Court stands adjourned until the first Monday of July, A. D. 1851." (78)

On July 8th the court met with O. F. Clark, George Belknap, and John Stewart, judges, and S. F. Starr, sheriff, present. The court appointed A. G. Hovey as clerk. (79) It was also ordered that Benton County be divided into three election precincts and that R. B. Hinton be appointed justice of the peace for district number three and James H. Slatter for district number two. (80) Also, at this session the court appointed Silas Stout as assessor, (81) but on September 2, 1851, J. A. Bennet, assessor, made the "Assessment returns" to the county court. (82) On this day, also, the bonds of Wayman St. Clair, treasurer-elect were approved. (83)

Marysville was named county seat of Benton County by the Legislature on January 23, 1851. (84) Before that time there was evidently no official county seat; the earlier county courts had met at Fuller's School House (85) and the Circuit Court was ordered by proclamation of the Governor to meet "in the home of J. C. Avery." (86) According to the legislative act the county buildings were to be located on any land donated for the purpose by the proprietors of the town. (87)

Joseph C. Avery and William F. Dixon each donated forty acres of land to Benton County "for the purpose of erecting the Public Buildings," and the bonds for such donations were accepted by the county court on September 6, 1852. (88) This land was platted, (89) a block (No. 24) was designated for location of the county buildings, (90) and the rest placed on sale.. (91)

On February 7, 1854, Messrs. Rounds and Pike presented plans to the court for a courthouse which were accepted and a call for bids was ordered posted. (92) The building was to be 35 feet wide by 55 feet

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- 78. County Court Journal, Vol. A, p. 3.
  - 79. Ibid.
  - 80. Ibid., pp. 4-5.
  - 81. Ibid., p. 5.
  - 82. Ibid., p. 9.
  - 83. Ibid., p. 7.
  - 84. L. (Special) 1850-51, pp. 51-52.
  - 85. County Court Journal, Vol. A, p. 1.
  - 86. Circuit Court Journal, Vol. 1, p. 1.
  - 87. L. (Special) 1850-51, pp. 51-52.
  - 88. County Court Journal, Vol. A, p. 38.
  - 89. Ibid., pp. 43, 45, 133, 136-137.
  - 90. Ibid., p. 46.
  - 91. Ibid., pp. 46, 50, 52, 72, 83, 106, 109-110, 134, 139, 147, 150.
  - 92. Ibid., pp. 111-112.

in length and two stories high. (93) When the bids were opened it was found that "Messrs. R. R. Rounds, John Pike and George Roberts" had submitted the lowest bid, \$5,700, and the court ordered the contract let to that firm. The court further stipulated that the building was to be completed by July 4, 1855. (94) However, Rounds, Pike and Roberts failed to enter into contract and a new bid was called. (95) George P. Wrenn obtained the contract for a bid of \$6,197; (96) funds were to be appropriated from the proceeds of the sale of town lots. (97) The contract was executed and confirmed on June 8, 1854. (98) On September 6, 1855, the courthouse was ready for delivery. Upon examination the court found certain details not up to specifications. The complaint was referred to a committee of disinterested carpenters, according to the terms of the contract, and because of their report the contractor was awarded \$175 less than the contract price, for which amount he settled. (99)

In 1856 the first county jail was built (1) and in 1858 a substantial board fence was built around the square at a cost of \$300. (2) The broadleaf maples, that have since grown to such magnificent proportions, were set out. In May 1863, the county clerk was authorized to let a contract for the building of a shed on the west end of the courthouse for storing the piece of "ordinance" turned over by the State to Benton County. (3) In 1878 a fireproof vault was added to the courthouse. (4) This courthouse continued to serve the county for more than twenty years when it was razed in 1888 to make way for a new structure.

Agitation for a new courthouse was evident as early as 1875 when a proposal to levy a two-mill tax to create a building fund was submitted to the voters. (5) However, no other action is recorded until, on October 11, 1887, the plans and specification of D. D. Neer were adopted. (6) Three months later, on January 6, 1888, the county court ordered bids advertised based on these plans (7) and on February 15th contracts were awarded. (8) The building was completed and accepted by the county court in the fall of 1889. (9) The old jail was replaced by a new and modern structure erected in 1929. (10)

93. County Court Journal, Vol. A, p. 127.

94. Ibid., pp. 128-129.

95. Ibid., p. 140.

96. Ibid., p. 143.

97. See footnote No. 91 above.

98. County Court Journal, Vol. A, p. 149.

99. Ibid., Vol. B, p. 85.

1. County Court Journal, Vol. B, pp. 116, 118, 134, 141, 154-155.

2. Ibid., pp. 202, 208.

3. Ibid., p. 96, Vol. C, p. 187.

4. Ibid., Vol. II, pp. 183, 189, 219, 259.

5. Ibid., Vol. I, p. 772.

6. Ibid., Vol. IV, p. 205.

7. Ibid., p. 221.

8. Ibid., pp. 257, 259, 265, 281, 358.

9. Ibid., p. 405.

10. Ibid., Vol. XIV, pp. 560, 561, 581, and Vol. XV, pp. 59, 80.

Assuming his duties on March 2, 1849, Governor Joseph Lane issued a proclamation on May 13th dividing the territory into judicial districts. Benton was included in the second district and O. C. Pratt was assigned as judge. (11) The court was ordered to meet on the first Monday in September (1849) at the house of J. C. Avery. (12) The court met as appointed on September 3, 1849, with Hon. O. C. Pratt and the Marshal of the United States in attendance. No business appearing the court adjourned "until tomorrow at 9 o'clock," and no business yet appearing the court adjourned until the next regular term, which, according to the Governor's proclamation was to be held on the first Monday in May 1850. (13)

However, the court evidently failed to meet at the next regular term or for several terms thereafter, as page four of the journal records that on September 29, 1851, the District Court for Benton County "commenced its stated session at Avery's in said County, the Honorable O. C. Pratt, the District Judge thereof, then and there presiding." At this meeting the first recorded district court business in the county was transacted. This business consisted of the conformation of the appointment in vacation of A. G. Hovey as clerk of the District Court and the appointment of the said Hovey "a Master and Commissioner in Chancery" for Benton County. The court further ordered that the clerk be allowed \$100 a year for his services and that the sheriff of Benton County be allowed \$150 a year for his services. The county commissioners were ordered to pay these sums, to furnish for the use of the clerk suitable books in which to keep the records of the court, and a seal with a suitable device engraved thereon to be used by him in discharge of the duties of his office. (14)

At this September 1851 term John Feichter of Baden, Germany, declared his intention of becoming an American citizen, (15) and on April 6, 1852, William Wyatt of England and William Matzger of Hanover, Germany, perfected their naturalization. (16)

At the April 1852 term there occurred a test of the authority of the District Court and the Territorial Government of Oregon in the case of one Grenville Delap who "refused to make oath before or otherwise recognize the Court as possessing any rightful authority to administer law in Oregon." It was stated that the "said Delap offered forcible resistance to the Sheriff when brought before the Court to answer said charge and behaved in a tumultuous and disorderly manner in the presence of the Court." (17) Delap was fined \$100 and costs for "gross contempt"

11. H. H. Bancroft, History of Oregon, II, 70.
12. Circuit Court Journal, Vol. I, p. 1.
13. Ibid., pp. 1 and 3.
14. Ibid., pp. 4-5.
15. Ibid., p. 5.
16. Ibid., pp. 10-11.
17. Ibid., p. 15.

and was committed until the fine should be paid. Later, however, the fine was remitted and Delap was allowed to purge himself of contempt.

On July 16, 1849, the first Territorial Legislature for Oregon met at Oregon City. The members from Benton County were Norris Humphrey, member of the council, and J. Mulkey and G. B. Smith, members of the house. (18) In the Oregon Historical Society Library is preserved a "Poll Book of elections held within the county of Benton on the 4th day of June, 1849, at Marysville, for the purpose of electing one delegate to the Congress of the United States and one Counsellor to the Territorial Legislature of Oregon and two members to the legislature." The results, as listed in this poll book are as follows: Samuel Thurston, Delegate for Congress, 29 votes, Joseph Meek and James Nesmith, none; Loyal A. Humphrey for the Counsel, 35 votes; Green B. Smith, Representative, 36 votes, James Mulkey, Representative, 40 votes, and Timothy O'Kelly, one vote. (19) However, at an election held a year later, June 3, 1850, "it appeared that for Members of the Legislature J. C. Avery had 35 votes, Wayman St. Clair had 44 votes, John Starr had 31 votes, and James L. Mulkey had seven votes." (20)

In the County Court Journal under date of July 5, 1852, and intermittently for the succeeding several years, appears the legend, "In the Matter of Nimrod O'Kelly." (21) These items referred to the trial, conviction and incarceration, of the said Nimrod O'Kelly for murder and involved the first trial for murder in Benton County. According to the "declaration" of O'Kelly, one Jeremiah Mahoney, whom he distinguishes by the sobriquet of "this Irishman," attempted to "jump" his claim. In an altercation that ensued O'Kelly's gun, according to Kelly, "went off in my hands hitting him I knew not where... I saw him set down I left immediately after traveling some distance I saw him lay down I come down to town directly & give myself up to the proper officer." (22) Nimrod O'Kelly was tried and convicted of murder and sentenced to be hanged at a special session of the District Court on June 29, 1852. The case was appealed to the Supreme Court of Oregon and on December 5, 1853, that tribunal reviewed the case, upholding the lower court. (23) On May 10, 1854, a new date of execution was named. However, O'Kelly was never called on to expiate his crime with his life. In fact a decade later he died having had his freedom several years. (24) Anent this case there is a curious commentary on human justice contained in an entry of the Journal under date of July 6, 1852, wherein John Stewart is allowed \$5 a week for boarding the guard of Nimrod O'Kelly and \$8 a week for boarding Nimrod O'Kelly. (25)

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18. Bancroft, History of Oregon, II, 71-72.
  19. See Poll Book, etc., Oregon Historical Society Library, Portland.
  20. See Report to the Secretary of the Territory of Oregon, June 3, 1850, an original ms. owned by the Oregon Historical Society.
  21. County Court Journal, Vol. A, p. 20 ff.
  22. Lawrence A. McNary, "Oregon's First Reported Murder Case," OHQ, XXXVI (1935), 359-364.
  23. Or. I, 51.
  24. McNary, op. cit., p. 362.
  25. County Court Journal, Vol. A, p. 25.

Transportation. The first routes of transportation in Benton, as in other counties, were the streams and the trails of the Indians. Long before the advent of the first explorer these trails were worn deep by the imprint of countless mocassins. White men improved on the Indians' work; explorers, trappers, miners, stockmen, used the trails, widening and straightening them. Then came the pioneers with their wagons, the county courts with their viewers, surveyors, and builders. The principal Indian trails led from Yaquina Bay and Alsea Bay through convenient gaps in the Coast Range between tidewater and the Willamette Valley, and north and south through the valley.

It was this north and south trail that became the Hudson's Bay trail from the Columbia to California. Many years before the first Americans made the trip, the trappers of the Hudson's Bay Company made their annual journey from the Sacramento to the Columbia with their furs. (26) There have been vague tales of trappers having passed between Oregon and California as early as 1819 or 1820, but the earliest authentic record of a band of trappers passing southward to California was of a party led by Alexander McLeod, who reached the Sacramento Valley in the summer of 1829. (27) However, for a dozen years before this trappers of the Pacific Fur Company and the North West Company had been passing through what is now Benton County in search of peltries. (28)

In 1834 Ewing Young and Hall J. Kelly, with five other men and a band of about a hundred horses passed northward from California and down the west side of the Willamette Valley to a ranch on the Chehalem. Again in 1837 Young led a group from California to the Willamette Valley with several hundred head of cattle and horses. (29) As evidence of the constant use of the Oregon and California pack trail by the brigades of the Hudson's Bay Company is the statement that in 1834 La Frambois of the fur company rescued Kelley and Young from an attack by Indians "and brought them safely, by the Hudson's Bay Company trail, to the Willamette Valley." (30)

Lieutenant Emmons of the Wilkes' Exploring Expedition passed southward over the Hudson's Bay trail in the fall of 1841. He wrote concerning the territory now embraced in Benton County: "On the 10th, the country was somewhat more hilly than the day previous, but still fine grazing land. During the day they crossed many small creeks. The rocks had now changed from a basalt to a whitish clayey sandstone. The soil

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26. Elwood Evans, History of the Pacific Northwest, I, 369.
  27. Alice B. Maloney, "Hudson's Bay Company in California," OHQ, XXXVII (1936), 11.
  28. See pp. A-6-A-9 of this Sketch.
  29. F. G. Young, "Ewing Young and his Estate," OHQ, XXI (1920), 1-315.
  30. Evans, op. cit., I, 370.

also varied with it to a grayish brown, instead of the former chocolate brown color, which was thought to be an indication of an inferior quality. The country had an uninviting look, from the fact that it had lately been overrun by fire, which had destroyed all the vegetation except the oak trees, which appeared not to be injured.

"On the 11th, after passing during the day Lake Guardipii, which is about 500 yards long, they encamped on the Longtambuff River, which is a branch of the Willamette. This river is a deep and turbid stream, branching out in places like a lake, but being in general narrow and fordable.

"On the 12th, the route was across a parched up prairie, some portions of which were composed of gravel and white sand, mixed with clay. The paths were very rough, owing to the soil, which was much cut up by the herds that had been driven through; and which, on becoming hard, was exceedingly fatiguing to the horses." (31)

In the early forties other bands of cattle were driven in from California and parties of emigrants passed to and fro over the trail. (32) One of the largest of the herds was that brought northward by Joseph Gale and party in the spring of 1843 which consisted of a total of 1,250 head of cattle, 600 horses and mules, and 3,000 head of sheep. (33) In the wake of Gale came Jacob P. Lease with his flock of 900 sheep. (34) All these countless hooves cut the trail deeper and established it as a principal artery of transportation across the county.

As suggested by Evans, the California and Oregon trail was also used by emigrants enroute between the Willamette and Sacramento valleys. This is revealed in the writings of Lansford W. Hastings who led a party of 53 men, women, and children from Oregon to California. He recorded that "on the 30th day of May, 1843, we were outward bound for the second and last paradise of the west, California." Passing southward along the Hudson's Bay trail in northern California they encountered "a company of cattle drovers (evidently Gale's party) and emigrants, who were on their way from California to Oregon, the former with cattle for the Oregon market, and the latter, designing to locate in Oregon." (35)

Most of the earliest emigrants settled in the northern part of the Willamette Valley, but by 1846 they had filtered as far southward as the Mary's River region. In that year a company was organized to explore a road from the upper Willamette Valley through southern Oregon thence eastward to Fort Hall on the Oregon Trail. Fifteen men made up the party.

31. Wilkes, op. cit., V, 222.

32. Evans, op. cit., I, 371.

33. Alfred L. Lomax, "History of Pioneer Sheep Husbandry in Oregon," OHQ, XXIX (1928), 1920.

34. John Minto, "Sheep Husbandry in Oregon," OHQ, III, 220.

35. Lansford W. Hastings, The Emigrants' Guide to Oregon and California, pp. 64-65.

Lindsay Applegate, one of the party, wrote many years later: "On the morning of the 20th of June, 1846, we gathered on the La Creole, near where Dallas now stands, moved up the valley and encamped for the night on Mary's river, near where the town of Corvallis has since been built." (36) The party went to Fort Hall, induced a rather large number of emigrants to take the southern route, thus bringing a comparatively continuous stream of settlers through the upper valley.

Following the discovery of gold in California there was a veritable exodus from Oregon to the gold fields. The roads through the upper valley ran a steady stream of gold seekers. A picture of this migration is contained in the following extract from a pioneer narrative: "In the winter of 1848-49, my father (Joseph A. Miller) made arrangements to go to California overland with one of our wagons and two yoke of oxen, which he had turned out on the range on the Willamette River, below Linn City; so by April 16, 1849, we got ready, including camping outfit, mining tools, picks, shovels, iron or steel spoons made by a blacksmith, the handle of which was made with a crock and sharp point for picking particles of gold out of crevices in rocks.

"On our way up Willamette Valley to Marysville, since called Corvallis, we fell in with several other parties, who were on their way overland to the mines. One man, named Duncan, and his wife and daughter, had one wagon; Elias Cox and his brother had one wagon, and there were two or three other parties. Duncan claimed that he was leaving Oregon for good. He was one of the 1848 immigrants who had no good word to say of Oregon.

"We passed up the valley, crossing Marys River and Long Tom, and soon arrived at Skinner Butte, near where Eugene now stands. From there our next place of note was the ferry on the Umpqua River; next we arrived at the ferry on Rogue River. From then on, we had to keep a good lookout for Indians, as they were hostile and treacherous." (37)

With the discovery of gold in southern Oregon and northern California the old "California route" was widened into a passable wagon road. It passed up the west side of the Willamette Valley, crossed the Mary's River and the Long Tom, and led off southward over the Calapooia Mountains to the Siuslaw, Umpqua and Rogue rivers. The road in time came to be an important avenue of communication between the people in the Willamette Valley itself, as well as between those of Oregon and California. (38)

The government of the embryo State early took a hand in developing the north-south route through the Benton County region. On December 12, 1846, the Governor of the Provisional Government approved an act of the

36. Lindsay Applegate, "The South Road Expedition," OHQ, XXII (1921), 15 ff.
37. James D. Miller, "Early Oregon Scenes: A Pioneer Narrative," OHQ XXXI (1930), 68.
38. Oscar Osburn Winther, "Development of Transportation in Oregon, 1843-1849," OHQ, XL (1939), 323.

legislative committee authorizing a territorial road "commencing at the town of Portland, on the Willamette river, proceeding thence the nearest and best way to where the present road crosses Tuality river, near the residence of Daniel Hill, at what is commonly called the 'New Bridge', thence the nearest and best way to the Falls below the fork of Yamhill river, thence the nearest and best way to the mouth of Marys river, in Polk County." Joseph Avery, Sylvanus Moon, and Joseph Gale were appointed as commissioners to lay out the road. (39)

However, exactly a year earlier on December 12, 1845, a bill had been approved providing that "Courtney M. Walker, of the district of Tuality, Nathaniel Ford, and Joel Walker, of the district of Yamhill, be and they are hereby authorized and commissioned to view and mark out a public road from Multnomah City, in the district of Tuality, on the nearest and most practicable route to the mouth of Marys river, in the district of Yamhill, crossing the Tuality at or near its mouth." (40) This road evidently got no further than the authorization.

The Portland to Marysville road, on the other hand, was pushed forward with alacrity. The Oregon Spectator on March 18, 1847, contained a notice of a meeting of the commissioners, as follows:

"Road Commissioners:--We are requested to state that Messrs Sylvanus Moore, Joseph C. Avery, and Joseph Gale, Commissioners for surveying a Territorial road from Portland to Mary's river, will meet at Portland on the first Monday, June next, for the purpose of discharging their duties for which they were appointed..." (41)

On July 14, 1847, the Commissioners reported to the Washington County court that "in pursuance of the said appointment, we have laid out and return for Public use, the following road..." A detailed description of the road through Washington County is given and it is presumed a like report was made to the county courts of Yamhill and Polk counties for the portions of the road that traversed those counties. (42) Work continued on the road for several years and by 1852 it had been extended southward across Benton County to the Umpqua Valley, where, near Yoncolla Butte, it made a junction with the east side Territorial Road from Oregon City through Clackamas, Marion, Linn, and Lane counties. (43)

After the setting up of the county government under the Territorial legislative act appertaining to county courts, their duties and powers, the first road business recorded in the County Court Journal was on

39. L. 1843-49, p. 6.

40. L. 1843-49, p. 24.

41. See the Oregon Spectator, March 18, 1847.

42. Roads, 1845--, Washington County: see entry 46, p. 106, Inventory of the County Archives of Oregon, No. 34, Washington County.

43. Map of Oregon published in 1854 by J. B. Colton, No. 86, Cedar St., New York City.

September 1, 1851, when an application was made to view, survey, and construct a road "commencing at or near Thomas Reed's and terminating by the way Herbert's Mill at the southern boundary line of Benton County." The petitioners were Eldridge Hartless, A. M. Lock, and A. Newton; the court appointed Chatman Hawley, Charles Johnson, and Abner Drum as viewers, and G. E. Cole as surveyor. On the same day John Watson and Lazarus Vanbeber made application "for a view and survey of a road commencing at or near Ritner's and terminating by the way of Matzger's Mill at Herbert's Mill." Roland Chambers, Jacob Martin and G. E. Cole were appointed viewers, and G. E. Cole was appointed surveyor. (44)

These two roads and the Territorial Road dissected the county from north to south. The road from Thomas Reed's to the south county line was ordered opened on March 30, 1852, and was divided into five road districts as follows: "No. one, commencing at north end, running south, including J. L. Mulkey's Creek. No. two from said creek to Mary's River. No. three from Mary's river to Herbert's Mill. No. four from Herbert's Mill to Lloyd's Schoolhouse. No. five from Lloyd's Schoolhouse to the County line." O. C. Motley, Jno. Trapp, Jacob Martin, John Feichter, and L. D. Gilbert, were named supervisors of the respective districts. Each district extended "from the Willamette River to the top of the first range of hills," and it was further ordered that "each supervisor shall open or cause to be opened all Roads in his District." (45) The road from Ritner's to Herbert's Mill was ordered opened on the same day and divided into two road districts, "that portion lying north of the divide between the waters of Marys River and the waters of the Luckiamute, between Mr. Burgets and John Phillips be made District number one," and "that portion of said road south of said divide and between where said road intersects the road leading from Thomas M. Reed's by way of Herbert's Mill be made District number two." Rowland Chambers of King's Valley and William Phillips of the Philomath region were named supervisors. (46)

The northeastern part of the county was opened up by a road from Marysville to the Polk County line ending at the house of William J. Berry which was declared opened and laid off into road districts on September 5, 1853. Thomas M. Read and George W. Roberts were named supervisors. (47) There was at this time a territorial road leading from Doakes Ferry (across the Willamette six miles north of Salem) to Marysville as evidenced by a petition for a road "from Thomas Allphines Ferry (three miles below Albany) to intersect the Territorial Road from Doakes Ferry to Marysville." (48) Thereafter roads were viewed, surveyed, and opened, in all parts of the county until the region was intersected in all directions by more or less adequate routes of travel.

44. County Court Journal, Vol. A, p. 7.

45. Ibid., pp. 17-18.

46. County Court Journal, Vol. A., pp. 17-18.

47. Ibid., pp. 72, 92, 101.

48. Ibid., pp. 100, 116, 186.

Alsea, settled in 1852, was opened by a road from Matzger's Mill by way of Hinkles's Mill (on Greasey Creek). A petition for the road was presented to the county court on September 4, 1854, by Charles Wells, and "more than twelve house holders." (49) This road for a long time was little more than a pack trail. Because of the steep grades, the pass reaching an elevation of more than a thousand feet, and because the road traversed for most of its length an unsettled district, it remained until recent times a crude mountain road. It was not until the State took over the road shortly after the World War I that a good all-season highway gave ready access to this obscure corner of the county.

After the opening of the Yaquina Bay region to settlement in the sixties, agitation was immediate to secure a road between the Willamette and tidewater. In 1863 a corporation was formed by B. W. Biddle, James R. Bayley, and T. B. Odneal, with a capital stock of \$5,000, "to make and construct a wagon road from Corvallis in Benton County, Oregon, on the nearest and most practicable route to a point at or near the mouth of Elk Creek on the Yaquina River in said State." (50) The company, under the name of the Corvallis and Yaquina Bay Wagon Road Company, began immediate construction, but soon encountered difficulties. In 1865 they increased their capital stock to \$20,000 and took in more members. (51)

On January 1, 1869, George Mercer, secretary of the company filed a report of the activities of the road builders with B. W. Wilson, county clerk of Benton County, as follows: "It is hereby certified that there has been expended in the construction and repairing of the Corvallis and Yaquina Bay Wagon Road during the year 1868 the sum of \$666.15... There has also been collected in tolls the sum of \$403.78." In reporting for the year 1869, Mercer listed the expenditure of \$223.50 in labor and \$121.00 in cash, for a total of \$344.50; no income reported. For the year 1870 Mr. Mercer reported that \$425 has been collected in tolls and that the same amount had been expended on the road. J. C. Avery, president of the road company made the report for the year 1871, certifying that the company had expended in construction and repair the sum of \$2,873.79 and had taken in the sum of \$261.75 in tolls. From March 10, 1872, to December 1, 1873, according to Otto Fox, president, the company expended in construction and repair of the road the sum of \$4,715.49, and collected in tolls for travel over said road the sum of \$433.

In explanation of the great disparity between expense and income Mr. Fox explained that "the small amount of money received for toll as indicated above is owing to the fact that the gates of the Company have been destroyed by persons passing over the said road and to the malicious threats of violence against the Company's servants by persons residing along the line of said road, so as to prevent the toll-gate keepers from demanding and collecting toll. The large amount of expenditures is to a

49. County Court Journal, Vol. A, pp. 178-179.

50. Corporations File, Drawer C.

51. Ibid.

great extent in consequence of the expense of litigation growing out of the defense of the Company against such attacks upon its road and servants, as well as maintaining through the courts its right of way." (52)

By an act of Congress approved July 4, 1866, entitled, "An Act granting lands to the State of Oregon to aid in the construction of a Military Road from Corvallis to Yaquina Bay," certain public lands were vested in the State of Oregon for the purpose of constructing the road. Afterward, by an act of the Legislative Assembly of Oregon approved October 24, 1866, entitled "An Act to aid the Corvallis and Yaquina Bay Wagon Road Company," the title to these lands was vested in the wagon road company. These lands approximated 80,000 acres. The wagon road company agreed to construct the road according to certain specifications and having fully complied with "the requirements and conditions of the said Act of Congress and the said Act of the Legislative Assembly... the said lands are fully vested in the said Wagon Road Company." (53)

The foregoing document was dated October 29, 1872. David Fagan says in his history that the company in 1871 "filed further supplementary Articles for taking up a land grant from the U. S. Government for the odd numbered sections for six miles on either side of the road, after the happy fashion of those liberal days." In October, 1872, the name of T. Egenton Hogg, a man prominent in the annals of the later Yaquina Bay railroad, appears in the articles of the incorporation. (54) Eventually the lands of the wagon road company were taken over "lock, stock, and barrel" by the railroad interests of T. Egenton Hogg. (55)

One of the first bits of business taken care of by the county court after the organization of the county under the Territorial government was the granting of a license to A. M. Rainwater "to keep a ferry across the Willamette river opposite the town of Albany." This was on July 8, 1851; Mr. Rainwater was required to pay a fee of five dollars and enter "into a bond with approved security for the performance of the duties of a ferryman according to law." (56) On the same day William F. Dixon was refused a license to keep a ferry across the Willamette River at Marysville. (57) However, it appears that Dixon continued to operate his ferry for some time as it is recorded on September 1, 1851, that Mr. Dixon again made application to keep a ferry at "Dixon's addition to the town of Marysville, where ferry is now kept." This time success crowned the efforts of Mr. Dixon and he was granted a license. (58)

- 52. County Clerk's Records, Corvallis, Oregon.
- 53. Book of Deeds, Vol. J, p. 419.
- 54. Fagan, op. cit., pp. 413-419.
- 55. See pp. 53-A-54-A of this Sketch.
- 56. County Court Journal, Vol. A., p. 4.
- 57. Ibid., pp. 3-4.
- 58. Ibid., p. 6.

Mr. Dixon evidently sold his ferry some time during the following year, as on December 8, 1852, "came Hartless and St. Clair by their agent and made application for continuance of the ferry license heretofore granted to William F. Dixon." The firm was required to pay \$25 a year for the license. (59) The Corvallis ferry changed hands several times until in 1902 it was purchased by the county and made a free ferry. (60) The ferry was discontinued on the completion of a bridge in April, 1913. (61)

The first record of a ferry across Mary's River was in December 1853, when Joseph Avery established a ferry about a quarter mile above the mouth of the river. (62) At the same time the court granted Harlow Bundy a license to keep a ferry across Mary's River on the claim of J. C. Alexander. (63) Avery's ferry was at the site of the present Pacific Highway bridge.

From ancient times the Willamette River had been a route of travel for the Indians of the valley. In the wake of the Indians came the trappers in their batteaux. Following the trappers came the dugouts and barges of the pioneers, and after them came the scows and steamers. The first steamboat to dock at Marysville was the Canemah, built at the town of Canemah just above Oregon City by Absolem T. Hedges and others and launched in September 1851. She was the fourth boat on the upper river. Nathaniel Coe, United States postal agent, made the steamer his headquarters and used to sort the mails on his way up and down the river. (64) The Canemah reached Marysville with the mail on her first run early in October 1851. (65) For several years thereafter the Canemah made weekly trips between Oregon City and Marysville (Corvallis). (66)

Shortly after the advent of the Canemah a rival appeared on the scene. The Oregon Spectator carried the comment: "We learn that quite an opposition in the transportation of freight and passengers exists between two of the steamers above the falls. They are both fine boats, with excellent accommodations, and powerful engines to propel them. Steamboat racing and competition seems to be one of the orders of the day... Where, one year since, the tedious and uncomfortable oar-boat was our only means of transportation on the upper Willamette, now first class steamers are plowing through her waters, urged along by the power of the 'angry iron horse', and making communication regular, and comparatively cheap, between the different points on the river above, and this city." (67)

59. County Court Journal, Vol. A., pp. 56-57.

60. Ibid., VII, 4, 61.

61. Ibid., IX, 138.

62. Ibid., Vol. A, p. 99.

63. Ibid., p. 95.

64. E. W. Wright, Marine History of the Pacific Northwest, p. 34.

65. See Oregon Spectator, October 7, 14, 1851.

66. Ibid., December 30, 1851, December 24, 1853, January 7, 1854.

67. See Oregon Spectator, December 23, 1851.

This rival seems to have been the Multnomah as that ship was reported to be making trips up-river to Marysville late in December 1851. (68)

In December 1853, and January 1854, the Definance Line of steamers plying between Canemah and Marysville consisted of the Canemah, the Willamette, and the Fenix. A carriage met the steamers at Canemah and transported passengers to Oregon City. (69) In 1855 the Fenix, Capt. Leonard White, went as far up-river as Harrisburg in Linn County, but Capt. Archibald Jamieson of the Enterprise, which had become the principal steamer in the Corvallis trade, refused to go beyond Corvallis. As a result Corvallis became a sort of entrepot for the upper country. Freight for Harrisburg and Eugene was dumped on the bank of the river at Corvallis and from this "mud landing" was "either loaded on flatboats and shoved upstream against a swift current, or freighted by ox team over an all but impassable and impossible road." (70)

The James Clinton, built at Canemah early in 1856, began the up-river run that year, reaching Eugene on March 12th. It had been first put on the Canemah-Yamhill River route but David McCully, a merchant of Harrisburg, induced Capt. Cochran to try the run above Corvallis, on the condition that the citizens of Harrisburg and Eugene subscribe \$5,000 for stock in the People's Transportation Company that the captain and his associates were trying to organize. Since, without steamboat connections the two towns were almost without freight connections, the citizens were not slow in subscribing to substantial blocks of stock. (71) The James Clinton began plying the river between Corvallis and Eugene which was a precarious adventure on an uncharted stream. Even after many runs had been made it continued risky to navigate the river, especially at low water, when sand bars, snags, and sunken logs, beset the way. At such times hawsers were passed to the shore and fastened to trees on the bank and by means of its winch the steamer literally pulled itself over the obstruction.

An interesting sidelight on the freight carried by the up-river steamers is contained in an item culled from the Oregon Spectator. "The navigation, above and below the falls, still continues good," writes the editor. "Water is plenty. Upon the shoalest bars above there is nothing to spare when the boats are fully laden. The business is rapidly increasing on our rivers, and the traveling has kept full pace with the advance in business. A large portion of the trade with the mines passes up the Willamette Valley. The staple article of transport for the mines appears to be 'red-eye.' We think the water must be bad to need so much liquor to qualify it." (72)

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68. See the Oregon Spectator, December 30, 1851.

69. See Advertisement in Oregon Spectator, December 24, 1853, January 7, 1854.

70. See the Sunday Oregonian, Oct. 27, 1929.

71. Ibid.

72. See the Oregon Spectator, February 4, 1852.

When the James Clinton reached Eugene on March 12, 1856, there was a grand celebration. The next year, due to the fact that so many settlers were coming into the upper valley, it became necessary to increase the facilities of the up-river route by adding the new steamer Surprise. In 1862 the Peoples Transportation Company was incorporated with sixty-five stockholders controlling most of the freight along the river. After 1860, steamer service continued to increase and, following a period of turmoil due to a "rate war" between rival companies, settled down to a steady and efficient business. (73) However, with the coming of the railroads in the seventies and eighties, the era of the river steamer gradually drew toward terminus. In 1918 a Corvallis paper contained the following epitaph for the passing of an age: "Steamers of the Yellow Stack Line of the Oregon Transportation Company are to discontinue service at the end of the present trip. Decrease in business due to the competition of the Electric railroad, and increased costs of operation force suspension. The line has been in operation since 1886." (74)

In the absence of usable roads the early settlers were almost entirely dependent on streams for transportation. Wherever there was sufficient water to float a leaf the settlers attempted to make use of it. As early as 1856 viewers were appointed to determine the possibility of making Mary's River navigable for lumber and logs. (75) The Long Tom was made navigable for boats to Monroe and much wheat was shipped from that port. On March 23, 1869, the Willamette Valley Freighting Company was incorporated, its purpose being "To navigate the waters of the Willamette River and of the Long Tom and other tributaries." (76) Adam Wilhelm, pioneer merchant of Monroe, recalled that the Gypsy made several trips to Monroe for wheat. Water competition forced the railroads to reduce freight charges, and water transportation declined. The river, in 1925, was unused except for an occasional log raft. (77) In the Corvallis Union-Gazette at the turn of the century is an item reporting that steamboat traffic on the Long Tom had been resumed after thirty years. (78) However, the steamboat and the dodo seem almost to be "birds of a feather" unless the shortage of motor cars and tires forces us again to "take to the water."

During the winter of 1863-64, far off and faint, came the first low rumble of cars to the ears of Benton County citizens. At that time was organized the California and Oregon Railroad Company and two surveys of routes made. These were termed the Elliot and the Barry surveys and both passed through Corvallis. (79) Much political chicanery and wire-pulling went on for the next few years but, finally, the railroad reached

73. See the Sunday Oregonian, October 27, 1929.

74. See the Corvallis Gazette-Times, May 2, 1918.

75. County Court Journal, Vol. B, p. 104, 126.

76. Incorporations File, Drawer W.

77. Corvallis Gazette-Times, Sept. 1, 1925.

78. Corvallis Union-Gazette, Jan. 19, 1900.

79. John T. Ganoe, "History of the Oregon-California Railroad," OHQ, XXV (1924), 236 ff.

Benton County. In 1876 the Oregon Central received a charter from the county court to operate in the county (80) and on January 30, 1880, the first passenger train arrived in the city. This event was attended by a grand reception marked by speeches by F. A. Chenowith and J. N. Dolph. (81)

Shortly after the survey of the Oregon-California railroad, articles of incorporation were filed for a railroad from Corvallis to Yaquina Bay by Richard Irwin, John Kelsay, T. B. Odeneal, and eleven others. (82) However, this act came to naught, and in 1871 a second company was formed by Ben Simpson, A. B. Meacham, and James R. Bayley. (83) This attempt also proving abortive a third company was formed a year later. On October 14, 1872, T. Egerton Hogg associated himself with the group and the Corvallis and Yaquina Bay Railway Company was incorporated "to construct, equip, and operate a railway from Yaquina Bay, via Corvallis, to convenient junction with the Oregon & California R. R. in Linn County, and to do certain other things pertaining to said business." (84)

Two years later, July 2, 1872, "for a larger purpose, he formed the Willamette Valley & Coast Railroad Company, to build a narrow gauge railroad with extentions into Eastern Oregon." (85) However, Hogg's name did not appear in the incorporation papers of this company; only that of J. R. Bayley of the old company being among the list of incorporators. (86) The company secured a charter from the Legislature in the fall of 1874, defining the methods in which the bonds of the railroad should be prepared, issued, managed and paid. In return for certain benefits to be conferred on the State, including the carrying gratis troops and ammunitions of war for a period of twenty years, the railroad company was to receive all tide and overflowed lands situated in Benton County, and was also to have immunity from all taxation for twenty years. (87)

The company went through many financial difficulties and during its existence underwent many reorganizations. Supplementary articles of incorporation were filed for the Willamette and Coast Railroad Company on January 14, 1880, and again on September 21, 1880. (88) In the meantime, however, something new had appeared under the sun. On "September 15, 1880, at 4 o'clock P. M." articles of incorporation were filed creating the Oregon Pacific Railroad Company. "We, the undersigned T. Egerton Hogg, Wallis Nash, Sol King, Thomas E. Cauthorn, and Zephin Job," so run the articles, "do hereby incorporate ourselves together... "To construct, etc., a line of railroad with telegraph and telephone lines from a point

80. Deed Record, Vol. M, p. 1.
81. Corvallis Gazette, Jan. 28, Feb. 6, 1880.
82. Incorporations File, Drawer C.
83. Ibid.
84. Incorporations File, Drawer C.
85. Leslie M. Scott, "The Yaquina Railroad," OHQ, XVI (1915), 231.
86. Incorporations File, Drawer W.
87. L. 1874, pp. 51-62; see also Fagan, op. cit., pp. 413-419.
88. Incorporations File, Drawer W.

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on Yaquina Bay to a point on the east boundary of the State of Oregon... to extend to Boise, Idaho... and to acquire other lines in California and the Northwest.

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"To complete the lines of the Willamette Valley and Coast Railroad and consolidate them with the Oregon Pacific.

"To acquire and operate water carriers in world trade, to own wharves and storage, to acquire and operate stage lines, etc...

"Termini of Navigation. 1. Yaquina Bay to San Francisco. 2. Mouth of Columbia River to San Francisco. 3. Portland to San Francisco. "Headwaters of Columbia River to its mouth. 5. Headwaters of Snake River to mouth of Columbia. 6. Headwaters of Willamette River to Mouth of Columbia. 7. Yaquina Bay and such foreign ports as company may desire."

The capital stock of the company was listed as \$3,900,000. (89)

During all this time the construction of the railroad was going forward and in March 1885 the first through train rolled westward from Corvallis to Yaquina City on Yaquina Bay. (90) Later the road was extended to Albany and thence to Detroit in Linn County but never was a financial success. Shortly after the opening of the road freight and passenger service was instituted between Corvallis and San Francisco. The rail line connected with steamships plying out of Yaquina Bay. Later traffic was extended to Portland by means of three river steamers built by the company as "feeders" for the railroad. (91)

After much dissension among the stockholders the road was forced into receivership and was sold to the Southern Pacific Company late in 1907, since which time it has served as a local branch of that line. (92)

A fitting finale to the story of transportation in Benton County is the attempt of Gen. Phil Sheridan, then lieutenant, to build a road over the Coast Range. In his own words: "I undertook to build a road across the coast mountains from King's Valley to the Siletz... I knew there were many obstacles in the way... the point at which the road was to cross the range was rough and precipitous, but the principal difficulty in making it would be from heavy timber on the mountains that had been burned over years and years before, until nothing was left but limbless trunks of dead trees-- firs and pines--that had fallen from time to time until the ground was matted with huge logs from five to eight feet in diameter. These could not be chopped with axes nor sawed by any ordinary means, therefore we had to burn them into suitable lengths, and drag the sections to either side of the roadway with from four to six yoke of oxen.

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89. Incorporations File, Drawer 0.

90. See the Corvallis Gazette, March 13, 1885.

91. Leslie H. Scott, "The Yaquina Railroad," CHQ, XVI (1915), 236-237.

92. Ibid., p. 245.

"In time perseverance surmounted all obstacles and the road was finished, though its grades were very steep. As soon as it was completed... I started a wagon over it loaded with about fifteen hundred pounds of freight drawn by six yoke of oxen, and escorted by a small detachment of soldiers. When it had gone about seven miles the sergeant in charge came back to the post and reported his inability to get any farther. Going out to the scene of the difficulty I found the wagon at the base of a steep hill, stalled. Taking up a whip myself, I directed the men to lay on their gads... but this course did not move the wagon nor have much effect on the demoralized oxen; but following an example I heard on a former occasion, that brought into use the rough language of the country, I induced the oxen to move with alacrity, and the wagon and contents were speedily carried to the summit... I took the wagon to its destination, but as it was not brought back, even in all the time I was stationed in that country, I think comment on the success of my road is unnecessary." (93)

Agriculture. Thomas Ewbank, Commissioner of the United States Patent Office, received the following answer to a circular he had sent out in August 1852, inquiring from various peoples in all sections of the country the nature of crops and farming procedures.

"Benton, Oregon Territory  
"Dec 8, 1853

"Sir: Your circular of the date of August, 1852, has just reached me, to which I proceed to make a brief reply.

"In the production of wheat guano is not used at all in this Territory.

"The average product per acre, to the best of my knowledge, is about 30 bushels. The general time of seeding is from the 25th of August until last of October; but my experience has taught me that the best time to sow wheat is in the month of May, in this climate, which gives it eleven or twelve months to grow and mature. When thus sown, its yield has been as high as 40 bushels an acre on land newly broken; quantity sown is  $1\frac{1}{2}$  to 2 bushels. The yield per acre is increasing, from better attention paid to farming..."

"Corn is not much raised, but with proper management we can raise sufficiency for home use. I raised at the rate of 30 bushels per acre on the small spot I planted.

"Oats I sow in October, about 2 bushels per acre, and the yield is most universally 40 bushels per acre.

"Peas and beans do well. Peas enrich the land rather than exhaust it.

93. Phil H. Sheridan, Personal Memoirs, pp. 95-97.

"Butter--Average yearly product of butter per cow, 75 pounds. Mode of churning is with the old fashioned dasher churn. Average price per pound, 50 cents, though now selling for 75 cents at home.

"Neat Cattle.--Cost of rearing till 3 years old is nothing more than a little time to look after them; worth at that age, for beef, from 8 to 12 cents per pound.

"Milch cows are worth from \$60 to \$85.

"Horses and Mules.-- The raising of these animals is profitable, the expense of rearing being small.

"Sheep do well, and are profitable both for wool and for driving to the mines to be used for mutton.

"Turnips, carrots, beets, etc., are very prolific, but are raised principally for home consumption.

"Irish potatoes.--Average yield per acre, 200 bushels. Most profitable varieties are the Kidney and large Blues.

"Fruit culture is receiving great attention. We have most every variety of fruit trees adapted to our climate now in cultivation.

"The above remarks are brief, and, should they be deemed worthy to be inserted in your valuable book, I shall be more than compensated.

"Respectfully, &c.,

"O. C. Motley" (94)

The above communication gives a more or less adequate picture of the types of products and methods of procedure of the Benton County farmers ninety years ago. The early settlers depended almost exclusively on stock and grain raising for a livelihood. As early as 1853 in the Bellfountain and Alpine neighborhood cattle were becoming predominant. According to the government surveyors working in the neighborhood at that time there were "several good farms near the east boundary (of the township) and large herds of horses and cattle." (95)

All of the early settlers had livestock of various kinds but cattle were predominant as it was easy to raise them. In a letter from King's Valley written in 1846 Stephen and Mariah King wrote to her family in the East: "It is an easy place to make a living. You can raise as many cattle as you please and not cost you a cent, for the grass is green the whole winter and cattle are as fat as if they had been stall fed the whole year round." (96) However, the raising of sheep and other stock

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94. Report of the Commissioner of Patents for the Year 1852, Part II, Agriculture. 32 Cong. 2d Session (Senate) Ex. Doc. No. 55.
  95. Government Field Notes, III, 132.
  96. See A Letter from Luckiamute Valley in 1846, Mimeographed Bulletin of the Historical Records Survey of Oregon.

was not neglected. A bill of sale dated March 18, 1861, preserved in the courthouse at Corvallis recites that W. C. Hull of Portland has paid Harbaugh & Stitzel the sum of \$2,000, for twenty thousand pounds, more or less, of bacon, which is held in the warehouse of Bush Wilson in the city of Corvallis. (97)

The plains of the Willamette Valley were covered with luxuriant grasses and every farmer had his herds of cattle, sheep, and hogs. In 1880 there were 5,993 cattle, 28,812 sheep, 5,460 hogs, 3,226 horses, and 83 mules and asses in Benton County. (98) Twenty years later, in 1900, there were 10,270 head of cattle, 42,963 sheep, 8,075 swine, 3,817 horses, and 11,939 goats. (99) In 1940 there were in Benton County 10,114 cows and calves above three months old, 25,181 sheep and lambs above six months old, 3,310 hogs and pigs, and 1937 horses and colts. (1)

The principal field crop raised by the Benton County settlers in the early days was wheat. Several circumstances combined to bring this about. It could be hauled long distances without deterioration, it was an easy medium of exchange, in many cases taking the place of more portable currency, and it could, on reaching deep water, be readily loaded on ship-board for export. (2) In 1845, the Provisional Legislature made wheat a legal tender for the payment of debts and the earliest pioneers had used the "grain slips" obtained from trading their grain in at the Hudson's Bay Company stores and mills.

One pioneer farmer wrote to the editor of the Oregon Statesman in 1851: "Sir: Believing that the substantial wealth and permanent prosperity of a country depends upon the productive powers of its soil; I have thought it might not be out of place in me to give you an account of my wheat crop which grew last summer.

"I put my wheat in the ground about the last of November 1849, in the following manner: 1st--sowed it down on stubble land; 2nd--plowed it in with three yoke of oxen; 3--harrowed it over once; I then harvested, threshed and cleaned the wheat in August, and measured the grain ground, and found it to yield  $37\frac{1}{2}$  bushels per acre.

"If wheat cultivated in this way gives so rich a return, what amount might be raised after the Yankee style of farming in the eastern states? Certain it is that a much greater quantity can be raised by the summer

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- 97. Miscellaneous Papers, D-40.
  - 98. U. S. Bureau of the Census, Tenth Census of the United States, 1880, Agriculture.
  - 99. Lon L. Swift, "Land Tenure in Oregon," OHQ, X (1909), 202.
  - 1. U. S. Bureau of the Census, Sixteenth Census of the United States, 1940, Agriculture, Oregon, First Series, p. 22.
  - 2. Leslie M. Scott, "Soil Repair Lessons in the Willamette Valley," OHQ, XVIII (1917), 60-61.

fallowing, with proper care and cultivation, and with much more ease and comfort, than by sowing and plowing in the fall and winter, after the rainy season has commenced.

"--Wesley Shannon." (3)

Another writer speaking of the period of the early fifties in the region of the Mary's River wrote: "Every farmer had a few acres of wheat, Ownby having forty acres,... There was no harvesting machinery except hand cradles, with which a man could cut two or three acres a day, Ownby furnished us a truck and horses, and younger boys to haul the grain to a dumping ground in the corner of the field. A circular corral was built and a band of horses was driven in and thrashed the grain by tramping on it. It was cleaned by carrying it up ten or twelve feet on to a raised platform and letting it fall on to blankets on the ground, being winnowed by a sea breeze, which at this time of year could be relied upon. The wheat yielded about forty bushels to the acre and we made good wages in the transaction." (4)

Wheat raising by 1873 had reached rather large proportions, a local newspaper of that year reporting that: "The entire wheat crop of the county, from the best information we have, will be over 300,000 bushels for 1873." The same article stated that the amount of oats threshed at the time of writing was 83,070 bushels. In 1900 the wheat crop of Benton County had reached 548,390 bushels and the oat crop totaled 392,390 bushels. (5) The total yield of both spring and winter wheat in 1939 was only 127,825 bushels, oats yielded 326,208 bushels, and barley 148,958 bushels. Although corn is not a prolific crop in Oregon 26,260 bushels were husked in the county in 1939. (6)

One of the chief agricultural industries in Benton County is the raising of poultry. In the earlier days of settlement every farmer had his small "farm flock." However, in the last couple of decades, due to the influence of scientific methods of egg production introduced by the Oregon Agricultural College, poultry farming has become a "business." In 1930, 1103 Benton County farms kept poultry. In that year there were 682 farms with 50 hens or less; 224 farms with 50 to 100 hens; 109 farms with 100 to 200 hens; and 88 farms with over 200 hens. The latter may be classed as heavy "egg producing" establishments. (7) In the 1940 census 1,162 farms reported having poultry on April 1st. During the year 1939 there were produced 95,151 chickens and 550,083 dozen eggs, 115,182 turkeys, and 931 ducks and geese. Four hundred and eighty-five hives of bees produced 6,280 pounds of honey. (8)

3. See the Oregon Statesman, March 28, 1851.

4. George E. Cole, Early Oregon, p. 35.

5. Lon L. Swift, "Land Tenure in Oregon," OHQ, X (1909), p. 105.

6. U. S. Bureau of the Census, Sixteenth Census of the United States 1940, Agriculture, Oregon, First Series, p. 28.

7. U. S. Bureau of the Census, Sixteenth Census of the United States 1940, Oregon, Agriculture, First Series, p. 26.

8. Ibid.

In the rear of a house on Third Street in Corvallis are two apple trees, a Baldwin and a yellow sweet apple, remains of the orchard planted by Joseph C. Avery, founder of the town, in the early fifties. During the 1890's prune growing and drying became an established business. In 1890 E. R. Lake, J. R. Markley, Robert Johnson, S. M. Stock, and W. S. Neugass, local business men, incorporated a company for "raising and dealing in prunes." (9) In 1905 a Corvallis paper stated: "The largest prune orchard in Oregon and the largest prune evaporator in the world is located in Benton County... The average daily output of this dryer, when running full capacity is 2,000 pounds." (10) The same paper, in 1920, asserted that the largest bearing prune orchard in the county was that of Robert Johnson of Corvallis, containing 148 acres. The largest bearing apple orchard was that owned by the Oaco Orchard Company of Monroe, E. W. Johnson, manager. The Corvallis Orchard Company had 123 acres of pears, and the Imperial Orchards, 15 acres of walnuts. There were 864 acres of bearing prunes. (11) In 1939 Benton County produced 2,758,585 pounds of prunes and plums, 42,107 bushels of apples, 495,856 pounds of cherries, and 315,255 pounds of walnuts and filberts. (12) The county also produced more than a half-million pounds of hops. (13)

The tendency in Benton County, as in other Willamette Valley counties, is toward smaller farmers and more diversified crops. This is due in large measure to the fact that the one crop far is becoming less and less a paying concern. In the census of 1940 we find that there are 1,507 farms in the county, that 999 farmers own their own farms, 182 are part owners, 318 are tenant farmers, and 8 are managers for absentee owners. (14)

Industry. Although Benton County is principally agricultural and from the earliest times farmers have been predominantly important in both economics and politics, mechanical industries have also aided in the development of the area. In the forties and fifties numerous grist and sawmills were built along the county's creeks and rivers. Technology and the improvement of the machine have made them obsolete, but in the days when transportation was difficult the gristmill often became the center of community life. Here the settlers brought their "grist" to be ground and while waiting ground out other "grist" concerning politics or business or community activity. The grain was brought on horse or mule back or in the slow-moving ox wagon. Ben Bratton, an ingenious pioneer, hauled his wheat to Herbert's Mill on Beaver Creek in a canoe drawn by a yoke of oxen. The road was too swampy for a cart. (15) Many of the millers operated crude sawmills in conjunction with their gristmills,

9. Incorporations File, Drawer C.
10. See the Corvallis Gazette, Jan. 10, 1905.
11. See Corvallis Gazette-Times, March 16, 1920.
12. U. S. Bureau of the Census, Sixteenth Census of the United States 1940, Agriculture, Oregon, Second Series, p. 33.
13. Ibid., First Series, p. 31.
14. Ibid., pp. 10, 14.
15. See the Corvallis Gazette-Times, Nov. 23, 1901.

sawing out the boards for many a pioneer "up-and-down" box house. The mills were at first water power affairs and the stones were imported from the East or, perhaps, as in one mill, from Europe.

To state definitely what was the first mill in Benton County is impossible at this late day. It is probable that Elizabeth Herbert's Mill on Beaver Creek deserves that honor and it is usually listed as the first. David Fagan says that this mill was constructed as early as 1850 (16) and the government surveyors and the county court made record of it as early as 1852. (17) Leneve's Mill, also on Beaver Creek, was noted by the Federal surveyors as early as 1852; (18) two years later they called it Andrew Jasper's Mill. (19) On Mary's River a mile west of present Philomath was a small sawmill owned by William Matzger who built it shortly after he took up his land claim there in 1850. (20) A couple years later he added a gristmill (21) which, in 1867, was sold to Jacob Felger and became Felger's Mill. Hinkle's sawmill, built by Ichabod Hinkle in 1853, was located on Rock Creek about five miles southwest of Philomath. (22) The old fashioned "jig saw" in this mill sawed the lumber for the Philomath College building.

Gilbert's Sawmill, noted in 1842, was located on a branch of Muddy Creek about a half mile south of Alpine. (23) In this mill was sawed the lumber for many early houses, including the Ransom Belknap house, built in 1855 and still occupied. Many of these houses were built of pine timber from a stand near Monroe that has entirely disappeared. In 1852 Joseph White built a sawmill on his donation land claim. The nearby timber was soon exhausted and the mill was replaced by Foster and Bryant's gristmill in 1857. Foster and Bryant's original mill was noted by the government surveyors in 1854 as being intersected by the line between Foster's and Bryant's land claims. In the description of Foster's claim it is stated: "the buildings consist of a gristmill (a good one), a good sawmill and a 2nd rate house." (24) This mill, also, was on Beaver Creek. In 1857 the firm took over the White sawmill at Starrs Point (Monroe) and moved their gristmill there. This mill, later owned by Thomas and Samuel Reader, and enlarged and improved by successive owners, remained in operation for about sixty years. (25)

Chambers' Mill in King's Valley, perhaps the most famous mill in Benton County, was erected and ready for service about 1854. In

16. Fagan, op. cit., pp. 334, 447.
17. Government Field Notes, II, 265; see also County Court Journal, Vol. A, pp. 7, 14, 17, 18.
18. Ibid., p. 289.
19. Ibid., IV, 365.
20. Ibid., II, 128; see also County Court Journal, Vol. A, pp. 7, 16.
21. Ibid., p. 284.
22. Ibid., p. 147.
23. Ibid., III, 106.
24. Government Field Notes, IV, 356.
25. See pp. A-27, A-29 of this Sketch.

December the government surveyors recorded that "a grist mill is about being erected in the center" of township 10 south, range 6 west. (26) The old mill stones of this mill have been incorporated into a monument in the Corvallis Park. The tablet on this monument states that the stones were quarried in France, brought around the Horn to Portland, and brought overland to Kings Valley. The mill was operated for a period of more than sixty years.

A history of the Corvallis mills was included in an early issue of the Corvallis Union. "In the year 1850," states the article, "S. R. Brown built the dam and mill race that are now (1897) used to operate these mills, and put up a saw mill where the mill now stands. The dam was washed out the first winter after it was built and there the enterprise rested for five or six years, when Mr. Avery and a man named E. Taylor dug out the race and put in a new dam. They then tore down the saw mill and put a grist mill in its place.

"The winter following the dam washed out again and the next year Mr. Avery put in the dam alone and operated the mill for several years. In 1864 he sold out to Mr. Altree who afterward sold out to Hurst & May, and they in turn sold to Courtney & Grey, who sold to H. F. Fischer. In 1880 Mr. Fisher became sole owner and since that time, with the help of his four sons, has been operating it... The mill is situated on the Willamette River near its junction with Marys River, and is run by water power.

"The storage capacity of its warehouse is 140,000 bushels of grain and in addition they will store about 500 tons of flour and feed. The capacity of the mill is about 175 barrels of flour a day. They use about 200,000 bushels of wheat a year. The chief markets are Portland, San Francisco and the Sandwich Islands." (27)

In another issue of the Union is a sketch of the Benton County Flouring Mills. The mills were organized in 1890 by John Rickard, John Smith, Punderson Avery and Allen Wilson. In 1891 John Smith sold his interest to R. E. Gibson and on January 1, 1897, the company was incorporated with a capital stock of \$32,000. The mill had a capacity of 130 barrels of flour daily. It consumed about half the surplus wheat of Benton County and paid out for labor more than \$8,000 a year. (28)

The jury list for Benton County for the year 1855 included three carpenters, two millers, one tinner, a ferryman and a cabinet maker. (29) A teamster and a mechanic appeared in the 1856 list, (30) while in 1858 a cooper and a millright (sic) were added to the list. (31) This 1858

26. Government Field Notes, I, 254.
27. Corvallis Oregon Union, July 23, 1897.
28. Ibid., July 16, 1897.
29. County Court Journal, Vol. B, p. 71 ff.
30. Ibid., p. 148.
31. Ibid., p. 221.

list also included seven millers, which fact indicated the importance of milling in the community. In addition to the above, a brickmaker, a warehouseman, two saddlers, two wagon makers, a tinner, and an oysterman, appear on the 1865 jury list. (32) In 1878, (33) 1890, (34) and 1900 approximately 85 percent of the jury lists were farmers, while the other 15 percent represented some twenty occupations. (35) By January 1910, the percentage of farmers had fallen to about 66.5 percent and there were thirty other occupations listed. (36) In 1935, of the whole county list of some 250 men only 50 percent were farmers while 50 percent represent other occupations. (37)

A bill of sale for a tannery dated August 22, 1853, listed stock, tools, etc., to secure a loan of \$400. A marginal note confirms the fact that the note was paid off on December 31, 1856. (38) The first store given a license by the county court after the creation of Oregon Territory was to C. W. Wiles "to keep a Grocery at Marysville for the term of three months." This was in September 1851; Mr. Wiles paid the county \$50 for the privilege of doing business. (39) Other licenses were granted to dealers at Marysville and Jennyopolis shortly thereafter.

In an article entitled "Industry and Resources of Benton County," a Corvallis paper for 1905 listed the following: "Six flour mills with a combined capacity of 650 bbls.; eight to ten saw mills; one sash and door factory; one ice factory; one furniture factory, one organ and carriage factory; one hardwood manufacturing plant which manufactures wagon gearing supplies and also 300 carloads a year of hardwood lumber; excellent transportation facilities by rail and river boats; and a large and growing trade with Alaska, Spanish America, and the Orient." (40)

An old booster booklet reprinted in the Corvallis Gazette-Times in 1924 lists business houses in the towns of Benton County. The booklet was originally compiled about 1880. Following are excerpts from the pamphlet:

"Alsea has two saw mills operated by Alfred Stroup and Peck and Company.

"At Kings Valley are the following businesses: Abbey & Simpson, saloon and grocery; M. P. Newman, blacksmith; Chambers & Co., grist mill; Jim Dixon, hotel; M. Simpson, livery stable; Nelson & Allen, Jacob Kline & Co., and Paul Clifford, stores.

- 32. County Court Journal, Vol. C, p. 268 ff.
- 33. Ibid., Vol. II, p. 173.
- 34. Ibid., Vol. IV, p. 517.
- 35. Ibid., Vol. VI, p. 345.
- 36. Ibid., Vol. VIII, p. 250.
- 37. Ibid., Vol. XVII, p. 209 ff.
- 38. Miscellaneous County Records, Vol. D, p. 3.
- 39. County Court Journal, Vol. A, p. 7.
- 40. See the Corvallis Gazette, March 21, 1905.

"At Philomath are J. S. Fegler, flour mill; G. W. Kizer, hotel; S. Rollins, tannery; H. C. Roscoe, wagon factory; John Collins, blacksmith; George Knowlton, harness maker; Shipley and Henkle, general store.

"At Monroe are John Weber, boots and shoes; H. Bowen, blacksmith; J. W. Starr, bookstore and postmaster; Thomas Reader, flour mill; C. Hodes, harness maker; Mrs. Sarah Howard, hotel; George Laugerkings, saloon; W. J. Stewart, schoolteacher; J. W. Starr, tinner; J. M. Wells, wagon maker; W. A. Woodcock & Co., Milton Shannon, and T. D. Hinton, stores; J. W. Mahan, physician.

"Corvallis has a population, 850, including 100 students. Among business and professional men are the following. R. S. Strahan, John Kelsay, John Burnett, and F. A. Chenoweth, Lawyers; J. B. Lee, William Graham, L. Foley, F. Right, and J. Bosworth, physicians; John H. Babcock of Episcopal Church, D. K. Nesbitt of the Presbyterian Church, Father P. F. Gibney of the Catholic Church, Joseph Emery of the Methodist Church, South, and J. W. VanCleve of the M. E. Church are the pastors.

"William B. Carter, publisher of Corvallis Gazette and R. G. Head of the Benton Democrat; J. A. Hanna, bookstore; D. B. Irwin, S. H. Look, Henry Mains, and H. M. Russ, blacksmiths; Grover and Horning, carding mill; E. Norton, cooper shop; J. Pixley, carpenter shop; Wren & Mason, sash and door factory; Allen & Woodward and Graham & Bailey, drugs; D. S. Stryker, dentist; F. W. May, flour mill; G. Hodes, gunsmith; Groves & Knight, furniture store; L. G. Kline, O. Fox, Max Friendly, J. R. Bayley, and J. W. Williams & Co., general merchandise; Henry Warrior and H. E. Harris, groceries; A. R. McConnell, Jack Alpin, and F. Stanton, hotels; Sol King and G. W. Houck, livery stables; Mrs. E. A. Knight, millinery store; J. Fisher, paint shop; Mrs. C. M. Stryker, photo gallery; P. P. Greffoz, watch repairing; J. M. Cushman and L. Horning, wagon makers; Jim Drake and A. Coffin, tailors; McCrane, Manna, and F. E. Robinson & Brother, sawmills; Joseph Irwin, sewing machine agency; W. H. McFarland, stoves and tinware; J. N. Duncan and Hiram Flickinger, saddle and harness shops; A. R. McConnell, Cushman & Reford, J. H. Stewart, A. H. Gearhard, H. C. Bird, and A. H. Blakesley, Stores; J. H. Babcock, chapel store." (41)

Education. The pioneers of Benton County were thoroughly convinced of the importance of schools in the economy of community life, but they gave little regard to the keeping of records relating to those schools. It is an established fact that by the early fifties there were schools scattered over the length and breadth of the county. Knowledge of these depend almost exclusively on a few fugitive records and the later reminiscences of aged pioneers. The names of many old schoolhouses are preserved in the county records of precinct lines, road districts, polling

41. See the Corvallis, Gazette-Times, January 1, 1924.

places, and the routing of early roads. A number of these are definitely located in the notes of the Federal surveyors who ran the section lines of the county in 1852-54. (42)

Early school records were kept poorly or not at all. The schools were built entirely by community cooperation and were supported by individual contributions. At first there was no central authority to enforce uniform methods or to require regular reports. Even after the organization of the county the superintendent was paid but a small pittance in salary and gave but a moiety of time to the supervision of his charges. (43)

The first schoolhouse in the county was probably the "Fuller School House," (44) built in 1848 on the donation land claim of Arnold Fuller about five miles north of Marysville. (45) It was in this schoolhouse that the county court held its first meeting after the organization of the county under the Territorial government in 1850. (46) The Gingles schoolhouse, built before 1850, was one of the very first schoolhouses in the county, and received its name from James Gingles on whose claim it was located. (47) When the county was divided into school districts in 1852 Gingles school became district No. 1. This schoolhouse was an early preaching place for such well known pioneer exhorters as Leander Beleau, Methodist, of Dallas, and Dr. Hill, physician and Baptist preacher of Corvallis. (48) A school was built in King's Valley before 1850; it was mentioned by the government surveyors. (49) The surveyors also noted an unnamed schoolhouse about two miles west of Corvallis. (50) They also mentioned a small schoolhouse about half way between Philomath and Wren. (51) Mrs. Margaret Cooper said: "I can remember what my mother (who was Susanna Wood and lived on Woods Creek) once pointed out to me a log schoolhouse in which she used to teach. It was across the river west from Felger's Mill." (52)

Union schoolhouse, built about 1850, (53) was located in a commanding position on the top of a hill a couple miles east of Philomath. (54) It was called Union Schoolhouse to denote the strong patriotic sentiments of the patrons. In this schoolhouse Rev. J. T. Connor held services and here the first United Bretheren Church in the

42. See Government Field Notes.
43. County Court Journal, Vol. B, p. 31.
44. Ibid., Vol. A, p. 1; see also Government Field Notes, I, 395.
45. Interview with Mrs. Sarah Bevans, Corvallis.
46. County Court Journal, Vol. A, pp. 1-2.
47. Government Field Notes, I, 135.
48. Interviews with Honorine Read, Corvallis, Catherine Vanderpool, Wells, and Bruce Miller, King's Valley.
49. Government Field Notes, I, 244.
50. Ibid., IV, 238.
51. Government Field Notes, I, 438.
52. Interview with Mrs. Margaret Cooper, Corvallis.
53. Interview with Jerry Hinkle, Philomath.
54. Government Field Notes, II, 78; IV, 245.

county was organized. This organization built Beulah Chapel in 1857 and in 1865 organized Philomath College. (55) A new schoolhouse was built in 1870 about a half mile east of the old site; it is still in use.

There was a schoolhouse called the Ebenezer School House about a mile southeast of Alpine built about 1850. The first settlers in the neighborhood, the Starr-Belknap-Hawley clan, were Methodists, and the log building, erected by the community was as much for religious services as for school purposes. Here the Methodist Class, organized in 1848 in a private home, held its meetings for years. Here the second session of the Oregon Annual Conference was held by Bishop Simpson. (56)

Organized education in the county began on September 7, 1842, when the county court divided the county into twelve school districts. (57) On November 5th of the same year six of these districts reported to the county court that they had completed organization by the election of school boards and the taking of a school census. (58) District No. 3, meeting at "the schoolhouse near A. Drum's" (the Fuller schoolhouse) made the following report: "Two schools have been taught in the district for one quarter; teachers have been paid \$150 salary per quarter; there are 58 persons between the ages of four and twenty-one, and thirty-four of these have been in attendance at the school; subjects are" the three R's and "English Grammar, Philosophy and History."

Other districts made less complete reports. District No. 4, Marysville, reported forty persons of school age. District No. 5, including the present Philomath had 24 males and 27 females between the ages of four and 21. Liberty schoolhouse was in this district. (59) District No. 6, King's Valley, reported 24 males and 19 females. District No. 10 was the Ebenezer district in the Belknap Settlement; there were 27 children of school age there. District No. 12 was "the schoolhouse near N. A. Starr's," Starrs Point, and reported 30 children of school age. (60) Several of the districts which did not report are known to have had schoolhouses and were conducting schools at the time. Gingles schoolhouse was in district No. 1, (61) Liggetts schoolhouse was in district No. 8, and Lloyd's schoolhouse (62) was in district No. 9, north of Bellfountain.

Immediately after forming the county into school districts the county court levied a tax of "two mills per cent" for school purposes. (63)

- 55. See pp. A-68-A-69 of this Sketch.
- 56. John Parsons, Beside the Beautiful Willamette, p. 251.
- 57. County Court Journal, Vol. A, pp. 41-42.
- 58. Record of School District Reports, p. 3 ff.
- 59. Interview with Jerry Hinkle, Philomath.
- 60. Ibid.
- 61. County Court Journal, Vol. A, p. 41 ff.
- 62. Liggett's and Lloyd's schoolhouses are mentioned in the description of precinct boundaries, etc. in County Court Journal, Vol. A, p. 4 ff.
- 63. County Court Journal, Vol. A, p. 43.

On February 21, 1853 the county court apportioned school funds as per the following: "It appearing upon an examination of the Treasurer's accounts that there is a balance of six hundred and seventeen dollars, forty seven cents and nine mills, after allowing all just commissions, in his hands as school funds, and that there were two hundred and forty-four scholars enumerated in school districts organized, as reports thereof heretofore filed, it was thereupon ordered by the Board that the School fund be and hereby is apportioned to the following named districts and that the Clerk draw orders on the County Treasurer in favor of the District Treasurers thereof as follows, towit:

School District No. 5,	\$129.03
" " No. 10,	53.13
" " No. 12,	78.43
" " No. 6,	108.79
" " No. 4,	101.20
" " No. 3,	146.73
	<u>\$617.32"</u> (64)

The first school teacher in Benton County, as nearly as can be ascertained, was A. G. Hovey, (65) afterward county clerk, (66) James E. Slater, George E. Cole, Lemuel Starr, and James Stewart, who taught the first school in Marysville, were other early teachers. (67) Many of the schools operated for only three months and the average term was only four and a half months. (68) The first schools were mostly supported by contributions and tuition fees and the "trustees" often found it difficult to raise sufficient funds to keep the schools in operation. In 1859 District No. 21 partially solved the problem of school furnishings by requiring that "every person that sends scholars to this schoolhouse furnish their own benches and desks." (69) The same practice prevailed in the Bellfountain school; the teacher's desk was provided by the district. The school term began April 1st and lasted three months. School began on Tuesday and ended on Saturday, a condition that obtained until 1894 when the school week was changed to, from Monday to Friday. The reason given for the Tuesday-Saturday session was so that the older girls could help with the family washing. (70)

When Philomath College was established the citizens of district No. 17 decided on April 1, 1867, that the "district school should be blended with the primary department of the College; also that the district schoolhouse be given into the hands of the directors to dispose

- 64. County Court Journal, Vol. A, p. 64.
- 65. Interview with Mrs. Clara Jones, Historian Winema Chapter D. A. R., March 1, 1924.
- 66. County Court Journal, Vol. A, p. 3 ff.
- 67. Interview with Mrs. Clara Jones, Historian Winema Chapter D. A. R., March 1, 1924.
- 68. Record of School District Reports, p. 3 ff.
- 69. Records of School District No. 21, Treasurer's Office.
- 70. Interview with S. C. Starr, Bellfountain, Oregon.

of as they shall deem proper; also that the public money should be divided equally with outside scholars." This condition lasted for twelve years. Finally, on March 3, 1879, a resolution that "the existing connection between the College and the district cease at the close of the spring term of school," was carried by a vote of twenty-five to four. (71) After about two years the district erected a two-story school building which was later used by the College of Philomath as a dormitory.

Some idea of the growth of the school at Philomath (Maple Grove School) may be obtained by a recapitulation of the school census. In 1865 there were sixteen legal voters in the district, sixty-nine children between the ages of four and twenty, and an average attendance of eleven pupils. Two years later the number of legal voters had doubled, there were eighty-nine children between four and twenty with an average daily attendance of twenty-three. In 1875 there were seventy-three legal voters, one hundred and twenty-five children between four and twenty, and the average daily attendance had risen to thirty-three. Two three-month terms of school were taught and the teacher was paid \$50 a month. By 1881 the number of children of school age had risen to one hundred ninety-six, seventy-one pupils were enrolled in the public school, with an average daily attendance of forty-six, there were eighty-five pupils attending private schools, and thirty-six were attending no school. Three teachers were employed in the public school, and four in private schools. The number of months public school taught were ten and the number of months private school taught were ten. There were ninety legal voters in the district. (72)

Corvallis (Marysville) was in district No. 4 when first created, but about 1854 the county was redistricted and Corvallis was left in district No. 9. In 1856 the district had one hundred three children of school age, more than any other district in the county. The district was divided in 1864 along Madison Street, the northern part remaining district No. 9, the southern part becoming district No. 28. (73) In 1867 No. 28 built a schoolhouse costing \$1,394 and No. 9 spent \$350 for the same purpose. (74) The two districts were again united in 1867 and the Central School building was built in 1889. (75) In December 1889, it is recorded that "Miss Burnham was tendered the use of the northeast room in the new building for 'kindergarten school,' free of charge until further notice." (76)

71. See Records of Philomath School District, No. 17; the first entry in this record is as follows: "Up to this time (April 1863) the district accounts have been kept on scraps of paper. Now I proceed to draw them off according to their dates. (signed) Julius Brownson, Dist. Clerk."
72. See Records of Philomath School District No. 17.
73. See Record of School District Reports.
74. Fagan, op. cit., p. 362.
75. School Board Minutes (Corvallis) for 1887-89, pp. 63, 76, 93.
76. Ibid., pp. 95-96.

Until 1898 only eight grades were taught in the Corvallis schools but in that year provision was made for a ninth grade. (77) The primary school was built in 1903 to relieve the crowded condition of the Central School. (78) Although the preparatory department of the Oregon Agricultural College offered high school subjects, the district voted to erect a high school in 1908. The building was completed the following year and the primary building was moved to Eighteenth and Polk Streets where it is now known as the Franklin School. (79) The high school building, enlarged and remodeled, now is the Junior High School. In 1912 an eight-room building, now the Roosevelt School, was built in the southwestern part of town, and later the Washington School at Eighth and Harrison and the Harding School at Thirty-first and Harrison streets, were added to the city system. In 1935 a modern high school building was completed.

Because of the difficulty of securing adequate funds for maintaining public schools in the earlier period, various church organizations started schools. The Corvallis Seminary, incorporated in 1854 by the Methodist Church, was short-lived. Corvallis College was incorporated in 1858 and later came under the influence of the Presbyterian Church. A building was erected but financial difficulties forced a sale to the Methodist Church South. (80) In 1866 the Episcopal Church built a seminary for girls; the school had an enrollment at one time of seventy. It was first named St. Helen's Hall and later the Good Samaritan. Courses were discontinued in 1868 when the State Legislature designated Corvallis College as the official State Agricultural College. (81)

In 1887, at the time of consolidation, five teachers were employed in the Corvallis schools. In 1905 the number of teachers had increased to thirteen, and in 1908 to eighteen. In 1910, after the inauguration of a full four-year high school course, twenty-seven teachers were employed. (82) In 1940 there were fifty-one regular and fourteen part-time teachers in the Corvallis schools. (83)

Philomath College had its inception in 1865 when "By mutual agreement, a number of citizens of Benton County, Oregon, met at Maple Grove Schoolhouse in the county and state aforesaid on the 14th day of February, 1865, to take into consideration the propriety of trying to build up a high school or an institution of learning of some kind in their midst." (84) The meeting was organized and a subscription list drawn up and the signers severally agreed "to pay annually for five years ensuing, the amount opposite our name below, for the purpose of purchasing a tract

- 77. School Board Minutes (Corvallis) 1896-1907, p. 77.
- 78. Ibid., p. 220.
- 79. Ibid., 1907-12, pp. 32, 76.
- 80. Records of Incorporation.
- 81. Fagan, op. cit., p. 361.
- 82. School Board Minutes, 1887-96, p. 13; 1896-1907, p. 291; 1907-12, pp. 32-33, 173.
- 83. Oregon School Directory, 1940-41, pp. 10, 23.
- 84. Minutes of Board of Trustees (Philomath College), p. 1.

of land (viz., the tract owned by D. Henderson) for a site for an institution of learning and for the permanent endowment thereof." (85)

The subscription and property was to be offered the Oregon Conference of the United Bretheren Church for administration. This proposition was accepted by the conference, a board of trustees was appointed, and the board met for the first time on September 26, 1865. The board immediately appointed committees and in a short time the site and size of the campus had been chosen, the buildings planned, and the remainder of the property laid out as a townsite, and the lots put up for sale. A public auction of "lots in the town of Philomath and lands adjoining" was held on November 25, 1865, at which a total of thirteen town lots and nine "outlots" of ten acres each were sold. A building was contracted for in the spring of 1866 and finished the following spring as it is recorded that "a called meeting of the Trustees of Philomath College was held at the College Building, May 6, 1867." (86) In October 1867, the college was open for students, with Joseph Hannon as acting president. Other early presidents of the school were Enoch P. Henderson, J. A. Bidle, J. R. N. Sellwood, R. E. Williams, W. S. Walker, and Thomas Cowan Bell. Professor Henry Sheak held the chair of mathematics and commerce for forty years. Among the early students of the college were John B. Horner, for many years a prominent member of the faculty of the Oregon Agricultural College, and Dr. L. A. Banks, author of some seventy books. (87) At a meeting of the board of trustees on June 10, 1929, it was decided to suspend activities of the college "for one year," however, it has never reopened. (88)

The history of the Oregon Agricultural College had its beginning while Oregon was still a Territory. On January 20, 1853, an act was passed by the Territorial Legislature providing "That James A. Bennett, John Trapp, and Lucius W. Phelps, be and they are hereby appointed and constituted a board of commissioners, for the construction of the territorial university, at the town of Marysville, in the County of Benton, on such land as shall be donated for that purpose by Jos. P. Friendly." (89)

In 1858 a coeducational community school located at Fifth and Madison Streets in Corvallis, was incorporated under the name of Corvallis College. (90) A building was erected during the summer and fall of 1859 (91) but financial difficulties beset the new institution. In 1865 the college passed under the control of the Methodist Episcopal Church

85. Minutes of Board of Trustees (Philomath College).
86. Ibid.
87. John B. Horner, "Activities of Philomath College," OHQ, XXX (1929), 344-345.
88. See "News and Comment," OHQ, XXX (1929), 296.
89. L. 1853-54, pp. 513-515.
90. Oregon State College Catalog, 1941-42, p. 55.
91. Miscellaneous Records, Vol. A, p. 47.

South and on August 22, 1868, that organization filed new articles of incorporation giving an estimated value to the property of \$5,000. The incorporators were "B. F. Burch and James Kelsay of Polk County; J. L. Ferguson of Yamhill County; Fletcher Crabtree and R. A. McFarland of Linn County; J. P. Friendly, Wm. B. Bryan, Samuel F. Brown, and A. N. Locke of Benton County." (92) The college catalog states: "While in its inception a private enterprise, the institution from the beginning served a public purpose. It was destined to become both a state college and one of the national system of 'land grant' institutions." (93)

The passage of the Federal Land-Grant Act by Congress in July 1862, to provide for the establishment and support of agricultural colleges gave further impetus to the demand for an institution of this kind in Oregon. The act provided Federal aid from the "Land-Grant Fund" to each state that availed itself of the benefits of the act for the maintenance of a college "where the leading objects shall be, without excluding other scientific and classical studies, and including military tactics, to teach such branches of learning as are related to agriculture and the mechanic arts, in order to promote the liberal and practical education of the industrial classes in the several pursuits and professions in life." (94)

Ninety thousand acres were appropriated to Oregon and, on October 9, 1862, the Legislature accepted the provisions of the law. On October 27, 1868, the Legislature provided for the location of the land received under the act of 1862 and designated Corvallis College as the recipient of the income from the land-grant fund and the official State Agricultural College. The Legislature of 1870 "permanently adopted" Corvallis College and, since 1885 the State has assumed entire control of the institution. (95)

The report of the State Superintendent of Public Instruction for 1874 had the following to say concerning the Corvallis State Agricultural College: "Located at Corvallis, Benton County, Oregon; founded by M. E. Church, South, Aug. 22, 1868, and now under the control of that denomination. Under the direction of a board of twenty-two trustees. Rev. B. F. Burch President. Value of buildings \$3,000, Farm \$4,000, endowment, ninety thousand acres Agricultural College Land. Receives annually from state \$5,000; number of pupils in 1872-3, 100; seven courses offered. Under a late act of congress this institution has been designated as one of those authorized to give instruction in military science, and an officer of the U. S. Army has been assigned to the charge of this department... Four degrees are conferred in this institution." (96)

The first class was graduated from the college in 1870. During the summer of 1887 the cornerstone of the present administration building,

92. See Incorporations File, Drawer A.

93. Oregon State College Catalog, 1941-42, p. 55.

94. Ibid.

95. L. 1870, pp. 17-20.

96. Report of the State Superintendent of Public Instruction, Vol. 1,  
p. 47.

the first on the campus, was laid by Sylvester Pennoyer, Governor of Oregon. The curriculum of the earlier years was chiefly the academic and classical subjects, but gradually the agricultural and engineering features were added to later be supplemented by departments of business, commerce, and home-economics. (97)

Churches. Recognizing the need of moral and religious teaching in the new communities, the pioneers of Benton County almost immediately on arrival began the establishment of churches and Sunday Schools. To the early settlers a church did not necessarily mean an edifice with spire, bell, and cross. They gathered together wherever it was convenient, in log cabin or schoolhouse or open grove, to hear the itinerant preacher or perhaps a neighbor bring a message of faith and hope.

Where and when the first church was established is of minor concern; however, they were organized in many communities before 1850. Ketturah Belknap wrote, speaking of a Methodist "society" organized in the spring of 1848 at "Mrs. Write's" house about a mile and a half southeast of the present Bellfountain: "so on sunday evry one in reach came out to Hear Preaching, for they had sent word to all the dwellers roun a bout all came to see and Hear the strange Preacher and all had brought their letters so they counted up fourteen Members littl and big for in them days they went in to church by Familys... their was the first so ciety orgenized and the first sermond Preached in all that Regeion round A bout, the Preacher said it was a glorious day to him, evry body came for miles some with oxteams some on Horse back and some on foot... So Rev. John McKinney Preached for them once A month during the summer of 1848..." (98) This was the inception of the Simpson Chapel at Alpine. Early meetings were held in the "Ebenezer Schoolhouse," built in 1850. The first Simpson's Chapel was constructed in 1862.

The Corvallis Methodist Episcopal Church was organized on November 11, 1848, at the home of John Stewart just northeast of town. (99) In 1851 the congregation moved to Marysville and met in the log schoolhouse on the northeast corner of Second and Jackson streets. The first church building was erected at Second and Van Buren streets, in 1855 or 1856. (1) The first Quarterly Conference of the Corvallis District convened in the church in 1850. In 1853 the first Sunday School was organized by J. W. Williams, H. F. Williams, and Alexander Bennett. (2)

A Methodist congregation was organized at Matzger's Mill in 1850, and another at Monroe about 1865. The former moved to Philomath about 1875 but is now defunct. The Monroe church is still in active service. (3) The Methodist Episcopal Church, South, of Corvallis, was

97. Oregon State College Catalog, 1941-42, p. 55 ff.
  98. Robert M. Gatke, "Ketturah Belknap Chronicle," OHQ, XXXVIII (1937), pp. 270-271.
  99. See p. A-15 of this Sketch.
1. See Corvallis Gazette-Times, May 19, 1923.
  2. See Corvallis Gazette-Times, November 21, 1923.
  3. Church Minutes (Monroe M. E. Church), 1865--. 3 vols.

organized "a short time prior to 1859, Rev. James Kelsay being the minister." (4) In 1860 Orcenith Fisher purchased the old Corvallis College building, (5) which was used as a meeting place by the congregation until 1895, when it was torn down and a church building erected on the same site. (6)

The First Baptist Church at Corvallis was organized on Christmas day, 1851, by the Rev. R. C. Hill and Rev. Jas. Isaacs, with three charter members. The first meeting house was built in 1852. In 1853 the church organized a Sunday School six miles north of town with C. H. Mattoon as superintendent. Tolbert Carter and wife were baptized into the church by the Reverend Dr. Hill soon after its organization. In June 1854, following a meeting conducted by Rev. David Hubbard, there were twenty-five additions to the church, and during the Associational year forty were added to the membership. (7) In 1856 the church was divided and the members living north of a certain line formed the North Palestine Baptist Church. At the division Tolbert Carter went with the North Palestine group and was soon made a deacon. (8) The first entry in the North Palestine Church Records states that: "This is to certify that the undersigned members that was cut off from the Corvallis Church met at Drums schoolhouse on the second Saturday in August (1856) to devise means to form a new church and to transact such other business that may come before said meeting." Followed a list of the names of the men and women present at the meeting then: "Resolved that Brother David Hubbard, R. C. Hill and Tolbert Carter be requested to meet the Brothern and Sisters at said school house on Saturday before the forth Lords day in August, 1856, to organize said church." In compliance with this resolution the North Palestine Church was organized on the "forth Saturday in August, 1856." (9) The congregation first met in the Gingles (Drum) schoolhouse; the present building was erected in 1881.

According to the Sessions Book of the First Presbyterian Church of Corvallis: "The members of the Old School Presbyterian Church living in the vicinity of Marysville, Benton County, Oregon Territory, pursuant to previous notice, met at the residence of the Rev. J. A. Hanna on the 24th day of September, 1853, at 2 o'clock P.M. for the purpose of organizing a Presbyterian Church." (10) Four people presented their testimonials of membership. They were John Grub from the church of Niles, Michigan; S. K. Brown, Newton, Ohio; E. Belle Hanna, Canonsburg, Pa.; and Louiza Irwin, Fairfield, Iowa. On December 7, 1854, Edward H. Piper of Rolling Prairie, Indiana, and on March 5, 1855, George Mercer of Zanzerville, Ohio, were placed on the roll of members. The church members first met in

4. Fagan, op. cit., p. 366.
5. Deed Record, Vol. E, p. 651.
6. Church Minutes, 1886--.
7. C. H. Mattoon, Baptist Annals of Oregon, I, 10-11.
8. Ibid., I, 57.
9. Records of the North Palestine Church, 1856-74.
10. First Presbyterian Church of Corvallis, Sessions Book.

private homes, then in the Court House, then in their own building, erected about 1860. (11)

The Congregational Church was organized in 1883 by dissenting members of the Presbyterian Church of Corvallis. (12) In 1931 the two churches were again united in service and endeavor under the name of the Federated Churches, but each retained a distinct entity as far as membership was concerned.

The First Church United Brethren in Christ (Old Constitution) was organized about 1855 in the Union Schoolhouse near Philomath by the Rev. J. T. Connor, built Bethel Chapel in 1857, (13) and in 1865 organized Philomath College. When the Philomath College building was erected in 1867 the congregation began meeting there. (14) In 1888 a schism occurred in the United Brethren Church over certain changes in the constitution of the Church. The two factions were represented in the Philomath Congregation as well as in the Oregon Conference, and for a time the group that held to the Old Constitution was in possession of the College building. The liberal group (New Constitution) was forced to find a meeting place elsewhere. It met in an unused Methodist Church in Philomath, and perhaps at times in other places. The litigation over the control of the property was finally settled in favor of the Liberal group, which has since held the property. (15) The Conservative group built another church, in which it has since met. In March 1895, the "Radical" or Old Constitution group incorporated the "College of Philomath" in opposition to Philomath College. (16) A building was erected and the new college ran for several years but finances were too slender for permanent success. In 1924 the building passed into possession of Philomath College and was used for a Conservatory of Music.

Father J. Croke, of the Roman-Catholic Church was active in the Benton County area as early as 1853. On August 19th of that year he wrote: "I found old O'Reilly on his claim 14 miles south of Marysville. I celebrated the first mass ever heard in that section of the Country." The first Roman-Catholic Church in the county was St. Mary's at Corvallis, built by Father Poulin in 1861. The church was dedicated February 17, 1861, by Archbishop F. N. Blanchette. The list of donors of funds for building the church included Father Blanchette, \$100, and the soldiers at Fort Hoskins who contributed \$300. Wheat and other produce, including one cow, were among the donations. The original building is now the Parish House, while a new building was dedicated in 1912 by Archbishop Alexander Christie. (17)

11. First Presbyterian Church of Corvallis, Sessions Book.
12. A Brief History of the Corvallis Congregational Church, by Mrs. Ora B. Corbett.
13. See p. A-17 of this Sketch.
14. Interview with Jerry Hinkle, Philomath.
15. See Minutes of Board of Trustees, Philomath College, Vol. I, pp. 190, 193, 195.
16. Incorporations File, Drawer C.
17. See Corvallis Gazette-Times, Feb. 8, 1936.

St. Rose Catholic Church of Monroe was organized as a Mission in 1877. The church building was erected in 1881. (18) It was dedicated in 1883. The following is a translation of the original record in Latin: "In the year of Our Lord, 1883, 29th day of April, which was the fifth Sunday after Easter, we, Charles John Seghers, Archbishop of Oregon City, solemnly blessed according to the Roman ritual, to the worship of God, and at the wish of the greater part of the faithful there present, also to the honor of St. Rose of Lima, we dedicated the church recently constructed of wood in the Town of Monroe; afterward celebrated Holy Mass, assisted by the Rev. G. B. Van Lin, the priest of the Mission, and in the presence of a great multitude of the faithful and of non-Catholics." (19)

The Corvallis Calvary Evangelical Church was organized in 1867 by the Rev. James Crossman. The congregation met in the Court House until a church building was completed. In October 1867, the church was dedicated by the Rev. F. C. Deninger. (20) The first Kings Valley Evangelical Church building was erected in 1877, a year after the organization of the Church. During the 1890's there was a division of the church and one faction built a new church in 1896. In 1913 the differences were adjusted and the Church became again united. (21) Shortly after 1906 there was an Evangelical Church erected at Summit. Rev. John L. Burns is given the honor of organizing the Church. It is said he stirred up interest in building a church, secured donations of work and money, and did much of the work himself. The bell was from the old church near the Independent Schoolhouse (Beulah Chapel). (22) Beulah Chapel was erected about 1887 (23) at the northwest corner of the crossroads opposite the Independent Schoolhouse, three miles south of Philomath. The ground on which the chapel was erected was deeded by Sarah and John Jeffcott to R. M. Hanson, W. H. Robinson, and W. D. Armstrong, trustees of Beulah Church Evangelical Association of North America. (24) The Church was organized in 1877 at Oak Ridge by W. C. Kantner with eighteen members. The first building was erected in 1878. (25)

"In order that we may do more effective work for God, and increase Christian love among us, we do now unite ourselves into an organized body of the Church of Christ; accepting the Bible as our rule of faith and practice, pledging ourselves to ever maintain its faith, practice and confession, and abide by its discipline -- Love." With the above pledge twenty-three men and women gathered together in Fischer's Hall on Second Street

18. Fagan, op. cit., p. 368.
19. See Corvallis Gazette-Times, May 5, 1905.
20. Fagan, op. cit., p. 366; see also Corvallis Gazette-Times, April 23, 1932.
21. Interview with Mrs. Julia Price, born in King's Valley in 1861.
22. Interview with A. D. Hymes and his daughter Mrs. Moffat of Summit, Oregon.
23. See Deed Record, V. 557.
24. Ibid.
25. Records of Oak Ridge Church, in charge of Clarence Bareinger, Route 2, Corvallis.

between Madison and Jefferson streets, above the old postoffice, on October 15, 1891, to organize the First Church of Christ of Corvallis. Trustees elected were J. T. Philips, W. W. Bristow, W. S. McFadden, W. T. Small, and J. M. Applewhite. Elders chosen were W. W. Bristow and J. T. Small, while J. D. Hukill and J. D. Phillips were made deacons. The Rev. L. I. Mercer held the first pastorate. The first church building was dedicated on September 11, 1892. (26)

The Zion Evangelical Lutheran Church of Corvallis was organized October 9, 1905, at the home of Adolph Leder, by the Rev. C. J. Beyrelein of the Albany congregation. Services were first held in the homes of the members and in the old Presbyterian Church. In April 1906, a committee was appointed to secure a location for a church. On October 21st the cornerstone was laid, and on May 12, 1907, the new church was dedicated by pastors H. C. Ebeling and W. H. Behrens. At the time of organization the congregation consisted of six voting members and thirty-seven communicants. At its peak in 1917, the congregation had forty-four voting members, one hundred forty-five communicants, and two hundred thirty baptised members. (27)

The Corvallis Church of God of Abrahamic Faith is the only congregation of this faith in Oregon. The church was organized in 1905 and its first church building was dedicated the same year. Characteristic tenets of this faith are the imminent second coming of Christ and that the soul sleeps in the grave awaiting the Resurrection, but it differs from the Adventists in that Sunday is observed as the Sabbath. The first pastor was A. W. Darby who was resident pastor from 1905 to 1921. (28)

The first Christian Science Society was organized at Corvallis in 1913. Later, when the membership had increased to a sufficient number, a church was organized. The group met first in the homes of members and then for a time in a rented hall. In 1915 a church building was erected and was used until the present building was completed in 1938. The first settled Reader was Miss Julia Fullerton. (29)

The Church of the Nazarene has three organizations in the county. The first church of this faith was organized at Alsea in 1920 and a building erected in 1923. The first pastor was the Rev. A. H. Smith. (30) The Church of the Nazarene at Corvallis was organized in 1938 at the home of Fred Daugherty near Philomath. The first meetings were at the homes of members, later in a tent, and since November 1939, in an old building

26. Historical Sketch of First Christian Church of Corvallis, by Mrs. Groshong.
27. History of Zion Evangelical Lutheran Church of Corvallis, compiled on the occasion of its 25th anniversary, in 1930.
28. Minutes of Congregation and Church Board, in charge of Miss Gladys Barber, Corvallis.
29. Minute Books of Corporate Body and Board of Directors, 1913--.
30. Minute Books (Church of the Nazarene, Alsea), 1920--.

purchased and remodelled as a church edifice. (31) The Church of the Nazarene in Corvallis was organized in 1939, with S. T. Shelton as the first minister. (32)

Newspapers. Oregon Statesman was the first newspaper in Benton County. (33) The Statesman was founded in Oregon City in March 1851, (34) and when Salem became the capital "the politically minded Statesman" moved to that city in June 1853. (35) The capital was moved to Corvallis in April 1855, and again the Statesman followed, Mr. Asahel Bush, its editor, replying to critics of the paper who dubbed it the "paper on wheels," stated that the Statesman was published at the seat of government. (36) In December 1855 the Statesman was "put aboard a river steamer (not such a tremendous job in those days) and moved back to Salem." (37) As can be seen, the Statesman was not "born" in Benton County, but was simply a "visitor" for a few months.

The Occidental Messenger was the next paper in Benton County. It was the first native born news journal in the county. It was founded by Joseph C. Avery in Corvallis in 1857. In 1859 T. B. Odeneal became editor-publisher and changed the name to the Democratic Crisis. Odeneal soon tired of the paper and traded the establishment to J. H. Slater for his bookstore. Slater again changed the name to the Oregon Weekly Union. The paper supported Breckenridge and Lane for President and Vice-President in 1860. During the Civil War the Union supported the pro-slavery faction and the cause of the South, thus making the name a misnomer. In 1863 it was suppressed because of pro-slavery utterances, and was never revived. (38)

The Corvallis Gazette was founded in 1862. T. B. Odeneal was the editor and staunchly upheld Lincoln and the Republican party. In 1865 W. F. Boyakin became editor. Later in the sixties William B. Carter became editor and while still advocating Republican politics, took up the cudgels for the Independent Order of Good Templars in Oregon. This took courage in the "wild and woolly" town of Corvallis, where a large number of business houses were saloons. In 1870 Sam Simpson, poet and journalist, was made editor. Simpson frequently "looked upon the wine while it is red" and was not an advocate of the cause of temperance. His statement to that effect in the paper leaves one in no doubt: "Temperance ceases to be the specialty of this paper, as, in fact, it is not the forte of the present editor. Right here the bright habiliments of neutrality are laid aside forever, and wheeling into line the good champion of

31. Minute Books (Church of the Nazarene, Philomath), 1938--.
32. Minute Books (Church of the Nazarene, Corvallis), 1939--.
33. George S. Turnbull, History of Oregon Newspapers, p. 225.
34. Ibid., p. 80.
35. Ibid., p. 81.
36. Flora Belle Ludington, "The Newspapers of Oregon, 1846-1870," OHQ, XXVI (1925), 257.
37. George S. Turnbull, History of Oregon Newspapers, p. 81.
38. Ibid., p. 226.

prohibition goes down in the smoke and fury of political war." William Carter later resumed the editorship of the Gazette and continued in that capacity until his death in 1880.

On the death of Carter, James A. Yantis and M. S. Woodstock bought the Gazette, and the next year Woodstock became the sole owner. In 1884 the Gazette Publishing House was incorporated by Woodstock, A. P. Churchill, and Wallace Baldwin. The paper at that time was controlled by the Oregon Pacific Railroad interests as were all the other papers in the county. C. A. Cole was "fired" as editor because he supported the Republican candidate for State senator. (39)

The Republicans of the county founded the Chronicle which soon failed. Robert Johnson bought the Chronicle plant at a sheriff's sale in 1888 and launched the Times. (40)

The Benton Leader was founded in Corvallis in 1882, with W. H. Mansfield as editor. In 1884, W. W. Saunders became a partner. Saunders was convicted of murder (later pardoned), and in 1886 Martin Luther Pipes, later a State Supreme Court judge, was made editor of the paper. In 1893 the Leader consolidated with the Times. (41)

The Willamette Valley Mercury, published by J. H. Upton, gave the Gazette brief competition, and was succeeded by the Benton Democrat in 1871. The Democrat, published by R. G. Head, failed in 1878. In 1879 the Benton County Blade was founded with Charles L. Mosher, grandson of General Joseph Lane, as editor. The Blade became dull shortly and was sheathed the same year. In 1880 the New Benton Democrat was published with Johnson Odeneal as editor. It only remained in the field a few years. (42)

In 1897 the Oregon Union was launched in Corvallis. It ran for two years and in March 1899, it and the Gazette were merged as the Union-Gazette, which ran semiweekly. The name Union was soon dropped. (43)

According to Turnbull: "the first daily in Corvallis goes to the credit of Charles L. Springer and the Gazette," which first issued a daily on May 1, 1909. (44) This is evidently a mistake as there are on file in the Gazette-Times office copies of the Corvallis Daily News, published in 1893. (45) The paper, however, was short lived. In June 1909, the Gazette and Times consolidated, a flip of a coin determining whether the combined paper should be the Times-Gazette or the Gazette-Times, the latter winning the toss. The first issue of the Gazette-Times came from the presses on June 15, 1909. (46)

39. Turnbull, op. cit., p. 226 ff.

40. Ibid., p. 228.

41. Ibid., p. 230.

42. Ibid., pp. 229-30.

43. Ibid., p. 231.

44. Ibid.

45. Corvallis Gazette-Times, Dec. 19, 1921.

46. Turnbull, op. cit., 231-232.

Several other papers were published in Corvallis at different times with varying degrees of success. In 1883 a semimonthly known as the Home Guard was being published. A monthly, the Oregon Colonist and Resources of the Willamette Valley, ran from 1881 to 1885. The Hornet began publication in 1887 but soon buzzed its last. The Western Pedagogue was founded in 1889 and ran for several years. The Benton County Republican was launched in 1906 and continued for some years. (47) In 1917 A. E. Frost obtained control of the paper and changed its name to the Courier. He conducted the paper until 1925 and then sold the paper to Don Wilson. Wilson combined the paper with the newly founded Independent. In 1932 George Hamilton bought the paper and changed its name to the Benton County Herald. It was sold to P. O. Urban, the present owner and publisher, in 1934. (48)

Prof. John B. Horner, while a student at Philomath College, published the first paper in Philomath. He and J. C. Leasure started the Crucible in 1877. The second editor was Rev. Wayne S. Walker, of the college faculty. (49) The next Philomath paper was the Journal, started by T. G. Robinson in February 1896. This paper lasted a little over a year, expiring in April 1897. (50) The Benton County Review of Philomath, founded by F. S. Minshall in 1904 and retained by him until 1937, (51) is still being published under the editorship of L. T. Ward. (52)

The Oregon Blue Book, 1917-18, lists two papers as being published at Monroe. The first was the Leader, founded in 1911, and the other was the Monitor launched in 1916. The editor of the former was Bennett Wilhelm and of the latter, Chester Logue. (53)

Several papers have been published from time to time by the Oregon State College the principal ones being the student daily, The Barometer, founded either in 1879 (54), 1894 (55), 1896 (56), or 1903 (57), the Oregon Countryman, started in 1908 and still being published in 1918, (58) and the Oregon Business Woman, published 1927-37. (59)

Political Tendencies. There were three streams of immigration into Oregon, and into Benton County, that determined to a great extent the political tendencies of the people. In the earliest period both the emigrants who came "the plains across" and those who came "around the Horn," were because of their general origin in the New England and northern

47. Turnbull, op. cit., p. 232.
48. Interview with A. E. Frost.
49. Turnbull, op. cit., pp. 232-233.
50. Ibid., p. 233.
51. Ibid.
52. Oregon Blue Book, 1941-42, p. 285.
53. Oregon Blue Book, 1917-18, p. 185.
54. Oregon Blue Book, 1939-40, p. 249; Oregon Blue Book, 1941-42, p. 284.
55. Oregon Blue Book, 1917-18, p. 182.
56. Oregon Blue Book, 1933-34, p. 175; Oregon Blue Book, 1937-38, p. 223.
57. Oregon Blue Book, 1935-36, p. 207.
58. Oregon Blue Book, 1917-18, p. 182.
59. Oregon Blue Book, 1935-36, p. 207.

states, mostly Whig and later Republican in their leanings. This northern stream was soon joined by a second stream of emigrants whose origin was largely in the border and southern states. They were mostly Democrats in politics and farmers by profession, so that the early color of political thought was largely Democratic. With the completion of the Northern Pacific Railroad in 1883 a third stream flowed westward, predominantly from the northern states and of Republican tendencies in politics. It was after the coming of this latter stream that Oregon changed from a Democratic to a Republican State. (60)

These tendencies were reflected in the politics of Benton County. The first newspaper printed in Corvallis, Asahel Bush's itinerant Statesman, was of Whig-Republican tendencies, while the Occidental Messenger, started by J. C. Avery and later edited by T. B. Odeneal, under whose editorship it became the Democratic Crisis, was Democratic. In 1860 the paper was sold to J. H. Slater who changed the name to the Oregon Weekly Union and supported Breckinridge and Lane for President and Vice-President. Displaying "seccesh" proclivities it was suppressed by the Government in 1863. (61)

The Corvallis Gazette, established in 1862 with Odeneal as editor, was a staunch Lincoln-following Republican organ. Odeneal had become converted to the Union cause. (62) Odeneal was very active in Benton County affairs. He crossed the plains to Oregon in 1855 in the famous "boys train," nine young men ranging in age from eighteen to twenty years. Arrived in Salem on September 27th, he began working on the Statesman the next day. He was Chief Clerk of the House of Representatives of Oregon in 1855-56 and the clerk of Benton County 1856-1860. After leaving the Gazette he served as County Judge of Benton, two years under appointment of Governor Gibbs and four additional years by election. In 1870 he was appointed Assistant Assessor of Internal Revenue and served until 1872, resigning to become Superintendent of Indian Affairs in Oregon, which office he held until September 1, 1873. On August 1, 1880 he was appointed Clerk of the Supreme Court of Oregon. (63)

The fortunes of the various newspapers burning and dying in Benton County in the last six or eight decades show the chameleon-like character of the county politics. (64) However, the political history is almost entirely a struggle between the Republicans and the Democrats, although an outside element has now and then intruded. According to Fagan, "a new political party was organized in Benton County in the month of February, 1874, named the 'Independent Party,' their slogan being economy, protection against oppression from monopolies, and generally

60. Eric W. Allen, "Oregon Journalism in 1887," OHQ, XXXVIII (1937), 251-252.
61. Turnbull, op. cit., pp. 102-103, 226.
62. Turnbull, op. cit., p. 226.
63. Frank E. Hodgkin and J. J. Galvin, Pen Pictures of Representative Men of Oregon, p. XXV.
64. See Turnbull, op. cit., pp. 225-234, for further discussion.

the better administration of the affairs of the county and State. In a 'call' addressed to the tax-payers of Benton County published in the Corvallis Gazette on February 28, 1874, we find that document signed by one hundred and eighty names, but it would appear as if the new party had sprung into existence to serve a purpose, which done its members returned to the ranks of the time-honored divisions of Republicans and Democrats." (65)

Since 1896 Benton County has been consistently Republican in politics, the Democrats receiving a plurality of votes in 1912 only when the Republican vote was split between Taft and Theodore Roosevelt. The following is a tabulation of the votes cast in Benton County for president since 1896.

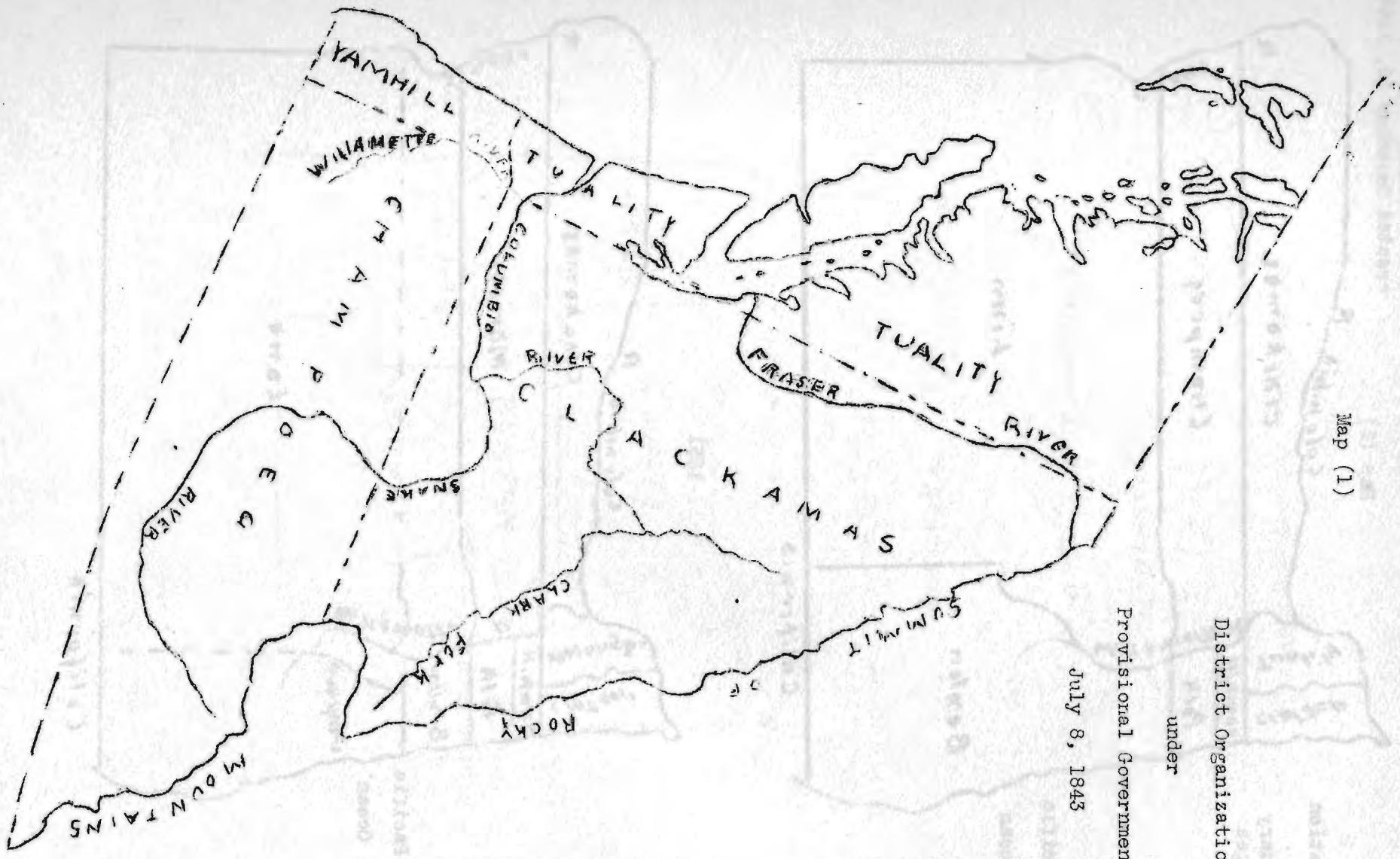
Year	Democratic	Republican	Others
1896	992	1,074	46
1900	764	931	91
1904	442	1,107	222
1908	773	1,183	157
1912	986	715	906
1916	2,488	2,902	332
1920	1,719	3,752	192
1924	1,579	3,417	635
1928	1,412	4,605	78
1932	3,121	4,068	242
1936	3,547	3,390	485
1940	2,942	5,089	48

The large third-party votes in 1912 was for the Progressive party and Theodore Roosevelt; that of 1924 was for Robert M. Lafollette; and that of 1936 was for Lemke. The rest of the votes listed under "Others" was for Prohibitionists, Populists, Socialists, et al. (66)

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65. Fagan, op. cit., p. 386.  
 66. Oregon Voter, Dec. 7, 1940, p. 17.

A-81

Map (1)



## District Organization

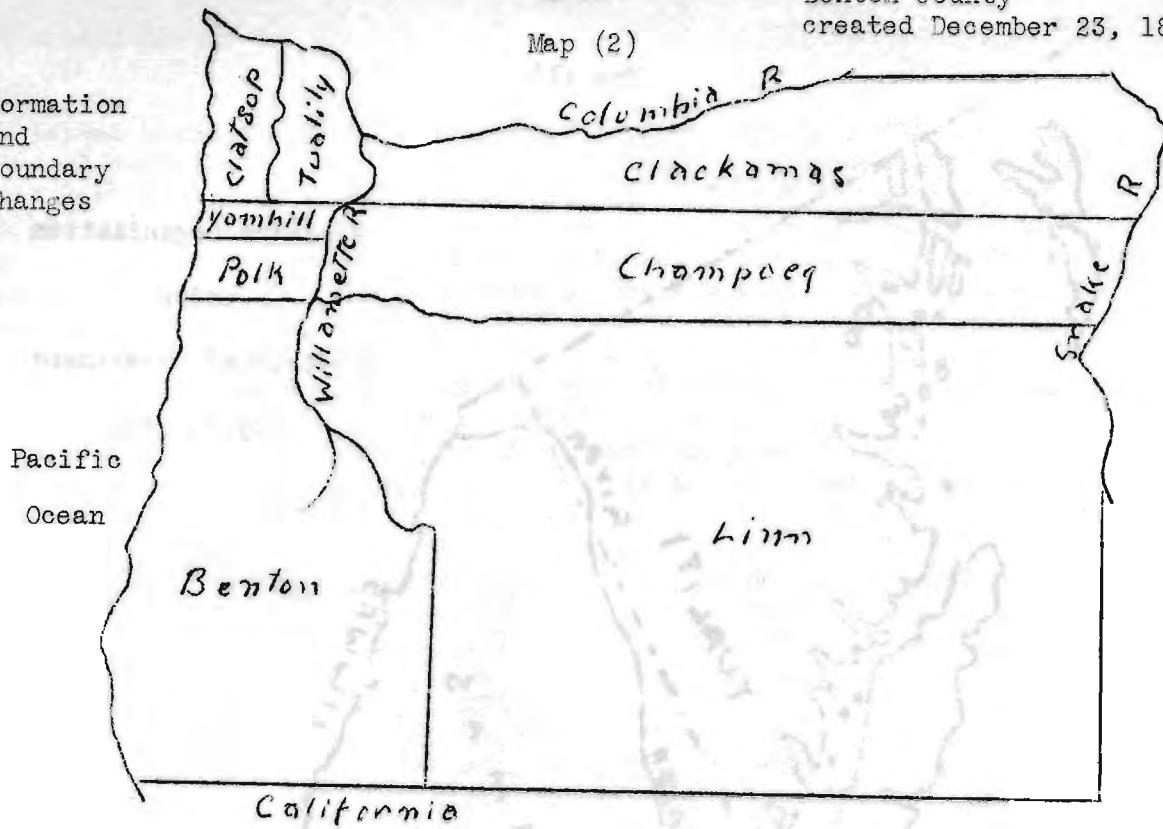
under

July 8, 1843

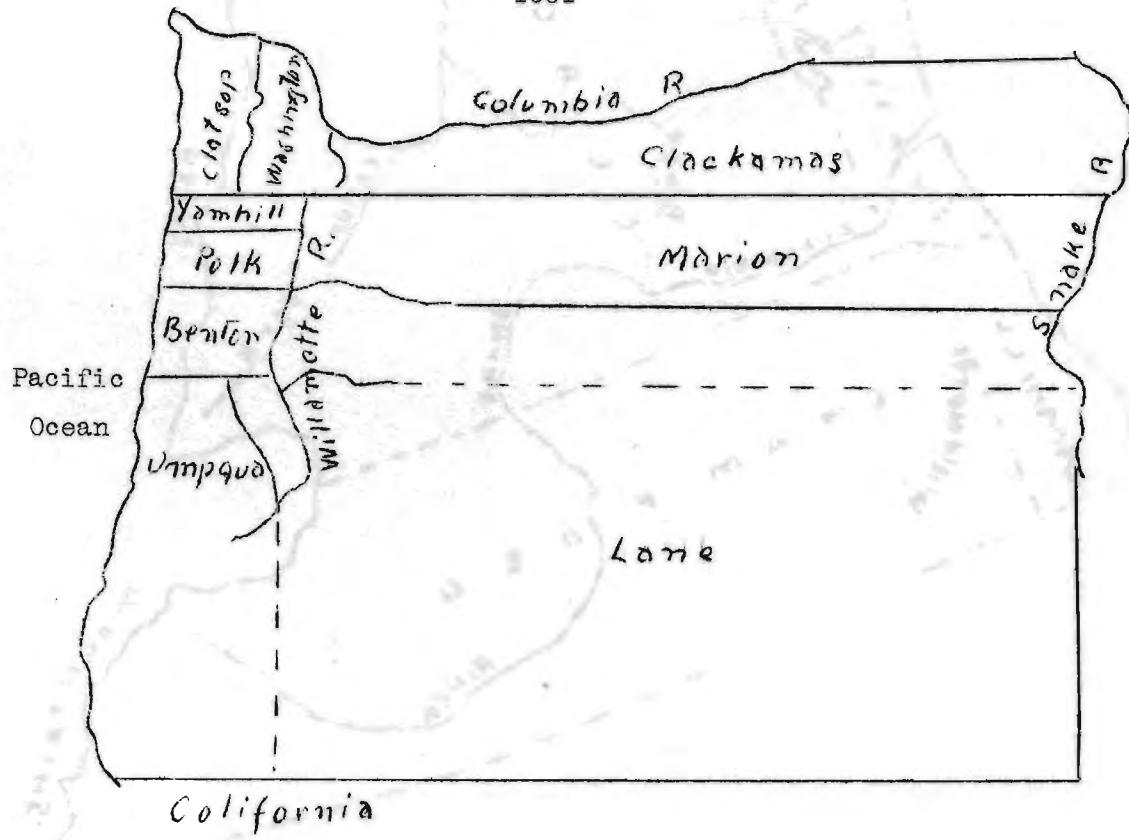
Formation  
and  
Boundary  
Changes

A-82  
Map (2)

Benton County  
created December 23, 1847

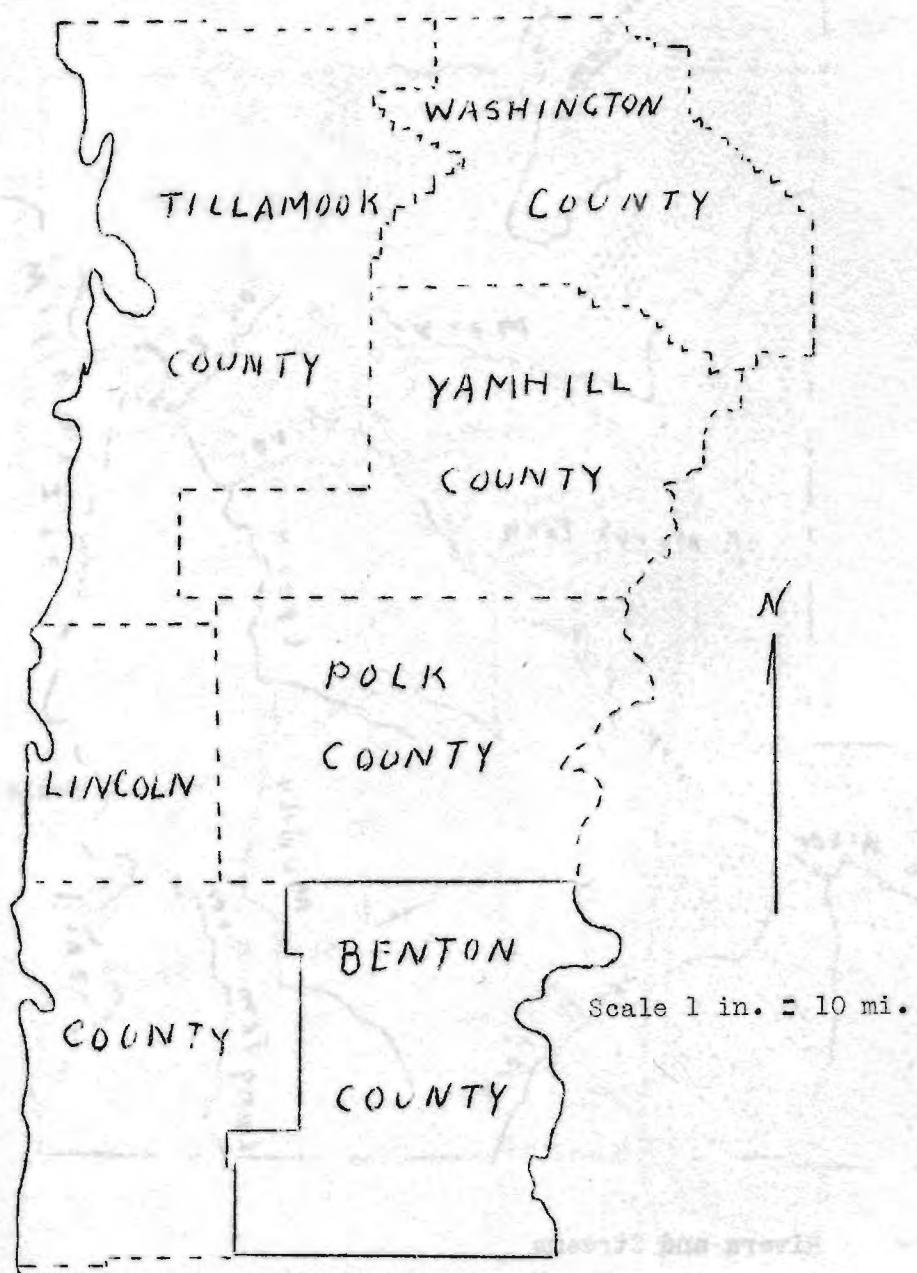


1851



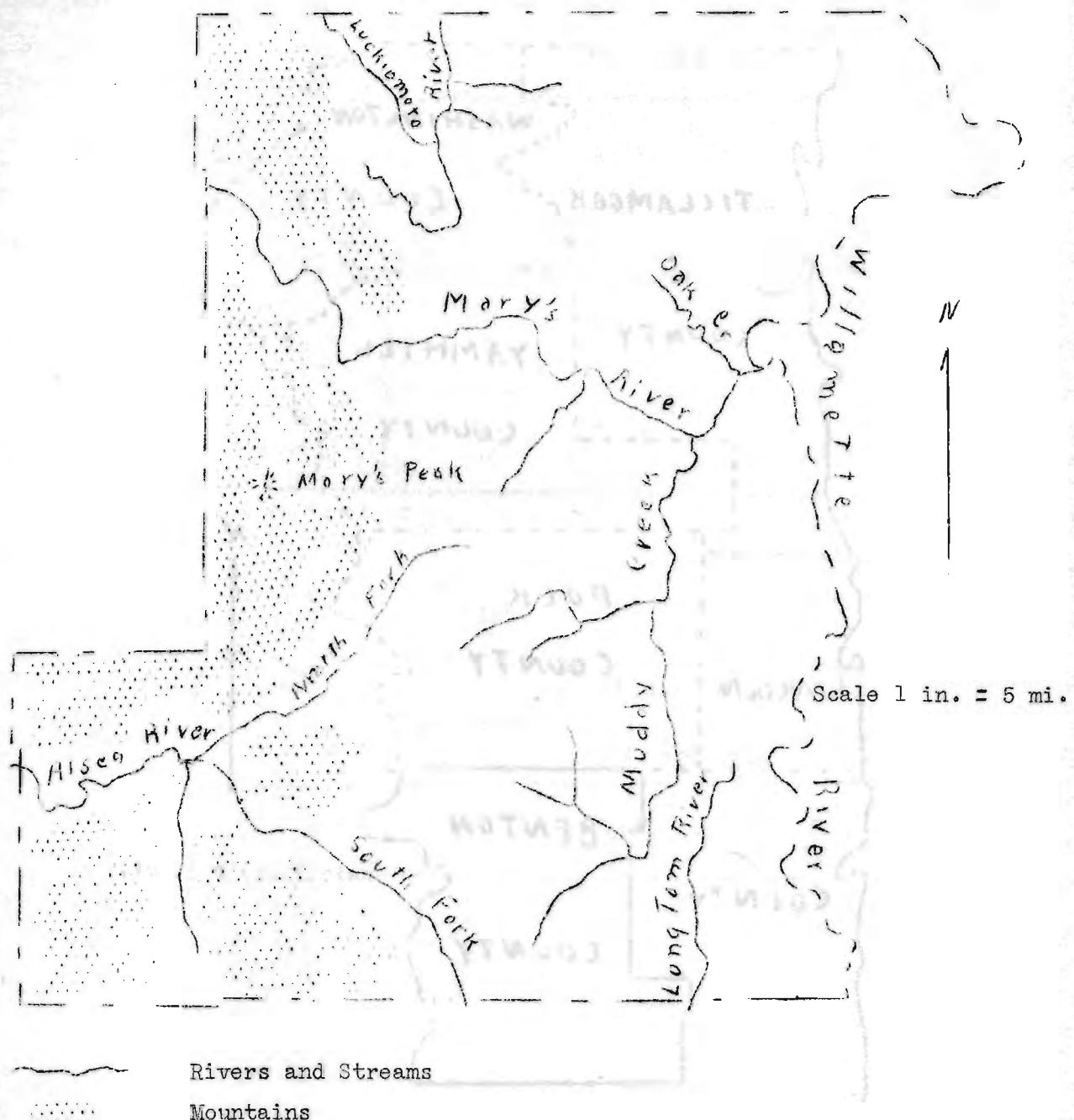
## Map (3)

Benton County, February 20, 1893



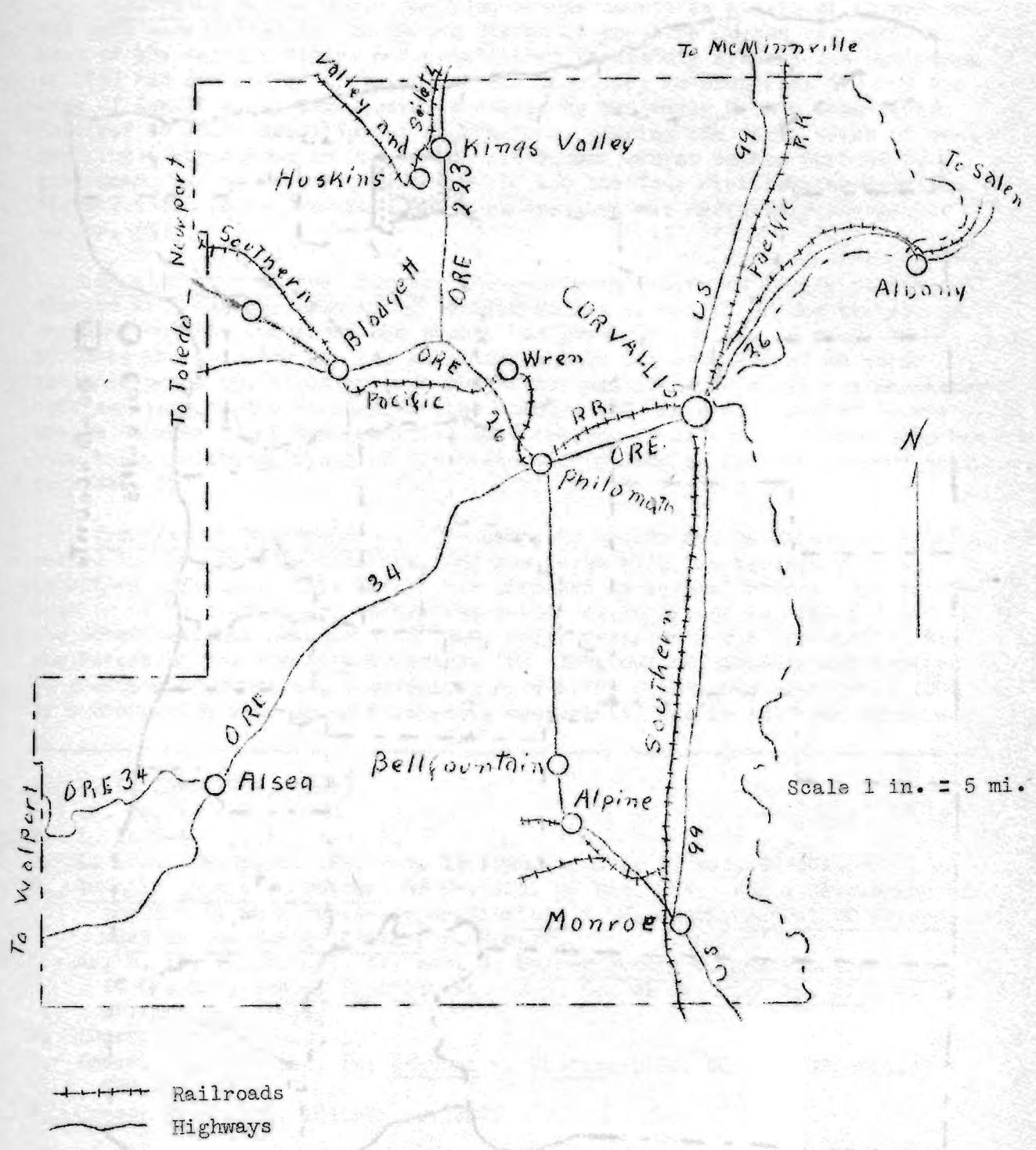
Map (4)

## Benton County Topography



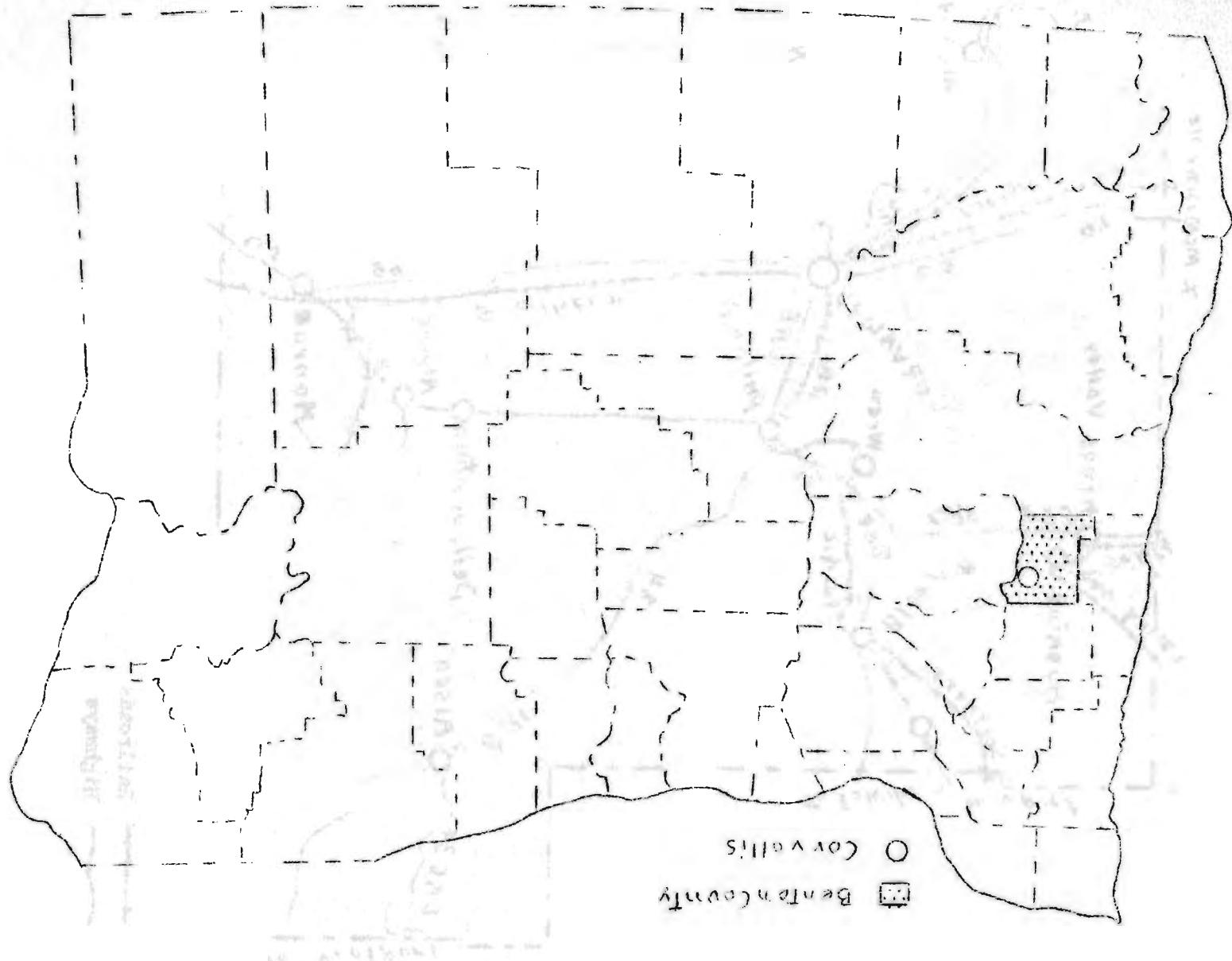
Map (5)

Benton County - Highways and Transportation



A-86

Map (6)  
State of Oregon, 1941



## B. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

Historical Background. The idea of the county as a unit of government was well established in the United States at the time Oregon was settled. Most of the eastern states had established the county system; the Ordinance of 1787 had designated divisions of the Territory as counties; (1) and the laws of New York and Iowa, used as models by the early Oregon lawmakers, referred to State subdivisions as counties. During the first years of organizing a government in Oregon the settlement was so sparse that no local government was necessary or practicable and the four divisions were called districts (2) until December 1845 when the name was definitely changed to county. (3)

Legal Status of the County. The county in Oregon is a body politic, charged with the performance of certain duties in behalf of the State. In carrying out its functions the county has power to sue and be sued, to purchase and hold for its use the lands within its boundaries, to hold personal property, to enter into contracts, and to perform all the necessary acts relating to the business of the county. (4) An early opinion of the Oregon Supreme Court has specified that the county is not a private corporation but a political agent of the State and created by law for governmental purposes. (5)

Creation of New Counties. The power to create new counties, originally vested in the State Legislature, (6) now rests with the residents of the territory affected. This change was effected by several steps. The introduction of initiative and referendum practices in Oregon in 1902 (7) led to the Constitutional amendment of 1906, which reserved local legislation to the voters of the locality affected. (8) This was not immediately applied to creation of counties, however, as Hood River County was created in 1908 by a State-wide vote on an initiative measure (9) and in 1910 six measures

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1. U. S. Laws 1787, (P-6).
  2. Ar. pp. 16, 26.
  3. L. 1843-49, p. 35, sec. 1.
  4. L. 1854, Deady, p. 672, sec. 1; 1940 O. C. L. A. sec. 86-101.
  5. Yamhill County v. Foster, 53 Or. 124, pp Pac. 286. For a discussion of the county as a quasi-corporation see R. H. Gooch, Manual of Government in the United States, p. 708 ff.
  6. Ar. p. 16; Const. art. XV, sec. 6; Morrow County v. Hendryx, Treasurer, 14 Or. 397; School District No. 48 v. School District No. 115, 60 Or. 38, 118 Pac. 169.
  7. Const. art. IV, sec. 1.
  8. Const. art. LV, sec. 1a; Schubel v. Olcott, 1912, 60 Or. 503, 514, 120 Pac. 375.
  9. Oregon Blue Book, 1941-42, p. 237.

for proposed counties failed in a State-wide election. (10) In 1913 the Legislature defined the method by which this question is now determined by the local voters. (11) However, no county may be reduced to an area of less than 400 square miles, nor can any new county be established containing a less area, nor unless such new county contain a population of at least 1,200 inhabitants. (12)

The procedure for setting up a new county was regulated by law in 1913. A petition naming the new county, and signed by a majority of the legal voters of the area to be incorporated, is submitted to the county court of the county affected. (13) If it appears to the county court that the area and population of the proposed county comply with Constitutional provisions, it is the duty of the county court to order the question to be submitted at the next general election for decision by the legal voters of the county. (14) In order for the proposal to carry, 65 percent of all the legal voters in the new parts must vote in the affirmative; and 35 percent of all the legal voters in the parts not to be annexed to the new county, but living in the old county from which it is proposed to take territory to be included in the new county, must vote in the affirmative. If the measure is successful the Governor of the State issues a proclamation creating the new county or indicating the change in the boundaries of the old counties. (15) The Governor appoints the members of the county court, (16) which appoints other county officers to serve until the first general election. (17)

When a new county has been established the county court fixes the temporary county seat. The permanent county seat is determined by the people at the first general election. (18)

A new county is obliged to pay its share of the obligations of the parent county. The amount owed is based on the valuation of the property coming into the new county and is determined at a joint meeting of the county courts of the new and old counties. (19) The new county does not

10. Blue Book, p. 237.
11. 1913 S. L. ch. 10, sec. 1; 1935 S. L. ch. 321, sec. 1; 1940 O. C. L. A. sec. 85-201.
12. Const. art. XV, sec. 6; 1913 S. L. ch. 10, sec. 1; 1935 S. L. ch. 321, sec. 1; 1940 O. C. L. A. sec. 85-201; Baker County v. Benson, 1901, 40 Or. 207, 66 Pac. 815.
13. 1913 S. L. ch. 10, sec. 1; 1935 S. L. ch. 321, sec. 1; 1940 O. C. L. A. sec. 85-201.
14. 1913 S. L. ch. 10, sec. 1; 1935 S. L. ch. 321, sec. 1; 1940 O. C. L. A. sec. 85-201.
15. 1913 S. L. ch. 10, sec. 2; 1935 S. L. ch. 321, sec. 3; 1940 O. C. L. A. sec. 85-203.
16. 1913 S. L. ch. 10, sec. 4; 1940 O. C. L. A. sec. 85-205.
17. 1913 S. L. ch. 10, sec. 5; 1940 O. C. L. A. sec. 85-206.
18. 1913 S. L. ch. 10, sec. 6; 1940 O. C. L. A. sec. 85-207.
19. 1913 S. L. ch. 10, sec. 13; 1935 S. L. ch. 321, sec. 6; 1940 O. C. L. A. sec. 85-214.

inherit buildings free of charge from the old county or counties. (20) If there are obligations to the State, or if State funds are owed to the counties, the newly created county bears its share of the obligations and receives its share of the dues in proportion to its property value. (21)

The county court of the new county causes a transcript to be made of all deeds or other instruments relating to real property transferred from the old to the new county. Proper books are instituted and have the same effect in all respects as do original records. (22)

Benton county was created in 1847 by an act of the Provisional Legislature. (23) It was the third county created in this way and, with the four original counties, was the seventh county in Oregon. (24) The first county officers were appointed by the Governor. (25)

The county government at this time consisted of two or more justices of the peace acting as a board of county commissioners to transact county business; (26) a judicial system of circuit court, (27) probate court, (28) and justice of the peace courts; (29) clerks for each court; (30) the law enforcement offices of sheriff (31) and coroner; (32) and the taxing and finance offices of assessor, (33) tax collector, (34) and treasurer. (35)

The establishment and development of the Territorial Government brought several changes in county government. Administration of county business was completely divorced from judicial business by the establishment of a board of three county commissioners to conduct county business. (36) The circuit court was abolished in favor of the territorial district court (37) and a probate court was reorganized under a single judge. (38) The office of county auditor was created to replace the separate clerks of the courts. (39)

- 20. 1913 S. L. ch. 10, sec. 9; 1940 O. C. L. A. sec. 85-210.
- 21. 1913 S. L. ch. 10, sec. 10; 1940 O. C. L. A. sec. 85-211.
- 22. L. 1854, Deady, p. 653, sec. 37; 1913 S. L. ch. 10, sec. 12; 1935 S. L. ch. 321, sec. 5; 1940 O. C. L. A. secs. 85-213, 85-303.
- 23. L. 1843-49, p. 50, sec. 1.
- 24. Blue Book, p. 210.
- 25. L. 1843-49, p. 50, sec. 5; (State) Executive Record, 1849-59, p. 32.
- 26. L. 1843-49, p. 7, sec. 1.
- 27. Ibid., p. 3, sec. 1.
- 28. Ibid., p. 47, sec. 2.
- 29. L. 1845, p. 51, sec. 2.
- 30. Ibid., p. 44, sec. 5.
- 31. Ibid., p. 23, sec. 1.
- 32. L. 1843-49, p. 23, sec. 1.
- 33. Ibid., p. 25, sec. 2.
- 34. Ibid.
- 35. Ibid., pp. 200, 201, secs. 1, 2.
- 36. L. 1850, p. 79, sec. 16.
- 37. 9 U. S. Stat. ch. 177, sec. 9; L. 1854, Deady, p. 31, sec. 9.
- 38. L. 1853-54, p. 34, sec. 1.
- 39. L. 1853-54, p. 386, sec. 1.

Offices which become effective under the Territorial Government are those of constable, (40) district or prosecuting attorney, (41) surveyor, (42) and county school superintendent. (43)

Statehood restored the circuit court (44) and established the county court consisting of a county judge and two commissioners functioning as an administrative and judicial body. (45) The Constitution provided that the office of county clerk might be divided by the creation of the office of recorder of conveyances whenever the number of voters in the county reached 1,200. In Benton County this office was created in 1891. (46) Other offices established in Benton County are: Board of equalization in 1870, (47) stock inspector in 1887, (48) district boundary board in 1899, (49) roadmaster in 1902, (50) horticultural inspector in 1905, (51) board of health and health officer in 1906, (52) veterinarian, (53) fair board, (54) and sealer of weights and measures in 1913, (55) local registrar of vital statistics in 1915, (56) agricultural agent in 1917, (57) home demonstration agent in 1920, (58) budget committee, (59) bee inspector, (60) and health nurse in 1921, (61) engineer in 1925, (62) dairy herd inspector in 1927, (63) public welfare commission in 1933, (64) and 4-H club agent in 1938. (65)

Four of the above offices have been abolished. In 1921 the office

- 40. L. 1850, p. 164, sec. 1.
- 41. L. 1852-53, p. 42, sec. 1.
- 42. L. 1843-49, p. 104, sec. 26.
- 43. L. 1853-54, p. 424, sec. 1.
- 44. Const. original art. VII, secs. 1, 9.
- 45. Ibid., sec. 12.
- 46. L. 1891, p. 48, sec. 1.
- 47. L. 1870, p. 52, sec. 1.
- 48. L. 1887, p. 101, sec. 1.
- 49. L. 1899, p. 217, sec. 19.
- 50. L. 1901, p. 105, sec. 2.
- 51. 1905 S. L. ch. 222, sec. 1.
- 52. 1905 S. L. ch. 170, sec. 1.
- 53. 1913 S. L. ch. 14, sec. 8.
- 54. 1913 S. L. ch. 146, sec. 1.
- 55. 1913 S. L. ch. 325, sec. 11.
- 56. 1915 S. L. ch. 268, sec. 3.
- 57. 1913 S. L. ch. 14, sec. 8.
- 58. 1913 S. L. ch. 110, sec. 1.
- 59. 1921 S. L. ch. 118, sec. 14.
- 60. 1905 S. L. ch. 175, sec. 1; 1917 S. L. ch. 283, sec. 1.
- 61. 1917 S. L. ch. 82, sec. 1; 1919 S. L. ch. 264, sec. 38.
- 62. 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1.
- 63. 1927 S. L. ch. 348, sec. 1.
- 64. 1933 S. L. ch. 15, sec. 6.
- 65. 1921 S. L. ch. 110, sec. 1.

of recorder of conveyances was abolished by law and the duties assigned to the county clerk. (66) The county office of sealer of weights and measures was abolished in 1915 and the duties returned to the State as before the creation of the county office in 1913. (67) In 1933 the office of bee inspector became a State office in the Department of Agriculture. (68) The office of home demonstration agent was discontinued in 1926. (69)

The present structure of the county court, as it functions in its administrative capacity in Benton County was provided for by the Constitution in 1859. As established by the Constitution, the county court consists of a county judge and two commissioners, who meet together for the transaction of county business. (70) According to Supreme Court decisions of 1907 and 1915, the judge alone or two commissioners may conduct county business. (71) The county judge is chairman of the county court.

As provided in the Constitution, the county clerk of Benton County is an elective official. (72) He is custodian of the books, records, and papers of the county; serves as ex officio clerk of the circuit and county courts, (73) ex officio member of the board of equalization, (74) and ex officio recorder of conveyances. (75)

As outlined by the Constitution, the judicial function of the Benton county court is performed by a single member of that body, the county judge, who has sole authority to handle the probate business of the county. (76) Originally the county court had jurisdiction over criminal matters not penalized by death or imprisonment in the penitentiary and entertained civil actions not involving more than \$500. (77) The criminal jurisdiction of the county court was apparently never exercised. In 1927 the Legislature passed an enactment transferring the judicial function of the county judge and county court to the circuit court in counties comprising one judicial district of less than 100,000 and more than 35,000 population. (78)

- 66. 1921 S. L. ch. 101, sec. 1.
- 67. 1915 S. L. ch. 162.
- 68. 1933 S. L. ch. 160.
- 69. Information obtained from Mrs. Sayer, O. S. A. C. Extension Department, 1939, by Mark Phinney.
- 70. Const. original art. VII, sec. 12.
- 71. State v. McElrath, 49 Or. 296, 89 Pac. 803; Russell v. Crook County Court, 75 Or. 169, 146 Pac. 806.
- 72. Const. original art. VII, sec. 15.
- 73. Const. original art. VII, sec. 15; L. 1862, p. 235, sec. 959; 1940 O. C. L. A. sec. 93-927.
- 74. 1907 S. L. ch. 266, sec. 1; 1913 S. L. ch. 184, sec. 6; 1933 S. L. ch. 446, sec. 2; 1940 O. C. L. A. sec. 110-402.
- 75. Const. original art. VII, sec. 15.
- 76. Const. original art. VII, sec. 12; L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
- 77. Const. original art. VII, sec. 12.
- 78. 1927 S. L. ch. 282, sec. 1; 1940 O. C. L. A. sec. 13-209.

This law did not affect Benton County. However, in 1937 a law was enacted relieving all county courts of all civil jurisdiction. (79) The county judge has the authority to solemnize marriages. (80)

Following the creation of Benton County in 1847, the county court divided the county into three election precincts and a justice of the peace was elected for each precinct. (81) At present Benton County is divided into three justice of the peace districts: Corvallis, Monroe, and Philomath. (82)

A sheriff was among the first officers elected in Benton County in 1846. (83) In the first law enacted in accordance with the directions of the Constitution the sheriff was named the ministerial officer of the circuit and county courts and conservator of the peace of the county. (84) The same measure effectively defined the duties of the sheriff as chief executive officer of the county. The sheriff is ex officio tax collector. (85)

Constables were first elected in Benton County in 1854, one for each justice of the peace district. (86) At present there are two constables in the county, one for the Corvallis district and one for the Monroe district. (87)

A coroner was elected in Benton County in 1848. (88) The office remains an elective one. (89) If the coroner is unable, for any reason, to perform the duties of his office a justice of the peace acts as coroner instead. (90)

The Constitution specifies that in judicial districts of one or more counties prosecuting attorneys be elected to serve as legal representatives of the State and of their districts. (91) A statute of 1913 provided for the election of a district attorney in each county. (92) Although elected

- 79. 1937 S. L. ch. 278; 1940 O. C. L. A. secs. 93-307, 93-308.
- 80. L. 1862, Deady, p. 783; 1940 O. C. L. A. sec. 63-104.
- 81. Original manuscript of letter J. C. Avery to Fred Prim, June 20, 1848, in Oregon Historical Society library, Portland, Ore., hereinafter cited as Avery to Prim.
- 82. Blue Book, p. 84.
- 83. Avery to Prim.
- 84. L. 1862, Deady, sec. 968; 1940 O. C. L. A. sec. 93-933.
- 85. L. 1853, pp. 394-397; 1907 S. L. ch. 267, sec. 12; 1913 S. L. ch. 184, sec. 13; 1915 S. L. ch. 123, sec. 2; 1940 O. C. L. A. sec. 110-802.
- 86. Probate Court, vol. A, p. 176, see County Court Journal.
- 87. Blue Book, p. 85.
- 88. Avery to Prim.
- 89. Const. art. VI, sec. 6.
- 90. L. 1864, Deady, sec. 469; 1940 O. C. L. A. sec. 26-2517.
- 91. Const. original art. VII, sec. 17.
- 92. 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44; 1940 O. C. L. A. sec. 93-901.

by the voters of the county, the district attorney is actually a State officer and receives his salary from the State. (93)

The first assessor in Benton County was elected in 1849. (94) The assessor is an ex officio member of the board of equalization. (95)

As prescribed in the law passed by the Territorial Legislature in 1854, county taxes in Oregon were corrected and adjusted by the assessor and the auditor. (96) Under the law of 1870 the board of equalization is composed of the county clerk, the assessor, and the county judge acting together in an ex officio capacity. (97) In 1909 a State Tax Commission was created, to which appeals from county boards of equalization may be made. (98)

The duties of tax collector in Benton County are performed by the sheriff, acting, as provided by law, in an ex officio capacity. (99)

A treasurer was first elected in Benton County in 1848. (1) The office has been regularly elective ever since. (2)

The first school superintendent of Benton County was elected in 1855. (3) A school superintendent has been elected every 4 years subsequently. (4)

In 1899 a legislative enactment provided for the establishment of district boundary boards for the purpose of dividing the counties into convenient school districts and defining or changing district boundaries. (5)

- 93. 1913 S. L. ch. 343, sec. 2; 1921 S. L. ch. 272; 1923 S. L. ch. 249; 1925 S. L. ch. 162; 1929 S. L. ch. 382; 1933 S. L. ch. 443; 1940 O. C. L. A. sec. 93-913.
- 94. Poll Book, Oct. 15, 1849, in Oregon Historical Society library, Portland, Ore.
- 95. L. 1870, p. 52; 1907 S. L. ch. 226, sec. 1; 1913 S. L. ch. 184, sec. 6; 1933 S. L. ch. 446, sec. 2; 1940 O. C. L. A. sec. 110-402.
- 96. L. 1853-54, p. 285, sec. 5.
- 97. L. 1870, p. 52; 1907 S. L. ch. 226, sec. 1; 1913 S. L. ch. 184, sec. 6; 1933 S. L. ch. 446, sec. 2; 1940 O. C. L. A. sec. 110-402.
- 98. 1909 S. L. ch. 218, sec. 1; 1929 S. L. ch. 456, sec. 6; 1933 S. L. ch. 490, sec. 2; 1940 O. C. L. A. sec. 110-609.
- 99. L. 1843-49, p. 25; 1907 S. L. ch. 267, sec. 12; 1913 S. L. ch. 184, sec. 13; 1915 S. L. ch. 123, sec. 2; 1940 O. C. L. A. sec. 110-802.
- 1. Avery to Prim.
- 2. Const. art. VI, sec. 6; L. 1864, Deady, p. 825, sec. 17; L. 1887, p. 93; L. 1903, p. 181; 1940 O. C. L. A. sec. 87-201.
- 3. County Court Journal, vol. B, p. 31.
- 4. L. 1899, p. 215, sec. 15; 1915 S. L. ch. 55; 1940 O. C. L. A. sec. 111-301.
- 5. L. 1899, p. 226; 1907 S. L. ch. 116, sec. 1; 1940 O. C. L. A. sec. 111-401.

The board is composed of the members of the county court and the county school superintendent. (6)

In 1906 the county court was designated as the ex officio board of health in Benton County. (7) Acting in this capacity the county court appoints a health officer. (8) Public health nurses have been employed in Benton County since 1921. (9)

From 1845 to 1933 the county court was the only agency invested with the care of indigents. (10) Since 1933 relief has been administered, under the control of a State committee (commission), by the county relief committee (since 1939 known as the county public welfare commission), composed of the county court plus four members appointed by the Governor. (11)

The authority to erect, maintain, and operate county farms was one of the early powers delegated by the Legislature to the county courts. (12) Benton County, however, has never operated a poor farm but has provided for its poor by contracts and agreements with individuals.

Legislation in 1849 provided for the election of surveyors in the various counties. (13) Further provisions were made in the Constitution in 1859, fixing the term of office at 4 years. (14) The first surveyor in Benton County was appointed by the county court in 1850. (15)

The appointive office of county engineer was created by the Legislature in 1925. (16) Previously, certain duties of the engineer were performed by a roadmaster. (17) The office of county engineer differs from that of county roadmaster in that the former official works in connection with the county market road system, being required to submit certain reports and surveys of proposed road improvement to the county court. (18)

6. L. 1899, p. 217, sec. 19; 1907 S. L. ch. 116, sec. 1; 1940 O. C. L. A. sec. 111-401.
7. 1905 S. L. ch. 170, sec. 1; 1919 S. L. ch. 264, sec. 9; 1923 S. L. ch. 129; 1927 S. L. ch. 319, sec. 1; 1940 O. C. L. A. sec. 99-201.
8. County Court Journal, vol. 7, p. 483.
9. *Ibid.*, vol. 12, p. 385.
10. L. 1843-49, p. 163; L. 1854, Deady, p. 864, sec. 1; 1930 O. C. Ann. sec. 27-1401.
11. 1933 S. L. ch. 15, sec. 6; 1939 S. L. ch. 241, sec. 4; 1940 O. C. L. A. sec. 126-104.
12. L. 1854, Deady, p. 846, sec. 1; 1930 O. C. Ann. sec. 27-1401.
13. L. 1843-49, p. 104, sec. 26.
14. Const. art. VI, sec. 6, as amended 1920.
15. County Court Journal, vol. A, p. 2.
16. 1925 S. L. ch. 361, sec. 1; 1933 S. L. ch. 386, sec. 1; 1940 O. C. L. A. sec. 100-902.
17. L. 1901, pp. 105, 106; 1917 S. L. ch. 299, sec. 4; 1940 O. C. L. A. sec. 100-1304.
18. 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1; 1933 S. L. ch. 386, sec. 4; 1940 O. C. L. A. sec. 100-908.

On the other hand, the roadmaster has direct supervision of work performed on all county roads and the management of machines and material. (19) In Benton County a roadmaster was first appointed in 1902 (20) and an engineer in 1925. (21)

From time to time a number of offices have been established in Benton County relating to the agricultural and stock-raising activities of the county. These include the stock (brand) inspector, the dairy herd inspector, the horticultural inspector, the bee inspector, the agricultural agent, the home demonstration agent, and the county fair board.

In summary, it may be stated that, since the change from Territorial to State Government, the governmental organization of the county has never undergone any radical change. This is partly due to the fact that the county court has continued to act throughout the history of the county as the central administrative body, having certain broad powers which have undergone no basic changes since these powers were defined in 1862. (22) The changes which have occurred have been largely in the direction of an expansion of county business as the county grew in population and wealth. There has been, likewise, a greater emphasis on certain services, particularly in agriculture, public health, and welfare, with a corresponding increase in the number of appointive offices.

Briefly, through its officers, boards, and agents, the county performs the following, among other functions related to government and life in the county community: General administration, recordation, justice, law enforcement, finance, education, public health, public welfare, public works, and agricultural education and assistance.

General Administration. The general administration of the individual counties is vested in the county court, (23) which, as provided by the Constitution, is composed of the county judge and two commissioners. (24) Moreover, as the powers and duties of the county court have from time to time been extended and specified by the State Legislature, the county court has come to have direct supervision over, or an indirect connection with, all major county activities.

The county court exercises direct control over county offices by apportionment of funds, (25) by a biennial inspection of all financial

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19. 1917 S. L. ch. 299, sec. 7; 1940 O. C. L. A. sec. 100-1307.
  20. County Court Journal, vol. 6, p. 632.
  21. Information from W. C. Galloway, engineer, 1940, by Mark Phinney.
  22. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226; 1937 S. L. ch. 91; 1940 O. C. L. A. sec. 93-302.
  23. Const. original art. VII, sec. 12.
  24. Const. original art. VII, sec. 12; L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
  25. 1921 S. L. ch. 118, sec. 9; 1940 O. C. L. A. sec. 110-1209.

records of county officers, (26) by appointments to the offices enumerated later, and by fixing the terms of office and salaries of deputies. (27)

The county court adopts the county budget as provided in the local budget law of 1921. This law provides for the appointment by the three members of the county court of an equal number of electors to assist in estimating county expenditures for the coming year. (28) The court, when acting with the three appointive members, serves as a budget committee. (29)

The county court levies local taxes, having power to determine, during the court term in July of each year, the amount of revenue necessary for county purposes, to apportion this amount, and to levy a tax upon all taxable property in the county sufficient to cover the county's expenses. (30) The county court is responsible for the maintenance of roads (31) having direct control over the engineering and construction, (32) provides all county buildings, (33) and allots funds for the payment of all county expenses. (34) The county court has general care and management of all county property, funds, and business, not otherwise expressly provided by law. (35)

Certain regulative functions exercised by the county court include the authority: To license ferries and to fix the rate of ferry passage; (36) to grant licenses to public dance halls in the county, provided they are outside the limits of any incorporated city, and to regulate these public dance halls; and to grant licenses to groceries and to other establishments, when the authority to issue such licenses is not given by statute to some other tribunal. (37)

Until the enactment during recent years of important public welfare

- 26. L. 1891, p. 117, sec. 1; 1940 O. C. L. A. sec. 93-305.
- 27. 1919 S. L. ch. 168; 1940 O. C. L. A. sec. 87-1053.
- 28. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
- 29. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
- 30. 1907 S. L. ch. 267, secs. 1, 2; 1913 S. L. ch. 446, secs. 8, 9; 1940 O. C. L. A. secs. 110-701, 110-702; 1941 S. L. ch. 440, secs. 20, 21.
- 31. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 32. 1917 S. L. ch. 299; 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1; 1940 O. C. L. A. sec. 100-908.
- 33. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 34. L. 1862, Deady, sec. 870; 1920 O. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 35. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 36. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 37. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.

legislation, the county court was the only county agency invested with the care of indigents, (38) and may still provide workhouses for the relief of certain county charges. (39) Furthermore, acting as an ex officio health board, the county court supervises the work of the county health officer and the county health nurse. (40)

The county court of Benton County appoints the following officials: Members of the budget committee, (41) fair board members, (42) the road-master (43) and engineer, (44) and the judges and clerks of election precincts. (45) The county court, as an ex officio health board, appoints such assistants as are needed to carry on the health program of the county. (46)

The county clerk serves as clerk of the county court, and, as provided in the various statutes treating the bonds of individual county officers, he acts as custodian of any official bonds approved by the county court. (47)

Recording. The State, in order to protect the property rights of its citizens, causes accurate and authentic records to be made of the ownership of various forms of property, both real and personal. The function of recording has been delegated by the State to the various counties, and provisions have been made for the election in each county of an official whose duty it is to record all instruments which affect title to property. Very early enactments provided for the registration and recordation of instruments affecting property, for the purpose of validating title to such property and to prevent fraudulent conveyances.

During the period of the Provisional Government, the function of reg-

- 38. L. 1853-54, p. 505; L. 1864, Deady, p. 846, sec. 1; 1930 O. C. Ann. sec. 27-1401.
- 39. L. 1854, Deady, p. 848, sec. 9; 1940 O. C. L. A. sec. 126-202.
- 40. 1905 S. L. ch. 170, sec. 1; 1919 S. L. ch. 264, sec. 1; 1923 S. L. ch. 129; 1927 S. L. ch. 319, sec. 1; 1940 O. C. L. A. sec. 99-201.
- 41. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
- 42. 1913 S. L. ch. 146, sec. 1; 1915 S. L. ch. 70, sec. 1; 1931 S. L. ch. 356; 1940 O. C. L. A. sec. 30-201.
- 43. L. 1901, p. 106, sec. 3; 1917 S. L. ch. 299, sec. 4; 1940 O. C. L. A. sec. 100-1304.
- 44. 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1; 1933 S. L. ch. 386, sec. 1; 1940 O. C. L. A. sec. 100-902.
- 45. L. 1891, p. 9, sec. 3; L. 1901, p. 351, sec. 3; 1913 S. L. ch. 288, sec. 3; 1915 S. L. ch. 326, sec. 1; 1923 S. L. ch. 207; 1940 O. C. L. A. sec. 81-202.
- 46. 1905 S. L. ch. 170, sec. 1; 1923 S. L. ch. 264, sec. 9; 1923 S. L. ch. 129; 1927 S. L. ch. 319, sec. 1; 1937 S. L. ch. 301; 1940 O. C. L. A. sec. 99-204.
- 47. L. 1864, Deady, p. 824, secs. 11, 12; 1940 O. C. L. A. secs. 87-104, 87-106.

istering titles to land and recording conveyances in the Oregon Country was performed by an elected territorial recorder. (48) Later, in 1847, a law was enacted authorizing county clerks to act as recorders of all land claims in their respective counties. (49) However, from 1850 to 1859, donation land claims were recorded by the Federal Surveyor General for the Oregon Territory (50) and other conveyances were recorded by the county auditor. (51)

Under the Constitution, the Legislature may authorize the election of separate officials to act as county clerk, clerk of the circuit court, and as recorder of conveyances whenever the number of voters in a county exceeds 1,200. (52) Benton County had a separate recorder of conveyances from 1891 to 1921. (53)

During the period of the Provisional Government, when land claims were recorded by the Territorial Recorder, the extent of any claim was designated according to natural boundaries or by markers placed at the corners or along the lines of a claim. (54) In 1850, when the first Federal Surveyor General was appointed, provision was made for surveying the Oregon Territory according to the geodetic method and in relation to a base line established at the mouth of the Willamette River. (55)

Under the laws of 1855, each county procured from the Surveyor General and filed with the county surveyor, a certified copy of the field notes and plats of surveys relating to townships and other legal subdivisions of the county. (56) Whenever the owners of tracts or parcels of land desire to establish permanently the boundaries of their property, or whenever the boundaries of tracts or parcels of land are questioned, the surveyor is required to make a survey. The surveyor gives notice to interested parties and fixes the time for the survey, which is made on the basis of the original Government survey. (57) The findings of the surveyor, including his field notes, are filed in the office of the county surveyor. (58) He attaches to certain plats or diagrams offered for record, affidavits showing that he has correctly surveyed and marked

- 48. Ar. p. 30.
- 49. L. 1843-49, pp. 45, 68.
- 50. L. 1850, p. 50.
- 51. L. 1853-54, p. 386, sec. 2.
- 52. Const. original art. VII, sec. 15.
- 53. L. 1891, p. 48, sec. 1; 1921 S. L. ch. 101, sec. 1.
- 54. Ar. p. 35.
- 55. L. 1850, p. 48.
- 56. L. 1855, Deady, p. 892; L. 1901, p. 312, sec. 5; L. 1903, p. 38; 1940 O. C. L. A. secs. 87-311, 87-316.
- 57. L. 1901, p. 312, sec. 6; 1929 S. L. ch. 419, sec. 1; 1940 O. C. L. A. sec. 87-321.
- 58. L. 1901, p. 313, sec. 8; 1940 O. C. L. A. sec. 87-322.

such platted lands. (59) In addition to the recording of boundaries of tracts of land, the county recorder of conveyances has the duty of recording evidences of title.

The first record of title to real property is the United States patent issued to a homesteader or original settler by the Federal Government. (60) These original evidences of title are entered either in the book of deeds or in a special book of patents by the recording official. (61)

Subsequent conveyances of real property are entered in the book of deeds; encumbrances are entered in the book of mortgages. The documents are endorsed to show the time of receipt and the book and page where recorded. (62) The book of deeds contains not only transfers of title of original owners (63) but also conveyances of title by sheriff's certificates on execution of mortgage foreclosure, (64) quitclaims, (65) deeds by executors and administrators of estates, and equity decrees affecting title. (66) The book of mortgages contains simple mortgages showing real property security for payment of money; (67) assignments of mortgages; (68) lis pendens or notices of lawsuits pending which may affect the title; (69) and satisfaction of mortgages. (70) Mechanics' liens are recorded in a book kept for that purpose and indexed as deeds and conveyances are indexed. (71)

The records contained in the book of deeds and the book of mortgages are required by law to be indexed directly and indirectly. (72) Additional records kept by the county recording official and relating to conveyances of title to real property are those of powers of attorney, (73) judgment

- 59. 1909 S. L. ch. 70, sec. 2; 1940 O. C. L. A. sec. 95-1305.
- 60. 1 U. S. Stat. 496.
- 61. L. 1872, p. 23, sec. 1; 1940 O. C. L. A. sec. 70-134.
- 62. L. 1854, Deady, p. 650, secs. 23, 24; 1940 O. C. L. A. secs. 70-127, 70-128.
- 63. L. 1854, Deady, p. 650, sec. 23; 1940 O. C. L. A. sec. 70-127.
- 64. L. 1903, p. 287; 1940 O. C. L. A. sec. 70-159.
- 65. L. 1854, Deady, p. 647, sec. 3; 1940 O. C. L. A. sec. 70-104.
- 66. L. 1872, p. 23, sec. 1; 1927 S. L. ch. 284, sec. 5; 1940 O. C. L. A. sec. 70-150.
- 67. L. 1854, Deady, p. 650, sec. 23; 1940 O. C. L. A. sec. 70-127.
- 68. L. 1895, p. 55, sec. 2; 1940 O. C. L. A. sec. 68-103.
- 69. 1909 S. L. ch. 93; 1940 O. C. L. A. sec. 70-158.
- 70. L. 1895, p. 55, sec. 3; 1940 O. C. L. A. sec. 68-109.
- 71. L. 1885, p. 15, sec. 6; 1940 O. C. L. A. sec. 67-106.
- 72. L. 1854, Deady, p. 651, sec. 25; 1940 O. C. L. A. sec. 70-129.
- 73. L. 1854, Deady, p. 652, sec. 34; 1940 O. C. L. A. sec. 70-132.

liens, (74) certificates of water rights, (75) and mining claims. (76)

Instruments affecting personal property are recorded as are instruments bearing on the ownership of real property. (77)

Judiciary. Criminal jurisdiction, during the provisional and territorial periods, was divided between the circuit or territorial district court and the justice courts. In general, the circuit or district court handled cases of crime (78) and the justice court cases of misdemeanors. The main court of criminal jurisdiction in the counties of Oregon, since the adoption of the State Constitution, is the circuit court. It has all jurisdiction not given specifically to any other court. (79) Jurisdiction over misdemeanors and certain specified crimes, such as assault and battery, is given by statute to the justice of the peace courts. (80) Jurisdiction of justice courts is limited to those misdemeanors punishable by not more than 3 months' imprisonment in the county jail or a fine of not more than \$100. (81) The law has specified the cases over which the circuit court and justice courts have concurrent jurisdiction. (82) Although the Constitution provided that the county court should have such limited jurisdiction as might be extended by law, (83) no specific statutes can be found authorizing the county court to handle criminal cases and an opinion of the Attorney General in 1926 finds no criminal jurisdiction vested in the county court. (84) Violations of city ordinances have been given into the jurisdiction of the recorders of municipalities. (85) Violations of Federal Statutes are handled by Federal Courts. (86) In general, however, misdemeanors are tried in justice of the peace courts and crimes in the circuit court.

Civil jurisdiction, during the Provisional Government, was handled by

- 74. L. 1862, Deady, sec. 266; 1917 S. L. ch. 86; 1929 S. L. ch. 365; 1940 O. C. L. A. sec. 6-801.
- 75. 1909 S. L. ch. 216, sec. 25; 1923 S. L. ch. 283, sec. 23; 1940 O. C. L. A. sec. 116-813.
- 76. L. 1898, p. 17, sec. 7; 1917 S. L. ch. 8, sec. 1; 1940 O. C. L. A. sec. 108-307.
- 77. L. 1901, p. 124, sec. 2; 1917 S. L. ch. 87, sec. 1; 1935 S. L. ch. 200; 1939 S. L. ch. 60; 1940 O. C. L. A. sec. 68-203.
- 78. L. 1843-49, p. 99, sec. 1; L. 1853-54, p. 63, sec. 4.
- 79. L. 1843-49, p. 99, sec. 9; L. 1853-54, p. 265, sec. 6.
- 80. Const. original art. VII, sec. 9.
- 81. L. 1864, Deady, p. 583, sec. 2; L. 1865, p. 31; L. 1903, p. 294, sec. 2; 1940 O. C. L. A. sec. 28-102.
- 82. L. 1891, p. 138, sec. 1; 1940 O. C. L. A. sec. 28-103.
- 83. 1917 S. L. ch. 162, sec. 1; 1925 S. L. ch. 89; 1940 O. C. L. A. sec. 28-104.
- 84. 24-26 A. G. 590.
- 85. Const. original art. VII, sec. 1; L. 1893, p. 130, sec. 27; 1940 O. C. L. A. 95-204.
- 86. L. 1864, Deady, sec. 12; 1940 O. C. L. A. sec. 26-301.

the justice courts and the circuit court, (87) the justice court being limited to cases not involving the title to real property or more than \$150. (88) Under the Territorial Government the territorial district courts replaced the old circuit court and retained its jurisdiction. (89) The limitation of civil jurisdiction of the justice of the peace was lowered to \$100. (90) Civil jurisdiction was vested by the Constitution in the circuit court, (91) county court, (92) and justice of the peace courts. (93) The county court was limited to cases involving not more than \$500 by the Constitution (94) and the justice of the peace courts were limited by statute to cases involving not more than \$250 (95) and not affecting the title to real property. (96) The circuit court continues to be a court of unlimited civil jurisdiction (97) and the justice courts are still courts of petit civil jurisdiction (98) and small claims. (99) The only change in Benton County has been that of 1937, relieving the county court of all civil jurisdiction. (1)

In Oregon suits in equity are handled by all courts with civil jurisdiction. (2) The same limitations apply to equity suits as to actions at law. Hence, the county court held jurisdiction over cases not involving more than \$500 (3) until 1937. (4) Justice courts exercise jurisdiction in cases not involving more than \$250 (5) or title to real property. (6) The circuit court has unlimited jurisdiction. (7)

During the territorial period probate jurisdiction was vested in the probate court. (8) Under the Provisional Government this court was conducted by the justice of the peace who was chosen to preside over the

- 87. L. 1843-49, p. 99, sec. 1.
- 88. L. 1843-49, p. 99, sec. 10.
- 89. L. 1853-54, pp. 31, 32, sec. 9.
- 90. L. 1853-54, p. 265, sec. 6.
- 91. Const. original art. VII, sec. 8.
- 92. Ibid., sec. 12.
- 93. Ibid., sec. 1.
- 94. Ibid., sec. 12.
- 95. L. 1862, Deady, sec. 881; 1940 O. C. L. A. sec. 27-103.
- 96. L. 1862, Deady, sec. 882; 1940 O. C. L. A. sec. 27-104.
- 97. Const. art. VII, sec. 2, as amended 1910.
- 98. L. 1862, Deady, secs. 881, 882; 1940 O. C. L. A. secs. 27-103, 27-104.
- 99. 1917 S. L. ch. 328, sec. 1; 1939 S. L. ch. 471, sec. 1; 1940  
O. C. L. A. sec. 28-100.
- 1. 1937 S. L. ch. 378, sec. 1.
- 2. Fleishner v. Citizens Investment Co., 25 Or. 119, 35 Pac. 174; Baer v. Ballingall, 37 Or. 416, 61 Pac. 852.
- 3. Const. original art. VII, sec. 12.
- 4. 1937 S. L. ch. 278, sec. 1.
- 5. L. 1862, Deady, sec. 881; 1940 O. C. L. A. sec. 27-103.
- 6. L. 1862, Deady, sec. 882; 1940 O. C. L. A. sec. 27-104.
- 7. Const. original art. VII, sec. 8; art. VII, sec. 2, as amended 1910.
- 8. Ar. p. 29 (Articles of Compact), art. VII; L. 1853-54, pp. 310-315,  
secs. 1-31.

commissioners' court. (9) Under the Territorial Government a probate judge was elected to conduct the probate court. (10) Since statehood, probate matters have been handled by the county court, (11) consisting as it does in its judicial capacity of the county judge alone. (12) Since the qualification requirements for county judge permit the office to be held by a layman there have been efforts on the part of the Bar Association to remove probate matters from this court, (13) and laws have been passed to effect the transfer of probate jurisdiction to the circuit court in counties of between 30,000 and 100,000 population which constitute a complete judicial district (14) and in counties of over 100,000 population. (15) These statutes do not affect Benton County where probate jurisdiction remains vested in the county court.

Authority over juvenile matters was exercised to some extent by the county court from the time of the creation of that court. Adoption proceedings have always been within the jurisdiction of the county court. (16) Included in probate powers is the authority to appoint and supervise guardians for minors. (17) In its administrative capacity to provide for paupers the county court had authority to bind out dependent children as apprentices. (18) In 1907, when a court of domestic relations was created for counties of over 200,000 population, (19) the county courts of other counties, including Benton, were given original jurisdiction over dependent and delinquent children. (20) In 1933 the public welfare commission was created (21) and, in 1937, given power to administer aid to dependent children. (22)

9. L. 1843-49, p. 48, sec. 2.
10. L. 1853-54, p. 310, sec. 1.
11. Const. original art. VII, sec. 12; L. 1862, Deady, sec. 869; 1940 O. C. L. A. sec. 13-501.
12. L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
13. Sixth Annual Meeting of the Oregon State Bar, Program and Committee Reports, p. 21.
14. 1920 S. L. ch. 282, sec. 1; 1935 S. L. ch. 240, sec. 1; 1940 O. C. L. A. sec. 13-209.
15. 1919 S. L. ch. 59, sec. 5; 1940 O. C. L. A. sec. 13-207.
16. L. 1864, Deady, p. 692, sec. 60; 1907 S. L. ch. 172; 1911 S. L. ch. 11; 1921 S. L. ch. 215; 1935 S. L. ch. 324, sec. 1; 1939 S. L. ch. 461, sec. 1; 1940 O. C. L. A. sec. 63-401.
17. L. 1853, Deady, p. 680, sec. 4a; 1937 S. L. ch. 438, sec. 1; 1940 O. C. L. A. sec. 22-101.
18. L. 1854, Deady, p. 847, sec. 5; 1930 O. C. Ann. sec. 27-1405.
19. 1907 S. L. ch. 34, sec. 2; 1919 S. L. ch. 296, sec. 1; 1920 S. L. ch. 2, sec. 2; 1940 O. C. L. A. sec. 93-502.
20. 1907 S. L. ch. 34, sec. 2; 1915 S. L. ch. 147, sec. 1; 1919 S. L. ch. 296; 1920 S. L. ch. 2, sec. 1; 1935 S. L. ch. 132, sec. 1; 1937 S. L. ch. 132, sec. 1; 1940 O. C. L. A. sec. 93-501.
21. 1933 S. L. ch. 15, sec. 6; 1939 S. L. ch. 241, sec. 4; 1940 O. C. L. A. sec. 126-104.
22. 1937 S. L. ch. 264, secs. 1-6; 1939 S. L. ch. 241, sec. 20; 1940 O. C. L. A. sec. 126-120.

Authority to provide for mentally handicapped people has rested with the county court throughout the history of the State. In the probate powers of the county court is that of taking "care and custody of the person and estate of a lunatic or habitual drunkard." (23) Among the administrative functions of the court is that of appointing guardians for "insane, idiots, and others." (24) Since the establishment of the Oregon State Hospital at Salem (25) and the Eastern Oregon State Hospital at Pendleton as institutions for care of the insane, (26) the county judge has had authority to commit insane persons to these institutions. (27) Since 1917 the county judge has had authority to examine and commit persons to the State institution for the feeble-minded. (28) The county court has the right to investigate all private institutions for care of the insane. (29)

Inquests have been conducted, throughout the history of Oregon, by an officer elected for that particular duty, the county coroner. (30) Whenever the coroner is unable to function, a justice of the peace acts in his stead. (31)

Naturalization authority was given by the Federal statutes in 1802 to every court of record having common law jurisdiction, a seal, and a clerk. (32) The United States District Courts, the circuit courts, and the county courts held the power of naturalization concurrently. In 1906 the Federal statutes on naturalization were revised and authority was given to any court of record having a seal, a clerk, and unlimited civil jurisdiction. (33) This eliminated the county courts. The power of naturalization is now vested in the Federal District Court and in circuit courts.

Jurisdiction over cases arising under the Constitution or laws of the United States or involving citizens or lands of other States is handled by the United States District Court (34) which conducts sessions at Portland,

- 23. L. 1862, Deady, p. 869; 1940 O. C. L. A. sec. 13-501.
- 24. L. 1862, Deady, p. 751; 1940 O. C. L. A. sec. 22-109.
- 25. 1913 S. L. ch. 78, sec. 15; 1919 S. L. ch. 151, sec. 1; 1940 O. C. L. A. sec. 127-201.
- 26. 1913 S. L. ch. 78, sec. 16; 1919 S. L. ch. 151, sec. 2; 1940 O. C. L. A. sec. 127-202.
- 27. 1913 S. L. ch. 342, sec. 2; 1940 O. C. L. A. sec. 127-205.
- 28. 1917 S. L. ch. 354, sec. 1; 1920 S. L. ch. 27, sec. 1; 1921 S. L. ch. 328, sec. 2; 1940 O. C. L. A. sec. 127-303.
- 29. 1911 S. L. ch. 65, sec. 4; 1940 O. C. L. A. sec. 126-525.
- 30. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294; 1925 S. L. ch. 138; 1935 S. L. ch. 105; 1940 O. C. L. A. sec. 93-915.
- 31. L. 1864, Deady, sec. 469; 1940 O. C. L. A. sec. 26-2517.
- 32. 4 U. S. Stat. 69.
- 33. 34 U. S. Stat. 596.
- 34. U. S. Const. art. III, sec. 2; 36 U. S. Stat. 1087.

Pendleton, and Medford. (35) Appeals from this court are taken to the United States Circuit Court of Appeals at its annual term in Portland. (36)

The path of appeal has remained constant in Oregon. In both civil and criminal jurisdiction the path is from justice of the peace or county court to circuit court (37) to Oregon Supreme Court (38) and from United States District Court to United States Circuit Court of Appeals (39) to Supreme Court of the United States. (40) The Oregon Supreme Court is primarily a court of appeal with original jurisdiction defined by the Constitution of Oregon. (41) Certain limitations are placed on cases which may be appealed. From the justice courts cases involving less than \$10 (42) in 1899 and less than \$30 since 1925 cannot be appealed. (43) Criminal cases can be appealed from justice courts to the circuit courts by the defendant only, and only in those cases in which he pleaded "not guilty" (44) and is fined \$20 or more, or sentenced to 10 days or more imprisonment. (45) Appeals can be taken from the circuit court to the Supreme Court in cases involving not less than \$250. (46)

Law Enforcement. Prior to any movement to establish formal government in the Oregon Country, the function of law enforcement has been performed by the factors and resident officials of the *Hudson's Bay Company* (47) and by constables whom the emigrants, en route to the Oregon Country, elected from their number. At the early meetings prior to the formation of a provisional government, constables were named and delegated authority to preserve the peace. (48)

Laws of the Provisional Government provided for the offices of sheriff, (49) constable, (50) coroner, (51) and public prosecutor, (52)

- 35. 36 U. S. Stat. 1122; Blue Book, p. 115.
- 36. 36 U. S. Stat. 1133; Blue Book, p. 116.
- 37. Const. original art. VII, sec. 9.
- 38. Ibid., sec. 6.
- 39. 36 U. S. Stat. 1133.
- 40. U. S. Const. art. III, sec. 2.
- 41. Const. art. VII, sec. 2 and original art. VII, sec. 6.
- 42. L. 1899, p. 116, sec. 39.
- 43. 1925 S. L. ch. 97; 1940 O. C. L. A. sec. 28-401.
- 44. L. 1864, Deady, sec. 106; 1940 O. C. L. A. sec. 28-701.
- 45. L. 1864, Deady, sec. 108; 1940 O. C. L. A. sec. 28-702.
- 46. L. 1862, Deady, sec. 525; 1907 S. L. ch. 162, sec. 6; 1915 S. L. ch. 88; 1923 S. L. ch. 153; 1940 O. C. L. A. sec. 10-801.
- 47. An Act Regulating the Fur Trade, etc., Statutes of the United Kingdom, etc., VIII, (1819-1822), 422 ff.
- 48. Ar. p. 6.
- 49. Ibid., p. 14.
- 50. Ibid., p. 5.
- 51. L. 1843-49, p. 23, sec. 2.
- 52. Ibid., p. 17, sec. 2.

thus establishing the foundations for the present law enforcement agencies in the counties. With the exception of the constable, each office was made mandatory by the Oregon Constitution. (53)

In 1844 law enforcement was conducted by the territorial law enforcement officers. (54) Shortly thereafter, on August 9, 1845, the Provisional Legislature created the office of sheriff as a district office. (55) Later in the same year, the name "county" was officially adopted as a designation of the subdivision of the government of the Oregon Country replacing the term "district." (56)

Thus the elementary law enforcement apparatus developed with the development of the first county administrative machinery in the Oregon Territory. The function of public prosecutor was performed by a territorial officer until 1850, when a prosecuting attorney was provided for each judicial district. (57) It was not until 1913 that the district attorney was made a county officer elected by the voters of each county. (58) The office of coroner, as a county office, was created by the Provisional Legislature in 1847. (59)

A sheriff and a coroner were among the first officers elected in Benton County in 1848 (60) and constables were elected as soon as the county court had established districts for justices of the peace and constables in 1854. (61)

Law enforcement embraces two distinct phases of activity, criminal and civil. The sheriff, as conservator of the peace and ministerial officer of the courts, makes arrests of persons who have committed or are charged with intent to commit a crime. The authority to make arrests is also vested in the constable and persons regarded by law to have the power of constables. (62) Arrests are made either by service of warrant issued by a court (63) or without such warrant. (64)

The district attorney institutes indictment proceedings against persons

- 53. Const. original art. VI, sec. 6 and art. VII, sec. 17.
- 54. Ar. p. 43.
- 55. L. 1845, p. 23, sec. 1.
- 56. L. 1843-49, p. 35, sec. 1.
- 57. L. 1850, p. 218, secs. 1-3.
- 58. L. 1864, Deady, p. 821, sec. 1; L. 1899, p. 184, sec. 1; 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44; 1940 O. C. L. A. sec. 93-901.
- 59. L. 1843-49, p. 23, sec. 2.
- 60. Avery to Prim.
- 61. Probate Court, vol. A, p. 176, in County Court Journal, see entry 1.
- 62. L. 1864, Deady, sec. 352; 1940 O. C. L. A. sec. 26-1513.
- 63. L. 1864, Deady, sec. 361; 1940 O. C. L. A. sec. 26-1523.
- 64. L. 1864, Deady, secs. 370, 372, 375; 1940 O. C. L. A. secs. 26-1532, 26-1534, 26-1537.

charged with the commission of criminal offenses. (65) Should the grand jury indict the defendant, the district attorney conducts the prosecution. (66) The district attorney, as an officer of both the State and county, is charged with prosecution in behalf of both county and State bodies, prosecuting, when necessary, county officials for violations of State laws.

The function of crime detection and criminal apprehension has developed from a relatively simple and local function to an activity involving the correlated efforts of county and State. Cooperation between the counties in the matter of criminal identification existed prior to 1933 in the form of a central criminal identification bureau located in the sheriff's office of Multnomah County. (67) However, in 1931, Oregon adopted a State police system (68) and in 1933 the Salem headquarters of that body was designated a central clearing house for criminal identification records and data. (69)

The coroner, as a law enforcement officer of the county, conducts preliminary investigations of deaths by violence or under suspicious circumstances. (70) He presides over inquests in cases in which the district attorney so orders. (71)

As the ministerial officer of the court, the sheriff executes judgments in criminal cases. During the territorial period, he also executed the death sentence, (72) now a function of the warden of the State Penitentiary. (73) The sheriff assumes custody of the prisoner under jail or penitentiary sentence, delivering him to the institution. (74)

As a final phase of the process of criminal law enforcement, the sheriff is responsible for the care of county jail prisoners. (75)

The enforcement of civil law involves the services of all the county law enforcement agencies. As the ministerial officer of the county and

- 65. L. 1862, Deady, sec. 943; 1940 O. C. L. A. sec. 93-904.
- 66. Const. original art. VII, sec. 17; L. 1864, Deady, sec. 942; 1940 O. C. L. A. sec. 93-903.
- 67. 1917 S. L. ch. 286, sec. 3; 1930 O. C. Ann. sec. 27-2403.
- 68. 1931 S. L. ch. 139, sec. 1; 1940 O. C. L. A. sec. 91-701.
- 69. 1933 S. L. ch. 52, sec. 2; 1940 O. C. L. A. sec. 86-753.
- 70. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294; 1925 S. L. ch. 138; 1935 S. L. ch. 105; 1940 O. C. L. A. sec. 93-965.
- 71. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294; 1925 S. L. ch. 138; 1935 S. L. ch. 105; 1940 O. C. L. A. sec. 93-965.
- 72. L. 1850, p. 98, sec. 37.
- 73. L. 1864, Deady, sec. 189; L. 1874, p. 115; L. 1903, p. 66; L. 1903 (Sp. S.), p. 19, sec. 2; 1937 S. L. ch. 274; 1940 O. C. L. A. sec. 26-1249.
- 74. L. 1864, Deady, sec. 194; 1940 O. C. L. A. sec. 26-1237.
- 75. L. 1862, Deady, pp. 236, 237; 1940 O. C. L. A. sec. 86-717.

circuit courts, the sheriff serves civil processes (76) and executes civil judgments. (77) The constable performs the same duties in relationship with the justice courts. (78) Should the sheriff be a party to the court action, the coroner serves the necessary processes. (79) The district attorney functions as legal counsel to all other county officers, serving as prosecuting attorney in cases brought for the county, and as defending attorney in the county's behalf. (80)

Finance. The financial functions of the county involve the following processes: Preparation of the budget, collection of revenue, expenditure, and bond issuance.

During the early period of the Provisional Government, district treasurers performed the fiscal duties (81) which were later transferred to elected county treasurers under the Territory of Oregon. (82) In 1845, under the Provisional Government, it was provided that a sheriff hold office in each district, (83) and that this official be designated ex officio tax collector for his district. (84)

The authority over the fiscal affairs of the county has always been vested in the county court or board of county commissioners. (85) Prior to 1921, the county court alone, in its administrative capacity, prepared the budget for the county. In that year the law provided for a county budget committee composed of the three members of the county court and three lay members appointed by the county court. (86) The appointive members of the committee receive no compensation. (87)

The county court, at its term in July, estimates the amount of money to be raised in its county for county purposes, the budget committee preparing this estimate in part from information submitted by various county

- 76. L. 1862, Deady, sec. 53; 1929 S. L. ch. 22, sec. 1; 1940 O. C. L. A. sec. 1-604.
- 77. L. 1862, Deady, sec. 280; 1909 S. L. ch. 181; 1935 S. L. ch. 371, sec. 2; 1940 O. C. L. A. sec. 6-1501.
- 78. L. 1899, pp. 110, 113, 115, secs. 3, 22, 34; 1940 O. C. L. A. secs. 28-303, 28-322, 28-334.
- 79. L. 1862, Deady, p. 243; 1940 O. C. L. A. sec. 93-971.
- 80. L. 1899, p. 185; 1940 O. C. L. A. sec. 93-907.
- 81. L. 1843-49, p. 29, sec. 1.
- 82. Ibid., p. 200, sec. 1.
- 83. Ar. p. 110.
- 84. L. 1843-49, pp. 25, 26, sec. 1.
- 85. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
- 86. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
- 87. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.

officers. (88) The estimates of county expenses for the following fiscal year, together with itemized listings of expenditures for the 3 previous years and the original estimate sheets of each county office, are filed with the county court, which then functions as the county levying board. (89)

The budget in its final form includes the taxes to be levied for school purposes. Estimates of expenses for school purposes are prepared separately each year by the district school boards in Benton County. (90)

No actual tax levy is made until the estimate of proposed expenditures drawn up by the budget committee has been made public and an opportunity afforded for a full discussion of the estimate. (91) The estimates of the budget committee are required to show fully and clearly each particular item of proposed expenditure. (92)

The major revenue of the county is derived from taxes levied on real and personal property as provided by the Constitution. (93) There is no poll tax in Oregon. (94) The function of levying taxes was vested in the county court at an early date. The officers of the road districts in the early Oregon counties presented estimates to the three judges who then comprised the county court. (95)

Unless specifically authorized by vote of the county electors, county tax levies are restricted to not more than the amount levied for any 1 of the 3 years immediately preceding the year in which the tax is to be levied, plus a 6 percent increase, except for payment of bonded indebtedness and interest thereon. (96)

The function of preparing the assessment rolls, with the details attendant upon this process, has been in the province of the assessor since the creation of the county. Early laws of the Provisional Government provided for an assessor, (97) whose relationship to the financial structure

- 88. 1907 S. L. ch. 267, sec. 1; 1913 S. L. ch. 184, sec. 9; 1921 S. L. ch. 118, sec. 3; 1937 S. L. ch. 478; 1940 O. C. L. A. secs. 110-701, 110-1203.
- 89. 1921 S. L. ch. 118, secs. 4, 9; 1940 O. C. L. A. secs. 110-1204, 110-1209.
- 90. 1919 S. L. ch. 180, sec. 2; 1939 S. L. ch. 319, sec. 1; 1940 O. C. L. A. sec. 111-1243.
- 91. 1921 S. L. ch. 118, sec. 3; 1940 O. C. L. A. sec. 110-1203.
- 92. 1921 S. L. ch. 118, sec. 4; 1940 O. C. L. A. sec. 110-1204.
- 93. Const. art. IX, sec. 1, as amended 1917.
- 94. Ibid., sec. 1a, as amended 1912.
- 95. L. 1843-49, pp. 17-22.
- 96. Const. art. II, as amended 1932.
- 97. L. 1843-49, p. 39; L. 1854-55, Deady, p. 628, sec. 1; L. 1865, p. 26, sec. 1; L. 1874, p. 117, sec. 1; L. 1880, p. 51, sec. 1; L. 1893, p. 6, sec. 1; L. 1901, p. 242; 1907 S. L. ch. 268, sec. 18; 1913 S. L. ch. 184, sec. 2; 1925 S. L. ch. 113, sec. 1; 1933 S. L. ch. 142, sec. 1; 1940 O. C. L. A. sec. 110-335.

of the county has remained unchanged. He prepares the assessment roll, which he submits to the county clerk for delivery to the sheriff, who acts as ex officio tax collector. (98)

Certain classes of property are exempt from taxation in Oregon: Property owned by the Federal and State Governments; public or corporate property of counties, cities, or municipal corporations; real property owned by certain types of educational or benevolent institutions incorporated within the State; property of religious institutions such as houses of public worship and their furnishings; burial grounds; real and personal property of public libraries; property of Indians on reservations except that obtained by purchase or inheritance; the personal property of the infirm, aged, or impoverished; wearing apparel and similar personal effects actually in use; notes secured by recorded mortgages on real property, and a \$1,000 exemption to a certain class of war veterans and widows. (99)

The review or equalization of taxes has been an authorized process since the period of the Provisional Government. Under the Provisional Government the three judges who constituted the board of commissioners were authorized to sit as a board of equalization, to hear complaints, and to adjust grievances. (1) The present structure of the board of equalization grew out of legislation of 1854 providing for membership composed of the assessor and auditor. (2) In 1870, the board of equalization consisting of the judge, clerk, and assessor was established. (3) In 1907 the law provided that the county board of equalization be composed of the county judge serving as chairman, the assessor, and the county clerk as secretary. (4)

The board receives the assessment rolls from the assessor, and upon due notice reviews the rolls for errors and omissions. (5) The corrected rolls are then returned to the assessor. (6) An additional check is provided in the right of appeal from the decision of the board to the State

98. L. 1843-49, pp. 83, 93; 1907 S. L. ch. 267, sec. 14; 1913 S. L. ch. 184, sec. 15; 1915 S. L. ch. 276, sec. 1; 1925 S. L. ch. 206, sec. 2; 1933 S. L. ch. 446, sec. 12; 1935 S. L. ch. 305, sec. 1; 1940 O. C. L. A. sec. 110-804.
99. L. 1854, Deady, p. 894, sec. 4; L. 1903, p. 216; 1907 S. L. ch. 268, sec. 4; 1913 S. L. ch. 4; 1919 S. L. ch. 104; 1925 S. L. ch. 270, sec. 1; 1931 S. L. ch. 358, sec. 1; 1940 O. C. L. A. sec. 110-201.
1. L. 1843-49, pp. 54, 55.
2. L. 1853-54, p. 385, sec. 5.
3. L. 1870, p. 52, sec. 1; 1913 S. L. ch. 184, sec. 6.
4. 1907 S. L. ch. 266, sec. 1; 1913 S. L. ch. 184, sec. 6; 1933 S. L. ch. 446, sec. 2; 1940 O. C. L. A. sec. 110-402.
5. 1907 S. L. ch. 266, sec. 3; 1940 O. C. L. A. sec. 110-404.
6. 1907 S. L. ch. 266, sec. 7; 1913 S. L. ch. 184, sec. 7; 1940 O. C. L. A. sec. 110-408.

Tax Commission. (7) Further appeals may be made to the circuit court (8) and final appeal to the Supreme Court. (9)

The county treasurer receives taxes collected by the sheriff, who, each month or oftener, provides both the treasurer and the county clerk with a copy of his statement of such collections. (10) The treasurer keeps segregated all moneys received from the tax collector and, on demand, pays over the correct apportionments to the several school districts and other subcounty taxing agencies included in the budget. (11) The county treasurer also remits to the State Treasurer the amount levied for State purposes. (12) The State is regarded as a preferred creditor. (13)

Taxes were payable in 2 installments until 1933, (14) when the law provided for payment in quarterly installments, and for payment of delinquent taxes in 10 equal semiannual installments. (15) Later it was stipulated that these payments equal one-fourth of the amount of taxes of the earliest year of delinquency. When 2 equal installments of delinquent taxes are not paid and 3 years have elapsed from the date of earliest delinquency, the tax collector issues to the county a certificate of delinquency. (16)

Except as otherwise provided by law, real property within the State of Oregon is subject to foreclosure for delinquent taxes after 3 years of delinquency. The sheriff institutes foreclosure proceedings 6 months after

7. 1929 S. L. ch. 465, sec. 6; 1933 S. L. ch. 7, sec. 1; 1939 S. L. ch. 490, sec. 2; 1940 O. C. L. A. sec. 110-609.
8. 1909 S. L. ch. 218, sec. 21; 1913 S. L. ch. 193, sec. 21; 1929 S. L. ch. 465, sec. 7; 1939 S. L. ch. 490, sec. 3; 1940 O. C. L. A. secs. 110-524, 110-610.
9. 1929 S. L. ch. 465, sec. 7; 1939 S. L. ch. 490, sec. 3; 1940 O. C. L. A. sec. 110-610.
10. 1907 S. L. ch. 267, sec. 19; 1913 S. L. ch. 184, sec. 17; 1919 S. L. ch. 34, sec. 1; 1935 S. L. ch. 305, sec. 5; 1939 S. L. ch. 492, sec. 1; 1940 O. C. L. A. sec. 110-816.
11. 1907 S. L. ch. 267, sec. 19; 1913 S. L. ch. 184, sec. 17; 1919 S. L. ch. 34, sec. 1; 1935 S. L. ch. 305, sec. 5; 1939 S. L. ch. 492, sec. 1; 1940 O. C. L. A. sec. 110-816.
12. 1907 S. L. ch. 267, sec. 35; 1925 S. L. ch. 48, sec. 4; 1933 S. L. ch. 446, sec. 15; 1940 O. C. L. A. sec. 110-936.
13. Northrup v. Hoyt, 31 Or. 524, 49 Pac. 754.
14. 1907 S. L. ch. 267, sec. 26; 1913 S. L. ch. 184, sec. 20; 1915 S. L. ch. 156, sec. 1; 1919 S. L. ch. 165; 1923 S. L. ch. 261; 1925 S. L. ch. 48; 1927 S. L. ch. 327; 1929 S. L. ch. 132, sec. 1; 1930 O. C. Ann. sec. 69-720; 1931 S. L. ch. 224, sec. 1.
15. 1933 S. L. chs. 326, 462.
16. 1933 S. L. ch. 462; 1935 Sp. S. L. ch. 5, sec. 4; 1937 S. L. ch. 96, sec. 3; 1940 O. C. L. A. sec. 110-847.

delinquency. Notice is given by publication, permitting interested persons to file a defense, after which the court orders property to be sold directly to the county. Any property so foreclosed and not redeemed within 1 year is deeded to the county by the tax collector. The delinquent taxpayer has recourse of appeal to the Supreme Court. (17) Personal property, upon which taxes have become delinquent, is also foreclosed, title passing to the county. (18)

School finances are a part of the county's general fund, but are earmarked and used exclusively for school purposes. Under the act of Congress in 1859 admitting Oregon to statehood, the State was granted sections of each township for use of schools. (19) An irreducible school fund, the interest on which is applied exclusively to the support and maintenance of common schools in each school district of the State, is set aside and derives its income from the following sources: The proceeds from the sale or rental of before-mentioned school lands; all clear proceeds of all property which may accrue to the State by escheat or forfeiture; the proceeds of all gifts and bequests made by any party to the State for common school purposes; the proceeds of all property granted to the State when the purpose of such grant is not stated; all proceeds from tidelands and overflow lands. (20) Additional school funds may be derived from special tax levies and issuance of bonds.

Annually or oftener, the State Land Board apportions the interest on hand accruing from school funds among the several counties in proportion to the number of children, between the ages of 4 and 20 years, resident in the county. The county treasurer receives the money and reports the amount to the superintendent of the county schools for distribution to the various school districts of the county. (21)

Other sources of county revenue include various fees from county licenses, such as marriage licenses, (22) dance hall licenses, (23) grocery

17. 1939 S. L. ch. 485, sec. 19; 1940 O. C. L. A. sec. 110-919.
18. 1907 S. L. ch. 267, sec. 27; 1913 S. L. ch. 184, sec. 22; 1915 S. L. ch. 156, sec. 2; 1917 S. L. ch. 406, sec. 1; 1925 S. L. ch. 48; 1927 S. L. ch. 253, sec. 1; 1933 S. L. ch. 446, sec. 13; 1935 S. L. ch. 305, sec. 8; 1939 S. L. ch. 490, sec. 5; 1940 O. C. L. A. sec. 110-828.
19. Const. art. VIII, sec. 2.
20. 1907 S. L. ch. 117, sec. 36; 1940 O. C. L. A. sec. 111-1615.
21. Const. art. VIII, sec. 4; 1907 S. L. ch. 117, sec. 48; 1935 S. L. ch. 36, sec. 1; 1940 O. C. L. A. sec. 111-1625.
22. L. 1862, Deady, p. 785, sec. 14; L. 1903, p. 100, sec. 3; 1940 O. C. L. A. sec. 63-114.
23. 1920 S. L. ch. 33, sec. 3; 1940 O. C. L. A. sec. 86-813.

store licenses, (24) and dog licenses. (25) The county clerk, issuing the license, collects the fee and makes a return to the county treasurer. (26) Fees, collected by certain county officers for services performed, are remitted to the treasurer, the amounts first having been entered in fee books kept by the officers. (27)

Certain county activity which is in the nature of participation in State and Federal responsibilities involves partial financing through Federal and State appropriations. The State Highway Department provides an annual appropriation through cooperative construction and maintenance of State roads and highways, (28) and the United States Department of Agriculture cooperates with the county in the maintenance of National Forest roads, the county sharing in Federal appropriations for that purpose. (29) Old age assistance funds are also received through Federal appropriations. (30)

Disbursements of county funds are made by the county treasurer on warrants issued and attested by the county clerk. (31) The county court publishes a schedule of disbursements, showing the name of each claimant, itemizing the amounts and the article or service for which payment is being made, and indicating whether the claim has been approved or rejected. The treasurer redeems such warrants according to priority, depositing the redeemed orders with the county clerk. (32) Any approved warrant, unpaid for lack of funds, draws interest accruing from the date of presentation. (33)

The county treasurer is required to maintain county financial records in a prescribed manner. Receipts and expenditures from various separate funds are exhibited in separate accounts. (34) He makes a monthly accounting

24. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. sec. 93-302.
25. 1919 S. L. ch. 186, sec. 8; 1925 S. L. ch. 254; 1929 S. L. ch. 432, sec. 1; 1931 S. L. ch. 266, sec. 1; 1933 S. L. ch. 309, sec. 1; 1939 S. L. ch. 188, sec. 1; 1940 O. C. L. A. sec. 32-2414.
26. 1913 S. L. ch. 273, sec. 5; 1940 O. C. L. A. sec. 97-606.
27. L. 1901, p. 396, sec. 7; 1940 O. C. L. A. sec. 87-914.
28. 1917 S. L. ch. 237, sec. 13; 1940 O. C. L. A. sec. 100-128.
29. 1917 S. L. ch. 237, sec. 10; 1930 O. C. Ann. sec. 44-134; 1939 S. L. ch. 529, sec. 29.
30. 1933 S. L. ch. 15; 1935 S. L. ch. 407; 1935 S. L. ch. 407; 1935 O. C. Ann. Supp. sec. 68-2601; 1939 S. L. ch. 241; 48 U. S. Stat. 22, 55; 49 U. S. Stat. 620.
31. L. 1854, Deady, p. 929, sec. 6; L. 1893, p. 59; 1907 S. L. ch. 151; 1935 S. L. ch. 271, sec. 1; 1940 O. C. L. A. sec. 87-224.
32. L. 1854, Deady, p. 929, secs. 8, 9; 1915 S. L. ch. 96; 1940 O. C. L. A. secs. 87-225, 87-227.
33. L. 1854, Deady, p. 929, sec. 6; L. 1893, p. 59; 1907 S. L. ch. 151; 1935 S. L. ch. 271, sec. 1; 1940 O. C. L. A. sec. 87-224.
34. L. 1854, Deady, p. 929, sec. 4; 1940 O. C. L. A. sec. 87-222.

to the county court, showing the amount of revenue on hand, the bank in which funds are deposited, the security furnished the county by the banks guaranteeing county deposits, interest rates received, outstanding warrant indebtedness, and the date up to which the county's indebtedness has been redeemed. (35)

The records of each county official responsible for the handling of county funds are given an official audit at the end of each calendar year. (36) Audits may be made oftener if deemed advisable by the county court. Private citizens may call for an audit of the books of the county providing a deposit is made with the State Insurance Commissioner of a sum of money sufficient to cover the costs. (37)

Various phases of county activity may be financed by bond issues. The Oregon Constitution provides restrictions governing the bonded indebtedness of any county. (38) The aggregate bonded indebtedness may not exceed the sum of \$5,000 except to suppress insurrection or repel invasion or to build or maintain permanent roads within the county. Debts for permanent roads may be incurred only on approval of a majority of those voting on the question, and may not, either singly or in the aggregate with previous debts and liabilities incurred for that purpose, exceed 6 percent of the assessed valuation of all property in the county. Bonds are issued upon the vote of a majority of the voters at a special election called by the county court. No bonds may be issued for a period of maturity exceeding 20 years. Upon being voted, the bonds are sold by the county court, which is empowered to levy a special annual tax for payment of interest and for retiring the principal upon maturity. (39) The county court causes public notice to be made of bond redemptions, redeeming them in order of priority.

School districts, upon authorization by a majority of the legal voters of the district, may provide bond issues for financing the purchase of school lands and for the building of schoolhouses. (40) People's utility districts, upon a majority vote of the qualified voters of the district, may issue bonds, the bonded indebtedness of the district being restricted by statute to 10 percent of the assessed valuation of the taxable property in the district. (41)

- 35. 1921 S. L. ch. 225; 1940 O. C. L. A. sec. 87-219.
- 36. L. 1862, Deady, p. 332; 1915 S. L. ch. 266, sec. 1; 1940 O. C. L. A. sec. 88-101.
- 37. 1917 S. L. ch. 161, sec. 1; 1940 O. C. L. A. sec. 88-102.
- 38. Const. art. XI, sec. 10, as amended 1926.
- 39. Const. art. XI, sec. 10, as amended 1919 and 1926.
- 40. 1913 S. L. ch. 192, sec. 1; 1929 S. L. ch. 97; 1931 S. L. ch. 281, sec. 1; 1939 S. L. ch. 192, sec. 1; 1940 O. C. L. A. sec. 111-1016.
- 41. Const. art. XI, sec. 12, as amended 1930; 1931 S. L. p. 6 and ch. 279, sec. 43; 1933 S. L. ch. 272, sec. 12; 1939 S. L. ch. 387, sec. 7; 1940 O. C. L. A. sec. 114-255.

Elections. The Organic Laws adopted in 1843 provided that any free white male inhabitant of 21 years of age or over, who was a resident of the territory at the time of its organization, should be entitled to vote for any officer, civil or military, and be eligible to hold office in the territory. It was further provided that those possessing such qualifications and who emigrated to the territory after its organization should be entitled to the rights of citizenship after 6 months' residence. (42)

The Oregon Constitution, adopted in 1859, provided that any white male citizen of the United States 21 years of age or older, or any white male of foreign birth 21 years of age or older, who had resided in the United States for 1 year and in the State for 6 months immediately preceding the election, and who had declared his intention to become a citizen of the United States 1 year preceding the election, should be entitled to vote at all ensuing elections. (43) An exception was made at that time to Negroes, Chinese, and Mulattoes, who were allowed no right of suffrage. (44) The restrictions applying to Negroes, Chinese, and Mulattoes were finally repealed on June 28, 1927. (45)

An initiative petition filed in December 1910 and adopted by vote of the people in November 1912 extended the franchise to women. (46) An amendment adopted in 1914 specified that all voters be citizens of the United States. (47) A further amendment adopted in 1924 required that voters submit to a literacy test. (48)

Numerous laws regulating the registration of voters have been enacted from time to time. Originally, the voter appeared before the election board, gave his name, and had his ballot and name recorded openly, (49) voting *viva voce*. (50)

On February 24, 1885, in an effort to prevent the corruption of elections, the Legislature adopted a law providing for registration of voters by the election judges prior to elections. (51) This law was repealed at the November 1885 special session of the Legislature and provision was made for registration of the electors previous to election day by a board of registration consisting of the election judges of the

42. Ar. p. 29, sec. 2.

43. Const. original art. II, sec. 2; Carey, A History of the Oregon Constitution, p. 404.

44. Const. original art. II, sec. 2; Carey, A History of the Oregon Constitution, p. 405.

45. Const. art. II, sec. 2; 1929 S. L. p. 5.

46. Const. art. II, sec. 2; 1913 S. L. p. 7.

47. Const. art. II, sec. 2; 1915 S. L. p. 11.

48. Const. art. II, sec. 2, as amended 1924.

49. L. 1864, Deady, p. 699, sec. 9.

50. Const. original art. II, sec. 15; Carey, A History of the Oregon Constitution, p. 406.

51. L. 1885, pp. 82-100.

precinct. Provision was likewise made for a questionnaire pertaining to qualifications of the applicant for registration. (52)

However, in an opinion of March 1886 in a suit for an injunction to restrain the enforcement of the registration law, (53) the Oregon Supreme Court held it to be unconstitutional to provide for registration of voters prior to election day or to abridge in any way the rights of citizens presenting themselves at the polls to vote. Chief Justice John B. Waldo stated that the right to vote under the Constitution was a vested right and that the Legislature was without power to require the citizen to perform any act affecting his right to vote not specifically required by the Constitution. (54) In a dissenting opinion, Associate Justice W. W. Thayer pointed out that such laws should be upheld as prevention against fraud and as preservation of the inviolability of the ballot box. (55)

Oregon adopted the Australian Ballot Law in 1891 when all provisions of the foregoing laws of 1885 relating to the registration of voters were repealed by the Legislature. (56) In 1899, however, the Legislature adopted an act requiring the registration of voters but permitting one who had not registered, to vote upon furnishing certain evidence to the election board at the polls on election day. Such person was required to secure the affidavits of six freeholders of the county as to his right to vote. (57) The purpose of this provision was to eliminate the objections to the registration laws of 1885 (58) as ruled upon by the Oregon Supreme Court. (59) This legislation of 1899 was upheld by the Oregon Supreme Court. (60)

Previous to 1927 an elector, by making an affidavit as to his qualifications upon a card provided for that purpose and by having his qualifications substantiated by the affidavit of each of two freeholders, could register upon election day by appearing before a judge of the elector's precinct. In counties of more than 100,000 population the affidavits of six freeholders were required to effect the elector's legal status as a voter. This data was sent in a separate package by the election board to the county clerk to be examined within 30 days thereafter by the clerk and, if satisfactory, to be entered in his records. (61)

At a special election held on June 28, 1927 there was adopted an amendment to the Constitution requiring the registration of voters prior to

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- 52. L. 1885 (Sp. S.), pp. 48-64.
  - 53. White v. Commissioners of Multnomah County, 13 Or. 317, 10 Pac. 484.
  - 54. Ibid.
  - 55. Ibid., 13 Or. 325-336, 10 Pac. 484.
  - 56. L. 1891, p. 32.
  - 57. L. 1899, p. 128.
  - 58. L. 1885, pp. 82-100; L. 1885 (Sp. S.), pp. 48-64.
  - 59. White v. Commissioners of Multnomah County, 13 Or. 317, 10 Pac. 484.
  - 60. Ladd v. Holmes, 40 Or. 167-191, 69 Pac. 714.
  - 61. 1915 S. L. ch. 225, sec. 5; 1923 S. L. ch. 126, sec. 2.

elections, this amendment having been proposed by the Legislature. (62) Anticipating the Constitutional amendment of 1927 requiring the registration of all voters prior to election day, (63) the Legislature in 1927 repealed the law permitting an elector to be qualified as a voter by means of the affidavits of freeholders. (64)

A Constitutional amendment in 1932 provided that the Legislature or the people through the initiative may restrict the suffrage on special taxes or on bond issues to taxpayers only. (65)

At present, to qualify as a voter, one must be 21 years of age or older, must be a citizen of the United States, must fulfill the requirements of the law as to residence, must be duly registered, and must be able to read and write the English language. (66)

To register as a voter a citizen of Oregon must appear at the office of the county clerk and furnish proof of eligibility to vote. (67) No charge is made for registration. (68)

It is the county clerk's duty to revise the registration list within 30 days after each biennial election. The clerk compares the registration lists with the poll books of general, special, and primary elections which have been held during the preceding 2 years. He removes the cards bearing the names of electors who are shown not to have voted at least once during that time, and notifies the elector by mail. He retains these cards for 1 year, at the expiration of which time he may destroy them. (69)

Oregon elects its public officials by popular vote at a general election held biennially in even-numbered years. The date for this election is prescribed by law as the 1st Tuesday after the 1st Monday in November. (70) Beginning with the year 1920, the Legislature provided that a primary nominating election shall be held on the 3d Friday of May of even-numbered

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- 62. Const. art. II, sec. 2; 1927 S. L. ch. 204, secs. 1-4.
  - 63. Const. art. II, sec. 2.
  - 64. 1915 S. L. ch. 225, sec. 5; 1923 S. L. ch. 126, sec. 2; 1927 S. L. ch. 204, sec. 1.
  - 65. Const. art. II, sec. 2, as amended 1932; 1933 S. L. p. 5.
  - 66. Const. art. II, sec. 2, as amended 1932; 1933 S. L. p. 5.
  - 67. 1915 S. L. ch. 225, sec. 3; 1923 S. L. ch. 126, sec. 1; 1931 S. L. ch. 342, sec. 1; 1940 O. C. L. A. sec. 81-103.
  - 68. 1915 S. L. ch. 225, sec. 3; 1923 S. L. ch. 126, sec. 1; 1931 S. L. ch. 342, sec. 1; 1940 O. C. L. A. sec. 81-103.
  - 69. 1915 S. L. ch. 225, sec. 12; 1919 S. L. ch. 416, sec. 1; 1933 S. L. ch. 149, sec. 1; 1940 O. C. L. A. sec. 81-110.
  - 70. Const. art. II, sec. 14, as amended 1908; Const. art. II, sec. 14a, as amended 1917; L. 1891, p. 9, sec. 1; 1913 S. L. ch. 288, sec. 1; 1919 S. L. ch. 283, sec. 1; 1940 O. C. L. A. sec. 81-1401.

years for the purpose of nominating candidates to enter the general election in November. (71) The law also specifies which political parties may enter the primary nominating elections. (72)

In earlier years the primary nominating elections were held 45 days prior to the general election except for municipal offices in cities having more than 2,000 population, where the primary nominating election was held 30 days prior to the general election. (73) In 1919 provisions were made for holding the primary nominating elections for municipal offices in cities with more than 2,000 population on the same date as the primary nominating election for State, county, and other offices, providing it did not conflict with the provisions in the city charter or ordinances. Thus, the 3d Friday in May became the date for primary nominating elections for State, county, district, precinct, and municipal offices. (74) Attempts were made in 1935 (75) and again in 1939 (76) to change the date of the primary nominating elections, but a referendum by the people prevented each enactment from becoming effective. (77)

Laws, regulations, and customs pertaining to the conduct of general elections are followed at the primary nominating elections unless specifically provided otherwise in the primary election laws. (78)

Any registered voter, provided he or she meets the requirements of the Constitution, may enter the primary nominating election as a candidate for office for the political party of his or her registration. This is done by two methods. The first method is by petition signed by a required number of registered voters residing within the jurisdiction of the office which the candidate will hold if he or she is elected. (79) The alternative method is by filing a declaration of candidacy and the payment of a filing fee. (80) This applies to the major political parties as defined by law. (81) Minor political party candidates are named by petitions and by filing with

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- 71. 1913 S. L. ch. 208, sec. 1; 1919 S. L. ch. 283, sec. 12; 1940 O. C. L. A. sec. 81-306.
  - 72. 1905 S. L. ch. 1, sec. 11; 1913 S. L. ch. 108, p. 183; 1940 O. C. L.A. sec. 81-401.
  - 73. 1905 S. L. ch. 1, sec. 2.
  - 74. 1913 S. L. ch. 208, sec. 1; 1919 S. L. ch. 283, sec. 12; 1940 O. C. L. A. sec. 81-306.
  - 75. 1935 S. L. ch. 261, sec. 1.
  - 76. 1939 S. L. ch. 360.
  - 77. 1937 S. L. p. 5; Oregon Journal, November 8, 1940; Secretary of State, Biennial Report, 1941, p. 212.
  - 78. 1905 S. L. ch. 1, sec. 1; 1940 O. C. L. A. sec. 81-301.
  - 79. 1905 S. L. ch. 1, sec. 12; 1913 S. L. ch. 202, sec. 1; 1919 S. L. ch. 283, sec. 16; 1940 O. C. L. A. sec. 81-402.
  - 80. 1915 S. L. ch. 124, secs. 1, 2; 1933 S. L. ch. 77, sec. 3; 1940 O. C. L. A. secs. 81-501, 81-502.
  - 81. 1905 S. L. ch. 1, sec. 11; 1913 S. L. ch. 108, sec. 1; 1940 O. C. L. A. sec. 81-401.

the appropriate official of a certificate of nomination in the electoral district involved. They thus secure representation on the ballots for the general election. (82)

Candidates for the office of judge in the Supreme and circuit courts are selected at the direct primary nominating election under the nonpartisan judiciary act. (83) The same procedure is followed in filling the office of State Superintendent of Public Instruction. (84) The papers filed at the time of announcing candidacy must not make any reference to party affiliation. (85) The county clerk is required to prepare a separate ballot containing the names of those seeking office under the judiciary act and likewise a separate ballot for State Superintendent of Public Instruction at the primary nominating election and at the general election. (86)

Candidates for offices of the State at large, and for districts comprising more than one county, file their petitions with the Secretary of State; those for county, district within the county, and precinct offices file their petitions with the county clerk; and those for city offices file their petitions with the city clerk, recorder, or auditor, as the case may be. (87)

Certain prescribed information to be printed on the respective ballots with the name of the candidate is received by the county clerk from the Secretary of State and from the proper city official within the county not more than 45 days nor less than 40 days prior to the next primary nominating election (88) and not more than 40 days nor less than 35 days prior to the general election date. (89) In the primary nominating election the county clerk groups this information, together with that pertaining to county, district, and precinct offices; certifies it; and immediately posts a copy in his office where it remains until after election. He then causes colored sample ballots and white official ballots to be printed. (90) In the general

- 82. L. 1891, p. 18, sec. 31; L. 1901, p. 361, sec. 14; 1935 S. L. ch. 170, sec. 1; 1937 S. L. ch. 93, sec. 1; 1940 O. C. L. A. sec. 81-1001.
- 83. 1931 S. L. ch. 347, sec. 1; 1940 O. C. L. A. sec. 81-1201.
- 84. 1939 S. L. ch. 351, sec. 3; 1940 O. C. L. A. sec. 111-113.
- 85. 1931 S. L. ch. 347, sec. 3; 1933 S. L. ch. 152, sec. 1; 1940 O. C. L. A. sec. 81-1203.
- 86. 1931 S. L. ch. 347, sec. 5; 1933 S. L. ch. 152, sec. 3; 1939 S. L. ch. 305, sec. 1; 1940 O. C. L. A. sec. 81-1205.
- 87. 1905 S. L. ch. 1, sec. 12; 1913 S. L. ch. 202; 1919 S. L. ch. 283, sec. 16; 1940 O. C. L. A. sec. 81-402.
- 88. 1905 S. L. ch. 1, sec. 20; 1913 S. L. ch. 203, sec. 1; 1919 S. L. ch. 283, sec. 18; 1929 S. L. ch. 176, sec. 1; 1940 O. C. L. A. sec. 81-411.
- 89. L. 1891, p. 23, sec. 46; 1913 S. L. ch. 199, sec. 4; 1919 S. L. ch. 283, sec. 11; 1929 S. L. ch. 107, sec. 2; 1940 O. C. L. A. sec. 81-1308.
- 90. 1905 S. L. ch. 1, sec. 21; 1913 S. L. ch. 203, sec. 2; 1919 S. L. ch. 283, sec. 19; 1929 S. L. ch. 108, sec. 1; 1940 O. C. L. A. sec. 81-601.

election, after grouping the party nominees together, he causes the ballots to be printed. (91)

In the primary nominating elections the county clerk provides, for each political party, as many official white ballots as there are registered voters in each precinct and one-half as many sample colored ballots. He must also furnish sample ballots as soon as printed, within reasonable quantities, to all electors applying. (92) In the general election he provides as many official white ballots as there are registered voters in each precinct and the same number of sample colored ballots. (93)

In making up the ballots for the primary nominating election, (94) wherever two or more persons are candidates for the same office, the county clerk must arrange the names in sets so that when printed the names will be rotated and each candidate's name will appear at the top of the list on his fair share of the number of ballots.

The county court establishes election precincts in the county at the regular July term preceding each primary nominating election and designates these precincts by number or name. (95) Precinct election officials, consisting of two judges, one of whom is designated as chairman, and three clerks are appointed by the county court at the regular January term preceding a general election from a list of legal voters prepared by the county clerk. They serve for 2 years at all general, special, and primary elections. (96) The county court appoints an additional board of election officials, consisting of two judges and three clerks, known as a counting board, to serve in precincts in which more than 100 votes were cast at the preceding general election. (97) The same election precincts are used (98)

- 91. L. 1891, p. 23, sec. 47; 1940 O. C. L. A. sec. 1501.
- 92. 1905 S. L. ch. 1, sec. 24; 1917 S. L. ch. 426, sec. 3; 1929 S. L. ch. 111, sec. 1; 1931 S. L. ch. 82, sec. 1; 1940 O. C. L. A. sec. 81-606.
- 93. L. 1891, p. 24, sec. 50; L. 1901, p. 364, sec. 20; 1917 S. L. ch. 154, sec. 1; 1919 S. L. ch. 283, sec. 27; 1929 S. L. ch. 111, sec. 76; 1931 S. L. ch. 84, sec. 1; 1940 O. C. L. A. sec. 81-1506.
- 94. 1917 S. L. ch. 138, sec. 1; 1940 O. C. L. A. sec. 81-604.
- 95. L. 1891, p. 23, sec. 49; L. 1895, p. 68, sec. 1; 1919 S. L. ch. 283, sec. 26; 1925 S. L. ch. 69, p. 87; 1940 O. C. L. A. sec. 81-1503.
- 96. L. 1891, p. 9, sec. 2; L. 1901, p. 351, sec. 2; 1909 S. L. ch. 101, sec. 1; 1913 S. L. ch. 388, sec. 2; 1919 S. L. ch. 283, sec. 2; 1923 S. L. ch. 34, sec. 1; 1931 S. L. ch. 81, sec. 1; 1940 O. C. L. A. sec. 81-201.
- 97. L. 1891, p. 10, sec. 4; L. 1901, p. 352, sec. 4; 1913 S. L. ch. 288, sec. 4; 1915 S. L. ch. 326, sec. 2; 1921 S. L. ch. 181, sec. 1; 1931 S. L. ch. 99, sec. 1; 1940 O. C. L. A. sec. 81-203.
- 98. L. 1891, p. 9, sec. 2; L. 1901, p. 351, sec. 2; 1909 S. L. ch. 101; 1913 S. L. ch. 288, sec. 2; 1919 S. L. ch. 283, sec. 2; 1923 S. L. ch. 34, sec. 1; 1931 S. L. ch. 81, sec. 1; 1940 O. C. L. A. sec. 81-201.

and the same election judges and clerks are employed (99) for the general election as for the primary nominating election.

The county clerk, at least 30 days before each primary nominating (1) and general or special (2) election, sends to each election official in every precinct notices of election setting forth offices and measures to be voted upon. These notices must be posted in the election precincts by the judges and clerks of election. (3)

The sheriff, under the direction of the county court, secures in each precinct the possession of the polling places designated by the court (4) at least 1 day before the election and arranges for the seating of the election board and for the physical equipment required for voting. (5)

Provision is made that persons absent from the county or physically incapable of going to the polls on election day and persons residing 15 miles or more from the polling place may vote by absentee ballot. (6) Any time within 30 days prior to an election an elector may secure an absentee ballot by applying to the county clerk. Application is made on a printed form (7) and, in case of illness, must be accompanied by a physician's certificate. (8) Before sending the ballot to the absentee voter the county clerk identifies it by initialing it on the reverse side. (9) Marked ballots, verified before a notary public or other officer authorized to administer oaths, must be mailed to reach the county clerk at least 3 days prior to the election. (10) The county clerk leaves these ballots in their

99. L. 1891, p. 9, sec. 3; L. 1901, p. 351, sec. 3; 1913 S. L. ch. 288, sec. 3; 1915 S. L. ch. 326, sec. 1; 1923 S. L. ch. 207, sec. 1; 1940 O. C. L. A. sec. 81-202.
1. 1905 S. L. ch. 1, sec. 4; 1913 S. L. ch. 198, sec. 2; 1919 S. L. ch. 283, sec. 13; 1940 O. C. L. A. sec. 81-311.
2. L. 1891, p. 10, sec. 5; L. 1901, p. 352, sec. 5; 1913 S. L. ch. 288, sec. 5; 1919 S. L. ch. 283, sec. 3; 1940 O. C. L. A. sec. 81-1402.
3. 1905 S. L. ch. 1, sec. 4; 1913 S. L. ch. 198, sec. 2; 1919 S. L. ch. 283, sec. 13; 1940 O. C. L. A. sec. 81-311.
4. L. 1891, p. 26, sec. 56; 1935 S. L. ch. 40, sec. 1; 1940 O. C. L. A. sec. 81-1701.
5. L. 1891, p. 27, sec. 57; L. 1901, p. 364, sec. 21; 1915 S. L. ch. 326, sec. 10; 1921 S. L. ch. 181, sec. 6; 1940 O. C. L. A. sec. 81-1702.
6. 1919 S. L. ch. 361, sec. 1; 1923 S. L. ch. 53, sec. 1; 1925 S. L. ch. 125, sec. 1; 1929 S. L. ch. 177, sec. 1; 1939 S. L. ch. 159, sec. 1; 1940 O. C. L. A. sec. 81-2301.
7. 1919 S. L. ch. 361, sec. 3; 1923 S. L. ch. 53, sec. 1; 1939 S. L. ch. 156, sec. 1; 1940 O. C. L. A. sec. 81-2303.
8. 1919 S. L. ch. 361, sec. 1; 1923 S. L. ch. 53, sec. 1; 1925 S. L. ch. 125, sec. 1; 1929 S. L. ch. 177, sec. 1; 1939 S. L. ch. 159, sec. 1; 1940 O. C. L. A. sec. 81-2301.
9. 1919 S. L. ch. 361, sec. 6; 1940 O. C. L. A. sec. 81-2306.
10. 1919 S. L. ch. 361, sec. 7; 1923 S. L. ch. 53, sec. 1; 1939 S. L. ch. 157, sec. 1; 1940 O. C. L. A. sec. 81-2307.

unopened and sealed envelopes and places them in their proper ballot boxes. (11) This he is able to do since he keeps a list of these electors to whom ballots have been sent, (12) and the name of the voter is signed on the affidavit printed on the back of the envelope containing the ballot. (13)

The Secretary of State, at State expense, furnishes the respective county clerks with certain election supplies consisting of copies of election laws, poll books, tally sheets, register of nomination books, receipt forms, and needles and pencils. (14) The county clerk prepares poll books in duplicate for each precinct. These include typewritten lists of all voters in the precinct with names arranged alphabetically. (15) At primary nominating elections, the poll books contain a column headed with the name of each political party, to provide space for writing in the voter's party number as well as his general number when he receives his ballot. (16) The county clerk also provides for each precinct a ballot box with lock and key, and, where counting boards are employed, two boxes. (17) Complete election supplies, wrapped in separate packages and addressed to each precinct, are delivered to the sheriff by the county clerk not more than 5 days before the election. (18) Duplicate receipts covering the items delivered to each polling place are prepared by the county clerk. The sheriff signs both receipts, leaves one with the county clerk, delivers the packages to the polling place, secures the signature of the judge of election in the precinct, and returns the second receipt to the county clerk. (19)

11. 1919 S. L. ch. 361, sec. 8; 1923 S. L. ch. 53, sec. 1; 1940 O. C. L. A. sec. 81-308.
12. 1919 S. L. ch. 361, sec. 4; 1923 S. L. ch. 53, sec. 1; 1939 S. L. ch. 346, sec. 1; 1940 O. C. L. A. sec. 81-2304.
13. 1919 S. L. ch. 361, sec. 7; 1923 S. L. ch. 53, sec. 1; 1939 S. L. ch. 157, sec. 1; 1940 O. C. L. A. sec. 81-2307.
14. L. 1891, p. 30, sec. 68; 1913 S. L. ch. 329, sec. 1; 1940 O. C. L. A. sec. 81-1713. For primary nominating elections see 1905 S. L. ch. 1, sec. 27; 1940 O. C. L. A. sec. 81-613.
15. L. 1891, p. 14, sec. 22; 1915 S. L. chs. 209, 326, secs. 1, 5; 1919 S. L. ch. 283, sec. 6; 1940 O. C. L. A. sec. 81-1614.
16. 1905 S. L. ch. 1, sec. 5; 1911 S. L. ch. 263, sec. 1; 1940 O. C. L. A. sec. 81-304.
17. L. 1891, p. 25, sec. 53; 1909 S. L. ch. 184, sec. 1; 1913 S. L. ch. 222, sec. 1; 1921 S. L. ch. 181, sec. 3; 1929 S. L. ch. 109, sec. 1; 1940 O. C. L. A. sec. 81-1509. For primary nominating elections see 1905 S. L. ch. 1, sec. 25; 1940 O. C. L. A. sec. 81-607.
18. L. 1891, p. 26, sec. 54; 1921 S. L. ch. 181, sec. 4; 1940 O. C. L. A. sec. 81-1510. For primary nominating elections see 1905 S. L. ch. 1, sec. 25; 1940 O. C. L. A. sec. 81-607.
19. L. 1891, p. 26, sec. 55; 1940 O. C. L. A. sec. 81-1511. For primary nominating elections see 1905 S. L. ch. 1, sec. 1; 1940 O. C. L. A. sec. 81-301.

Polls in each precinct open at 8 a. m. and close at 8 p. m. (20) Each voter's name, when he has voted, is checked off the poll books and the ballot stubs strung on a needle and thread by the precinct election clerks and judges. (21) Absentee ballot envelopes are checked against the poll books by the election board and verified without unfolding. The stubs are detached and the ballots placed in the ballot box if approved. (22) In precincts where there are counting boards, the counting commences after 20 ballots have been cast, ballot boxes being exchanged. When the polls close, the counting continues until completed, the counting board being relieved at 8 a. m. on the following day by the first board. This procedure continues until the counting is completed. (23) During the voting and counting, election judges are invested with the jurisdiction and authority of justices of the peace so that order may be preserved at the polls. They may call upon the sheriff, deputy, or any policeman in any incorporated city or town to execute their orders, or they may deputize constables if necessary. (24)

When the counting of ballots is completed the results for each precinct are posted on the outside of the polls in a conspicuous place. (25) Election material, poll books, tally sheets, and ballot boxes containing the ballots, locked and sealed, are returned to the county clerk by the sheriff to whom they are delivered by the election officials of each precinct. (26) The county clerk must preserve the ballots and stubs until 90 days have elapsed after the time for any election contest has expired and then dispose of the ballots and stubs by burning. (27) Tally sheets, poll books, and other writings pertaining to the primary nominating election must be preserved for 2 years as public records. (28)

There is some difference in the method of making an abstract of votes

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20. L. 1891, p. 11, sec. 9; L. 1901, p. 355, sec. 8; 1913 S. L. ch. 288, sec. 6; 1940 O. C. L. A. sec. 81-1604. For primary nominating elections see 1905 S. L. ch. 1, sec. 5; 1911 S. L. ch. 263, sec. 1; 1940 O. C. L. A. sec. 81-304.
21. 1905 S. L. ch. 1, sec. 26; 1915 S. L. ch. 209, sec. 2; 1917 S. L. ch. 426, sec. 4; 1931 S. L. ch. 80, sec. 1; 1940 O. C. L. A. sec. 81-608.
22. 1905 S. L. ch. 1, sec. 7; 1915 S. L. ch. 326, sec. 8; 1917 S. L. ch. 426, sec. 1; 1919 S. L. ch. 283, sec. 15 and ch. 361, secs. 10, 11; 1940 O. C. L. A. secs. 81-307, 81-2310, 81-2311.
23. L. 1891, p. 10, sec. 4; L. 1901, p. 352, sec. 4; 1913 S. L. ch. 288, sec. 4; 1915 S. L. ch. 326, sec. 2; 1921 S. L. ch. 181, sec. 1; 1931 S. L. ch. 99, sec. 1; 1940 O. C. L. A. sec. 81-203.
24. L. 1891, p. 13, sec. 19; 1940 O. C. L. A. sec. 81-1613.
25. 1905 S. L. ch. 1, sec. 9; 1915 S. L. ch. 326, sec. 9; 1940 O. C. L. A. sec. 81-308.
26. 1905 S. L. ch. 1, sec. 10; 1940 O. C. L. A. sec. 81-309.
27. L. 1891, p. 21; 1937 S. L. ch. 326, sec. 1; 1939 S. L. ch. 389, sec. 1; 1940 O. C. L. A. sec. 81-1302.
28. 1905 S. L. ch. 1, sec. 18; 1939 S. L. ch. 388, sec. 1; 1940 O. C. L. A. sec. 81-409.

after each election. In the primary nominating election the county clerk, with the assistance of a registered voter of each of the two major political parties, opens the returns and makes abstracts of the votes from each precinct. This is done on the 3d day following the primary election. When abstracts are completed the county clerk immediately transmits a copy of each abstract of votes for all other than county, precinct, and city offices to the Secretary of State. Within 30 days thereafter, in the presence of the State Treasurer and Governor for primary nominating elections, and in the presence of the Governor for general elections, the Secretary of State canvasses the votes given for all offices voted upon in the State at large and in districts comprising more than one county. The Governor grants certificates of nomination to successful candidates in primary nominations (29) and certificates of election to persons elected in general elections. (30)

The county clerk certifies the nomination of successful candidates of each party for county, district, and precinct offices, and enters their names in his register of nominations. He notifies the successful persons by mail. The county clerk determines, publicly and by lot, ties in the highest number of votes received for county, district, and precinct offices. (31) He also issues certificates of election to successful candidates for county and precinct offices in the general election (32) and keeps an election record, which contains a complete summary of all votes cast in the county for all offices and measures or questions voted upon and the final decision when based on the vote of the county. This must be signed by the board of canvassers and attested by the county seal. (33)

Education. The counties of Oregon have been organized according to a district school system since 1850. (34) The district system has been retained in later legislation providing for the division of the counties into convenient school districts, (35) formed of contiguous territory, (36) and classified according to the school population. (37)

The Territorial Legislature, prompted by public interest in education,

- 29. 1905 S. L. ch. 1, secs. 29, 30; 1913 S. L. ch. 204, secs. 1, 2; 1919 S. L. ch. 283, secs. 22, 23, and ch. 420, secs. 1, 2; 1939 S. L. ch. 357, sec. 1; 1940 O. C. L. A. secs. 81-310, 81-701.
- 30. L. 1870, pp. 89, 90, secs. 29, 31; L. 1889, pp. 74, 90; 1913 S. L. ch. 205, sec. 1; 1919 S. L. ch. 283, sec. 28; 1940 O. C. L. A. secs. 81-1801, 81-1804.
- 31. 1905 S. L. ch. 1, sec. 29; 1913 S. L. ch. 204, sec. 1; 1919 S. L. ch. 283, sec. 22 and ch. 420, sec. 1; 1939 S. L. ch. 357, sec. 1; 1940 O. C. L. A. sec. 81-701.
- 32. L. 1870, p. 89, sec. 29; L. 1889, p. 90; 1919 S. L. ch. 283, sec. 28; 1940 O. C. L. A. sec. 81-1801.
- 33. 1907 S. L. ch. 195, sec. 1; 1940 O. C. L. A. sec. 81-1802.
- 34. L. 1850, p. 72, sec. 25.
- 35. L. 1901, p. 34, sec. 24; 1940 O. C. L. A. sec. 111-801.
- 36. L. 1901, p. 36, sec. 27; 1940 O. C. L. A. sec. 111-805.
- 37. L. 1901, p. 34, sec. 25; 1935 S. L. ch. 7, sec. 1; 1940 O. C. L. A. sec. 111-802.

passed the act of September 5, 1849, designed to set up a system of free public schools. This act provided for a common school fund, the proceeds of which were to be distributed among all school districts of the Territory in proportion to the number of school children. (38)

In 1850 each county was authorized to elect, for a term of 3 years, a county school commissioner whose duty it was to receive school reports, make a record of them, and send copies to the Territorial Superintendent. (39)

With the abolishment, in 1851, of the office of county commissioner of common schools, supervision of county education was transferred to the county court, (40) which continued this function until passage of a law in 1855 establishing the office of county school superintendent. (41) The office has been regularly elective since its inception.

An act of the Legislature in 1899 provided for the creation of district boundary boards, composed of the members of the county court and the county school superintendent, the judge serving as ex officio chairman and the school superintendent as secretary of the board. (42)

Funds provided by law for the support and maintenance of public schools are the irreducible school fund, the State elementary school fund, the State school fund, a county school fund, and a district school fund. The irreducible school fund consists largely of money derived from the sale or rent of land set aside for this purpose by the Federal Government. As the name implies, the fund itself cannot be used but must be placed at interest. The interest is apportioned among the counties by the State Land Board on the basis of the number of children of school age. (43) The State elementary school fund was provided in 1920 by a tax of 10 mills on the dollar on all taxable property in the State. (44) The State school fund is derived from money appropriated by Congress for elementary or high school education and is apportioned directly to the school districts on the basis of school population by the Superintendent of Public Instruction. (45) The county school fund is raised by a levy made by the county court sufficient to create a fund of \$10 for each child of school age in the county (46) and is apportioned to the school districts by the county school superintendent

38. L. 1850, p. 67, sec. 1.

39. Ibid., p. 69, sec. 12.

40. L. 1851-52, p. 64, sec. 1.

41. L. 1853-54, p. 424, sec. 1.

42. L. 1899, p. 216; 1907 S. L. ch. 116, sec. 1; 1940 O. C. L. A. sec. 111-401.

43. 1907 S. L. ch. 117, sec. 36; 1940 O. C. L. A. sec. 111-1615.

44. 1920 Sp. S. L. ch. 38, sec. 1; 1940 O. C. L. A. sec. 111-1601.

45. 1937 S. L. ch. 332, secs. 1, 2; 1940 O. C. L. A. secs. 111-1634, 111-1635.

46. L. 1899, p. 223, sec. 22; L. 1901, p. 34, sec. 3; L. 1903, p. 214, sec. 1; 1907 S. L. ch. 99, sec. 1; 1909 S. L. ch. 128, sec. 1; 1911 S. L. ch. 84, sec. 1; 1919 S. L. ch. 156, sec. 1; 1921 S. L. ch. 58, sec. 1; 1940 O. C. L. A. sec. 111-821.

on the basis of school population. (47) A district school fund, consisting of a tax levied by the district school board (48) and moneys apportioned to the district by county and State, forms the working fund for payment of current school expenses. School districts are authorized to contract bonded indebtedness for purchase of school grounds, erection of school buildings, and to refund outstanding indebtedness; (49) and to levy a tax for payment of such bonds. (50)

Economic and social development in Oregon, as elsewhere, brought about the consolidation of school districts, (51) the institution of transportation of pupils, (52) the creation of union high school districts (53) and county high schools, (54) and the option of operating all the schools in a county under one district unit (55) in order to offer better and more equal educational opportunities to all.

The State of Oregon has accepted the act of Congress to promote vocational education (56) and has created a State Board for Vocational Education to administer funds. (57) Benton County conducts vocational education in agriculture at the Corvallis Senior High School and in home economics at the Corvallis Senior and Junior High Schools and at the Philomath High School. (58)

Public Health. Unlike many governmental agencies, the public health agencies, beyond a limited scope, did not develop through local initiative.

- 47. 1907 S. L. ch. 116, sec. 5; 1909 S. L. ch. 116, sec. 1; 1917 S. L. ch. 11, sec. 1; 1927 S. L. ch. 276, sec. 1; 1933 S. L. ch. 168, sec. 1; 1940 O. C. L. A. sec. 111-1604.
- 48. L. 1901, p. 41, secs. 43, 44; 1915 S. L. ch. 56, sec. 1; 1917 S. L. ch. 206, sec. 1; 1919 S. L. ch. 106, sec. 1; 1940 O. C. L. A. sec. 111-906.
- 49. 1913 S. L. ch. 172, sec. 2; 1935 S. L. ch. 306, sec. 1; 1940 O. C. L. A. sec. 111-1701.
- 50. 1913 S. L. ch. 172, sec. 2; 1931 S. L. ch. 250, sec. 1; 1940 O. C. L. A. sec. 111-1705.
- 51. L. 1903, p. 86, sec. 1; 1905 S. L. ch. 210, sec. 3; 1921 S. L. ch. 18, sec. 1; 1937 S. L. ch. 7, sec. 1; 1939 S. L. ch. 199, sec. 1; 1940 O. C. L. A. sec. 111-831.
- 52. 1921 Sp. S. L. ch. 21, sec. 1; 1929 S. L. ch. 313, sec. 1; 1931 S. L. ch. 183, sec. 1; 1940 O. C. L. A. sec. 111-871.
- 53. 1907 S. L. ch. 101, sec. 3; 1911 S. L. ch. 53, sec. 1; 1915 S. L. ch. 40, sec. 1; 1923 S. L. ch. 191, sec. 1; 1925 S. L. ch. 72, sec. 1; 1929 S. L. ch. 178, sec. 1; 1933 S. L. ch. 231, sec. 1; 1940 O. C. L. A. sec. 111-3143.
- 54. L. 1901, p. 145, sec. 6; 1940 O. C. L. A. sec. 111-3106.
- 55. 1921 S. L. ch. 265, sec. 30; 1933 S. L. ch. 246, sec. 23; 1940 O. C. L. A. sec. 111-702.
- 56. 1919 S. L. ch. 348, sec. 1; 1940 O. C. L. A. sec. 111-601.
- 57. 1919 S. L. ch. 348, sec. 3; 1940 O. C. L. A. sec. 111-603.
- 58. Oregon School Directory, 1938-39, pp. 9, 10.

A Federal Public Health Service was established as early as 1798, when an act of Congress authorized provisions for the care of sick and disabled seamen. (59) It was not until 1878 that the United States Public Health Service, a bureau of the Treasury Department, entered the field of disease prevention and health education, and not until 1901 that Congress authorized further efforts in the control of communicable disease. (60)

While a number of States had earlier passed legislation to carry forward the program which the United States Public Health Service was developing, it was not until 1903 that the Oregon Legislature created the Oregon State Board of Health and the office of State Health Officer to have supervision of all matters relating to the preservation of life and health of the people, to keep vital statistics for the State, and to make sanitary surveys regarding the cause and prevention of disease. (61) Two years later an enactment provided for county and local boards of health and health officers to work under the direction of the State Board of Health and enforce its rules and regulations within the counties. (62)

Prior to the 1905 legislation, public health in the counties had been, to a large extent, confined to medical attention for county charges, including the county's indigent and jail inmates. The county physician, by a law of 1905 was designated and empowered to function as the county health officer. The enactments of 1903 and 1905 extended official responsibility in public health matters in the State and counties, respectively, and created the agencies through which the United States Public Health Service program of public hygiene and disease control could be applied at State and local levels.

However, it was not until 1921 that steps were taken to establish more than nominal health service within the counties. Beginning in that year, the State Board of Health secured the cooperation and assistance of the Federal health agencies under the Treasury Department and Department of Labor, and funds from the International Health Board of the Rockefeller Foundation to establish model full time health units in five counties. (63)

The Federal Social Security Act of 1935 provided for the allotment of matched funds to the States for extension of public health services through

59. Sedwick's Principles of Sanitary Science and Public Health, Samuel Prescott and Murray Horwood; Macmillan, 1935, pp. 584, 585.
60. Ibid.
61. L. 1903, p. 82, secs. 1, 2; 1919 S. L. ch. 264, sec. 2; 1940 O. C. L. A. secs. 99-101, 99-103.
62. 1905 S. L. ch. 170, sec. 1; 1919 S. L. ch. 264, sec. 9; 1923 S. L. ch. 129, sec. 1; 1927 S. L. ch. 319, sec. 1; 1940 O. C. L. A. sec. 99-201.
63. Full Time County Health Units, pamphlet, Oregon State Board of Health, Portland, Ore., 1922. See also Special Report Oregon State Board of Health, on Their Twenty-fifth Anniversary, Portland, Ore., 1928.

State and local agencies. (64) These appropriations included funds for maternal and child welfare activity, administered nationally by the Children's Bureau, Department of Labor, and public health appropriations for the establishment and maintenance of adequate State and local public health services administered under the direction of the United States Public Health Service.

Thus, while Federal legislation and agencies initiated the public health program as it exists today, jurisdiction over matters of State and local health is vested in the State Board of Health under which the county and local boards of health operate. In Benton County the organization of county health service has followed the legal formula with the county court and county health officer, as ex officio county board of health, administering the State health program and directing the work of the county public health nurse.

Relief and Social Welfare. Relief for the poor and the unemployed has developed from a purely local enterprise into a responsibility of correlated county, State, and Federal agencies. While early laws of Oregon provided public assistance for indigents (65) by authorizing the county courts to maintain workhouses for paupers, (66) it was a general policy to emphasize the individual responsibility of citizens for the care of indigent relatives. (67)

Until 1932, when the first Federal appropriation for relief purposes was made, county responsibility for the care of the indigents increased. Separate legislation provided for the relief of various special groups, including indigent war veterans (68) and dependent children. (69)

In 1932, widespread unemployment made welfare and relief needs a national problem. Congress appropriated funds for direct relief and work relief, to be apportioned among the states. In the following year the Oregon Legislature created the State and county relief committees, (70) which were later designated the State and county public welfare commissions. (71) The Federal Social Security Act of 1935 further emphasized Federal

- 64. 49 U. S. Stat. 620.
- 65. L. 1843-49, p. 163, sec. 5.
- 66. L. 1854, Deady, p. 848, sec. 9; 1940 O. C. L. A. sec. 126-202.
- 67. L. 1854, Deady, p. 846, sec. 2; 1919 S. L. ch. 326, sec. 1; 1930 O. C. Ann. sec. 27-1403.
- 68. L. 1889, pp. 52, 53, secs. 1, 3; L. 1893, p. 41, sec. 1; L. 1901, p. 178, sec. 1; 1921 S. L. ch. 13, sec. 1; 1925 S. L. ch. 46, sec. 1; 1927 S. L. ch. 416, sec. 1; 1930 O. C. Ann. secs. 66-301, 66-302.
- 69. 1913 S. L. ch. 42, sec. 1; 1915 S. L. ch. 90, sec. 1; 1917 S. L. ch. 267, sec. 1; 1921 S. L. ch. 202; 1927 S. L. ch. 337, sec. 1; 1929 S. L. ch. 45, sec. 1; 1930 O. C. Ann. sec. 27-1301; 1937 S. L. ch. 288; 1939 S. L. chs. 241, 454.
- 70. 1933 S. L. ch. 15, secs. 3, 6.
- 71. 1939 S. L. ch. 241, sec. 1; 1940 O. C. L. A. sec. 126-101.

responsibility toward welfare needs. As provided by this act Federal appropriations were apportioned among the states for relief of economic distress, for aid to the needy blind and dependent children, and for old age assistance and vocational rehabilitation. Funds so allocated to Oregon are administered by the public welfare commissions of the State and county. Thus, the county organization for relief and public welfare has become a part of a Nation-wide organization, correlating in function with State and Federal agencies. (72)

Public Works. General supervision over county-owned roads and bridges and the authority to build, maintain, alter, or vacate county roads has always been a function of the county court. (73)

The county court is required to divide the county into road districts. Each city, town, and drainage district containing 5,000 acres or more, constitutes a separate road district. Each road district is designated by a number and a description of the district is entered on the county records. (74)

Application for locating or changing a county road is made by petition signed by 12 freeholders of the county residing in the road district. (75) The county court then appoints a board of road viewers consisting of the county surveyor and two qualified and disinterested freeholders of the county. (76) Having examined the proposed improvement, the road viewers make their recommendation to the county court. (77) When, at any general or special election, the majority of the legal voters of the county shall vote for the county court to assist in construction, or whenever a majority of the legal voters shall so petition, the court is authorized to levy an annual tax for the purpose and to provide a separate fund for the undertaking. (78)

The law has always provided that some special official be designated whose chief duty it is to take practical charge of roads. In 1844 the

- 72. 1939 S. L. ch. 241, sec. 17; 1940 O. C. L. A. sec. 126-117.
- 73. L. 1843-49, p. 17, sec. 1; L. 1853-54, p. 447, sec. 1; L. 1903, p. 262, sec. 6; 1917 S. L. ch. 295, sec. 2; 1940 O. C. L. A. sec. 100-1202.
- 74. L. 1843-49, p. 17, sec. 1; 1917 S. L. ch. 299, sec. 10; 1921 S. L. ch. 131, sec. 1; 1925 S. L. ch. 280, sec. 1; 1927 S. L. ch. 11, sec. 1; 1929 S. L. ch. 369, sec. 1; 1933 S. L. ch. 172, sec. 1; 1940 O. C. L. A. sec. 100-1310.
- 75. L. 1903, p. 262, sec. 7; 1913 S. L. ch. 168, sec. 1; 1917 S. L. ch. 295, sec. 5; 1927 S. L. ch. 59, sec. 1; 1940 O. C. L. A. sec. 100-1206.
- 76. L. 1853-54, p. 448, sec. 10; L. 1903, p. 262, sec. 9; 1917 S. L. ch. 295, sec. 9; 1940 O. C. L. A. sec. 100-1210.
- 77. 1917 S. L. ch. 295, sec. 12; 1940 O. C. L. A. sec. 100-1213.
- 78. L. 1866, p. 21, sec. 2; 1940 O. C. L. A. sec. 86-113.

circuit courts were authorized to appoint road overseers (79) but in 1847 the county courts were authorized to appoint road supervisors for the various road districts in each county. (80) In 1889 the county court was authorized to appoint a roadmaster to take charge of road work. (81) From 1901 until 1925 the duties of the county engineer were performed by the surveyor or by the roadmaster. (82) Since 1925 county road work throughout the State has been under the general technical management of the county engineer (83) and practical management of the roadmaster. (84) The county engineer renders an annual report to the State Highway Commission, a copy of which is filed with the county court. (85)

The county court is charged with the erection of county courthouses and other necessary county buildings. (86) Upon a petition of not less than 2 percent of the voters of the county, the proposals of the county court for the construction of a courthouse may be changed. Likewise, upon a petition of not less than 2 percent of the voters of the county, the county court may be required to submit its proposals for a courthouse to a vote of the people. (87)

The county courts are further authorized to erect memorials or monuments, (88) to erect and maintain a building to be used as a clubroom and meeting place for ex-service men, (89) and to permit the use of public grounds for the purpose of establishing and operating public markets. (90)

Agriculture. Initial efforts to promote the advancement of agriculture in Oregon were made in 1853 and 1854 when agricultural societies were organized at meetings held by farmers in the various counties of the Territory for the purpose of conducting county fairs. (91) By 1859 so many of the counties had thus organized that the next logical step, that of forming a State-wide organization composed of delegates from the county organizations,

79. L. 1843-49, p. 88, sec. 4.
80. L. 1843-49, p. 17, sec. 5; L. 1853-54, p. 453, sec. 26; L. 1903, p. 262, sec. 6; 1917 S. L. ch. 295, sec. 2; 1940 O. C. L. A. sec. 100-1202.
81. L. 1899, p. 87, sec. 1.
82. L. 1901, p. 105, sec. 2; 1917 S. L. ch. 299, sec. 7.
83. 1925 S. L. ch. 361, sec. 1; 1940 O. C. L. A. sec. 100-908.
84. 1917 S. L. ch. 299, sec. 7; 1940 O. C. L. A. sec. 100-1307.
85. 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1; 1940 O. C. L. A. sec. 100-914.
86. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. sec. 93-302.
87. 1923 S. L. ch. 93, sec. 2; 1940 O. C. L. A. sec. 86-303.
88. 1919 S. L. ch. 99, secs. 1, 2; 1920 S. L. ch. 16, secs. 1, 2; 1931 S. L. ch. 17, sec. 1; 1940 O. C. L. A. sec. 86-119.
89. 1919 S. L. ch. 99, secs. 1, 2; 1920 S. L. ch. 16, secs. 1, 2; 1920 S. L. ch. 17, sec. 1; 1940 O. C. L. A. sec. 86-119.
90. 1917 S. L. ch. 251, sec. 2; 1940 O. C. L. A. sec. 86-116.
91. George H. Himes, "History of Organization of Oregon Agricultural Society," Oregon Historical Quarterly, VIII (1907), pp. 317-352.

was successfully accomplished, and the Oregon State Agricultural Society was formed. Meanwhile, in 1858, the fruit growers and nurserymen in the Territory had formed an organization of their own, the Fruit Growers' Association of Oregon. (92) In 1860 this group, at the invitation of the Oregon State Agricultural Society, merged with the latter body. (93) Prompted by their apparent unity in 1860 the farmers introduced a bill to the Legislature to provide financial aid to the State association and to county associations for the purpose of conducting fairs. Although 28 out of 50 members of the Legislature were farmers, the bill failed to carry. (94)

The Oregon State Agricultural College was established in 1870, (95) and in 1905 the State Legislature authorized the appropriation of \$2,500 to be used by the Board of Regents for the purpose of conducting public institutes for instruction in various branches of agriculture. (96) At the present time \$40,000 a year is appropriated for this purpose. (97) Although the county fair had long been an established institution, it was not until 1911 that the Legislature authorized the county courts in the various counties to furnish funds for its support. (98)

In 1913 the Legislature authorized the State Agricultural College to conduct extension, demonstration, and field work in agriculture, horticulture, dairying, domestic science, animal husbandry, and allied subjects, (99) and at the same time empowered the county courts to make appropriations, to be matched by State funds, to carry on the work in the several counties of the State. (1) Further aid to the improvement of agricultural methods was extended by the Federal Government in 1914, when Congress passed the Agricultural Extension Work Act, popularly known as the Smith-Lever Act, to make available to the land-grant colleges of the State, funds for the purpose of carrying on extension and demonstration work in conjunction with the United States Department of Agriculture. (2) Field work in this connection is carried on largely by the county agricultural agents and the county club agents. (3)

*Between 1889 and 1931 numerous boards and offices were created for the purpose of safeguarding the welfare of the many branches of the industry.*

92. George H. Himes, "History of Organization of Oregon Agricultural Society," Oregon Historical Quarterly, VIII (1907), p. 334.
93. Ibid., p. 338.
94. Ibid., pp. 340, 341.
95. L. 1870, p. 17, sec. 1; 1940 O. C. L. A. sec. 111-3901.
96. 1905 S. L. ch. 34, secs. 1, 2; 1940 O. C. L. A. sec. 31-301.
97. 1939 S. L. ch. 235, sec. 2; 1940 O. C. L. A. sec. 31-303.
98. 1911 S. L. ch. 85, sec. 1; 1940 O. C. L. A. sec. 30-212.
99. 1913 S. L. ch. 110, sec. 1; 1940 O. C. L. A. sec. 31-302.
1. 1913 S. L. ch. 110, sec. 3; 1940 O. C. L. A. sec. 31-304.
2. 38 U. S. Stat. 372.
3. 1913 S. L. ch. 110, sec. 1; 1940 O. C. L. A. sec. 31-302.

The State Board of Agriculture, (4) the Sanitary Livestock Board, (5) the Pure Seed Board, (6) the State Veterinarian, (7) the State Dairy and Food Commission, (8) the State Chemist, (9) the State Bacteriologist, (10) the Advisory Livestock Adjusting Board, (11) the Stallion Registration Board, (12) the Board of State Fair Directors, (13) the State Market Agent, (14) the State Lime Board, (15) and the State Standing Committee on Agricultural Lime (16) were all functioning at the time that the State Department of Agriculture was created in 1931. (17) However, the act which created the State Department of Agriculture abolished all such boards and offices and ordered that their powers and duties be transferred to the newly established State Department of Agriculture. (18)

The State Department of Agriculture operates under the control of one executive officer, the State Director of Agriculture, who is appointed by the Governor. (19) For administrative purposes the department is organized into six divisions: Administration, Plant Industry, Animal Industry, Food and Dairies, Market Enforcement and Weights and Measures, and Grain Inspection. The Director of Agriculture is ex officio Chief of the Division of Administration, and the remaining five divisions are each headed by a Chief who is appointed by the State Director with the approval of the Governor. (20)

In order to maintain the closest cooperation between the department and the practical agriculturalists of the State, a State Board of Agriculture, consisting of seven members appointed by the Governor, has been

4. 1931 S. L. ch. 136, sec. 15.
5. 1913 S. L. ch. 14, sec. 1; 1921 S. L. ch. 282, sec. 1; 1927 S. L. ch. 435, sec. 1; 1930 O. C. Ann. sec. 20-101.
6. 1913 S. L. ch. 280, sec. 12; 1930 O. C. Ann. sec. 18-1312.
7. 1913 S. L. ch. 14, sec. 6; 1919 S. L. ch. 413, sec. 1; 1921 S. L. ch. 282, sec. 3; 1930 O. C. Ann. sec. 20-201.
8. 1915 S. L. ch. 343, sec. 1; 1919 S. L. ch. 349, sec. 1; 1927 S. L. ch. 221, sec. 1; 1930 O. C. Ann. sec. 41-101.
9. 1917 S. L. ch. 230, sec. 3; 1930 O. C. Ann. sec. 18-1803.
10. L. 1901, p. 295; 1930 O. C. Ann. sec. 18-2801.
11. 1917 S. L. ch. 85, sec. 2; 1930 O. C. Ann. sec. 20-1303.
12. 1911 S. L. ch. 216, sec. 2; 1917 S. L. ch. 425, sec. 2; 1930 O. C. Ann. sec. 20-1402.
13. 1913 S. L. ch. 98, sec. 3; 1930 O. C. Ann. sec. 18-103.
14. 1923 S. L. ch. 271, sec. 11; 1930 O. C. Ann. sec. 18-2211.
15. 1917 S. L. ch. 397, sec. 1; 1919 S. L. ch. 360, sec. 1; 1930 O. C. Ann. sec. 18-1601.
16. 1915 S. L. ch. 336, sec. 2; 1930 O. C. Ann. sec. 18-1702.
17. 1931 S. L. ch. 136, sec. 1; 1939 S. L. ch. 15, sec. 3; 1940 O. C. L. A. sec. 29-103.
18. 1931 S. L. ch. 136, sec. 5.
19. 1939 S. L. ch. 15, sec. 3; 1940 O. C. L. A. sec. 29-103.
20. 1939 S. L. ch. 15, sec. 5; 1940 O. C. L. A. sec. 29-105.

created. The membership is comprised of one person each from the following seven divisions of agriculture: Horticulture, animal industry, poultry raising, field crops, dairying, market gardening, and agricultural co-operative marketing. The members each serve for a term of 6 years without compensation. The director of agriculture is ex officio secretary of the board. (21)

In Benton County the two officials concerned with the educational phase of agriculture are the county agricultural agent and the 4-H club agent. (22)

There have been many enactments concerned with safeguarding the property rights of stock owners. Owners and shippers of livestock are required to furnish to the county stock (brand) inspector lists describing marks, brands, and other pertinent information relating to stock which they wish to ship out of the State, and when change of ownership is involved, similar certificates are required for moving cattle from counties in which livestock is ranged. (23) The stock (brand) inspector is required to inspect, personally, in daylight, the marks and brands of all cattle being shipped from his county, (24) and to keep a brand inspection book in which he records marks and brands of all animals inspected by him. (25) As a further safeguard common carriers are forbidden to accept for shipment any cattle or horses unless the animals are accompanied by an inspection certificate. (26) It is unlawful for any owner to drive or for any shipper or common carrier to transport any livestock out of the State or from Benton County to any other county within the State without a certificate from the stock (brand) inspector, certain exceptions being allowed to owners for moving livestock across county lines to pasture or range. (27) In protecting the interests of livestock owners the stock (brand) inspector is invested with the powers of a police officer to make arrests. (28)

In order to control the depredations by dogs among sheep, goats, and other livestock, the Legislature in 1919 authorized the county courts, when the proper petition of 100 voters has been filed and an election in the affirmative been held, to prohibit dogs from running at large. (29) In 1929 further legislation made it mandatory upon the county court, upon being presented with proper petitions signed by 50 or more owners of sheep

21. 1939 S. L. ch. 15, sec. 13; 1940 O. C. L. A. sec. 29-113.
22. Blue Book, p. 82.
23. 1915 S. L. ch. 33, sec. 12; 1927 S. L. ch. 60, sec. 1; 1929 S. L. ch. 170, sec. 1; 1939 S. L. ch. 438, sec. 3; 1940 O. C. L. A. sec. 32-1103.
24. 1939 S. L. ch. 438, sec. 5; 1940 O. C. L. A. sec. 32-1105.
25. 1939 S. L. ch. 438, sec. 3; 1940 O. C. L. A. sec. 32-1103.
26. 1939 S. L. ch. 438, sec. 8; 1940 O. C. L. A. sec. 32-1108.
27. 1939 S. L. ch. 438, sec. 3; 1940 O. C. L. A. sec. 32-1103.
28. 1939 S. L. ch. 438, sec. 2; 1940 O. C. L. A. sec. 32-1102.
29. 1919 S. L. ch. 186, sec. 1; 1939 S. L. ch. 132, sec. 1; 1940 O. C. L. A. sec. 32-2407.

and goats or other livestock or poultry within the county, to declare the county a dog control district with a dog control board to enforce all laws relative to dogs. (30)

Infectious, contagious, and communicable diseases among animals have been of major concern to the agricultural interests of the State, and many enactments have been aimed at the eradication and control of such diseases. All persons practicing veterinary medicine are required to report to the State Department of Agriculture within 5 days all such cases known. (31) The eradication of animal diseases is a primary function of the county veterinarian, who is appointed by the county court with the approval of the State Director of Agriculture when the prevalence of any animal disease in a county makes such an appointment advisable. (32) Provision is also made for the appointment by the county court, with the approval of the State Director of Agriculture, of a county herd inspector, (33) who works under the direction of the State Department of Agriculture. (34) He conducts tests of cattle for bovine tuberculosis and other diseases, and, exercising the powers of a Deputy State Veterinarian within his county, may call upon peace officers when necessary to enforce the provisions of the law. (35) In counties having a greater number of dairy cows than beef cattle, as classed by the United States Department of Commerce census, Bang's disease inspection is compulsory. The county court, the State Department of Agriculture, and the United States Bureau of Animal Industry have an agreement to collaborate in testing and inspectional work in connection with Bang's disease. (36)

The inspection of fruits, vegetables, plants, packing houses, warehouses, storerooms, and farms; and the enforcement of regulations prescribed by the State Director of Agriculture governing the handling and drying of apples, prunes, loganberries, or other fruits evaporated and packed for human consumption, are duties of the horticultural inspector. (37) Furthermore, the horticultural inspector enforces all laws of the State relative to insect pests and to diseases which affect trees, vines, plants, and fruits and vegetables of all kinds. All shipments of horti-

- 30. 1929 S. L. ch. 430, sec. 1; 1939 S. L. ch. 317, sec. 1; 1940  
O. C. L. A. sec. 32-2406.
- 31. 1913 S. L. ch. 14, sec. 13; 1939 S. L. ch. 29, sec. 5; 1940  
O. C. L. A. sec. 32-207.
- 32. 1913 S. L. ch. 14, sec. 8; 1917 S. L. ch. 412, sec. 2; 1921 S. L.  
ch. 282, sec. 5; 1939 S. L. ch. 23, sec. 4; 1940 O. C. L. A.  
sec. 32-202.
- 33. 1919 S. L. ch. 383, sec. 1; 1939 S. L. ch. 23, sec. 3; 1940  
O. C. L. A. sec. 32-701.
- 34. 1919 S. L. ch. 383, sec. 3; 1939 S. L. ch. 30, sec. 2; 1940  
O. C. L. A. sec. 32-703.
- 35. 1919 S. L. ch. 383, sec. 3; 1939 S. L. ch. 30, sec. 2; 1940  
O. C. L. A. sec. 32-703.
- 36. 1939 S. L. ch. 503, sec. 1; 1940 O. C. L. A. sec. 32-330.
- 37. 1931 S. L. ch. 232, sec. 2; 1939 S. L. ch. 23, sec. 1; 1940  
O. C. L. A. sec. 29-501.

cultural stock for transplanting or sale, or seed for planting, must be inspected and approved by a county inspector or State Inspector before being delivered to the consignee. (38)

Uniformity of Records. Prior to 1859, when Oregon was admitted to the Union, there was little uniformity in the keeping of the county records by county officials. This was partly because, during the Territorial period as well as earlier under the Provisional Government, frequent changes in the structure of county government, especially in the judiciary and in the office of clerk of the various courts, resulted in frequent changes in the records system.

A greater measure of uniformity was insured by early legislation enacted after the adoption of the Oregon Constitution. Some of this Legislation was extremely general, such as a measure describing public records as consisting of four kinds: "Laws, judicial records, other official documents," and "public records, kept in this State, of private writings." (39) Likewise, the basic principle was set forth that a public official speaks through his records and that when the records are properly authenticated they are primary evidence of the proceedings and transactions of officers and boards connected with county government. (40) Furthermore, the county court in its administrative capacity was charged with providing offices and equipment for the use of the various county officials. No specific provisions were made, however, prescribing the construction of fireproof buildings or vaults for the housing and preservation of records. Indeed, such steps as have been taken in many of the Oregon counties to prevent the destruction of records through loss or damage by fire, flood, and exposure, have in the main been the result of the policy or foresight of particular officials.

Further laws prescribed the records which the various officials must keep in the discharge of their duties. Where the keeping of records is not specifically proscribed but where the duty is implied, the record thus kept becomes a public record. It may be pointed out that the laws which are most systematic in naming mandatory records are those provisions affecting court records. Thus, laws in effect since 1862 charge clerks of the courts of record to keep the records, files, and other books appertaining to the court. (41) Separate acts list the chief records required to be kept by the circuit court, (42) the county court (judicial), (43) and

38. 1937 S. L. ch. 89, sec. 3; 1939 S. L. ch. 20, sec. 4; 1940 O. C. L. A. sec. 35-106.
39. L. 1862, Deady, sec. 709.
40. L. 1862, Deady, sec. 735; 1940 O. C. L. A. sec. 2-731.
41. L. 1862, Deady, p. 235, sec. 959; L. 1864, Deady, sec. 959; 1940 O. C. L. A. sec. 93-927.
42. L. 1862, Deady, secs. 559-566; 1940 O. C. L. A. secs. 10-1001 to 1008.
43. L. 1862, Deady, secs. 559-566, 1047, 1048; 1919 S. L. ch. 57, sec. 1; 1931 S. L. ch. 163, sec. 1; 1940 O. C. L. A. secs. 10-1001 to 1008, 19-102.

by justices of the peace. (44) As custodian of the records of the circuit and county courts, the county clerk is held responsible for such records. (45) The law prescribes that the records shall not be taken out of the office by anyone except a judge or an attorney of the court, or else by a special order of the judge, or under some general rule prescribed by the judge and entered in the court journal. (46)

Laws making for uniformity in the keeping of various financial records require the county clerk, recorder of conveyances, and the sheriff to keep fee books, showing all fees collected and all items of service performed. (47) The county treasurer is required by statute to keep books showing receipts and expenditures in one general account, and also the amounts received and paid out on account of separate funds or particular appropriations. (48)

Statutes for protecting and preserving official records intact have been in effect for many years. Altering, forging, or counterfeiting any public record whatever constitutes a penitentiary offense. (49) Likewise, destroying, secreting, or mutilating public records is a statutory offense punishable by fine and jail sentence. (50)

Since 1885, Oregon statutes have provided for the restoration or replacement of court records when these have been lost or destroyed. The court has authority to order a copy of the lost or destroyed record to be made, if such is possible. (51) When no copy can be had, the court may issue an order reciting the substance and effect of the missing record. In similar circumstances, in case of the destruction by fire or otherwise of the probate records of the county court, the county judge may order the records to be restored and take the necessary steps to insure their replacement. (52) Likewise, the county clerk or recorder, under his general powers, has authority to re-record conveyances when the original record has been lost or destroyed. (53)

Oregon statutes make mandatory the use of more than 105 record forms in the administrative and judicial business of the county. The statutes either set forth the exact form to be used or else they outline, in detail or in substance, the information that must be entered on the forms to make them legal records. Some of the more important forms in use at the

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- 44. L. 1864, Deady, p. 584, sec. 4; 1940 O. C. L. A. sec. 28-201.
  - 45. L. 1862, Deady, sec. 568; 1940 O. C. L. A. sec. 10-1010.
  - 46. L. 1862, Deady, sec. 568; 1940 O. C. L. A. sec. 10-1010.
  - 47. L. 1901, p. 396, sec. 7; 1940 O. C. L. A. sec. 87-914.
  - 48. L. 1854, Deady, p. 929, sec. 4; 1940 O. C. L. A. sec. 87-222.
  - 49. L. 1864, Deady, sec. 584; 1907 S. L. ch. 126, sec. 1; 1940  
O. C. L. A. sec. 23-560.
  - 50. L. 1864, Deady, sec. 621; 1940 O. C. L. A. sec. 23-635.
  - 51. L. 1885 (Sp. S.), p. 20, sec. 1; 1940 O. C. L. A. sec. 10-1102.
  - 52. L. 1885 (Sp. S.), p. 21, sec. 3; 1940 O. C. L. A. sec. 10-1104.
  - 53. L. 1862, p. 235, sec. 959; 1940 O. C. L. A. sec. 93-927.

present time are: Official bonds of the county clerk, sheriff, coroner, and treasurer; (54) marriage certificates; (55) general election notice; (56) initiative and referendum petitions; (57) petitions for elections calling for the issuance of road bonds; (58) applications for absentee voters' ballots; (59) election contest petitions; (60) candidates' petitions; (61) search warrants and warrants for arrest. (62) Statutes govern what assessment rolls shall contain and how they shall be made out. (63)

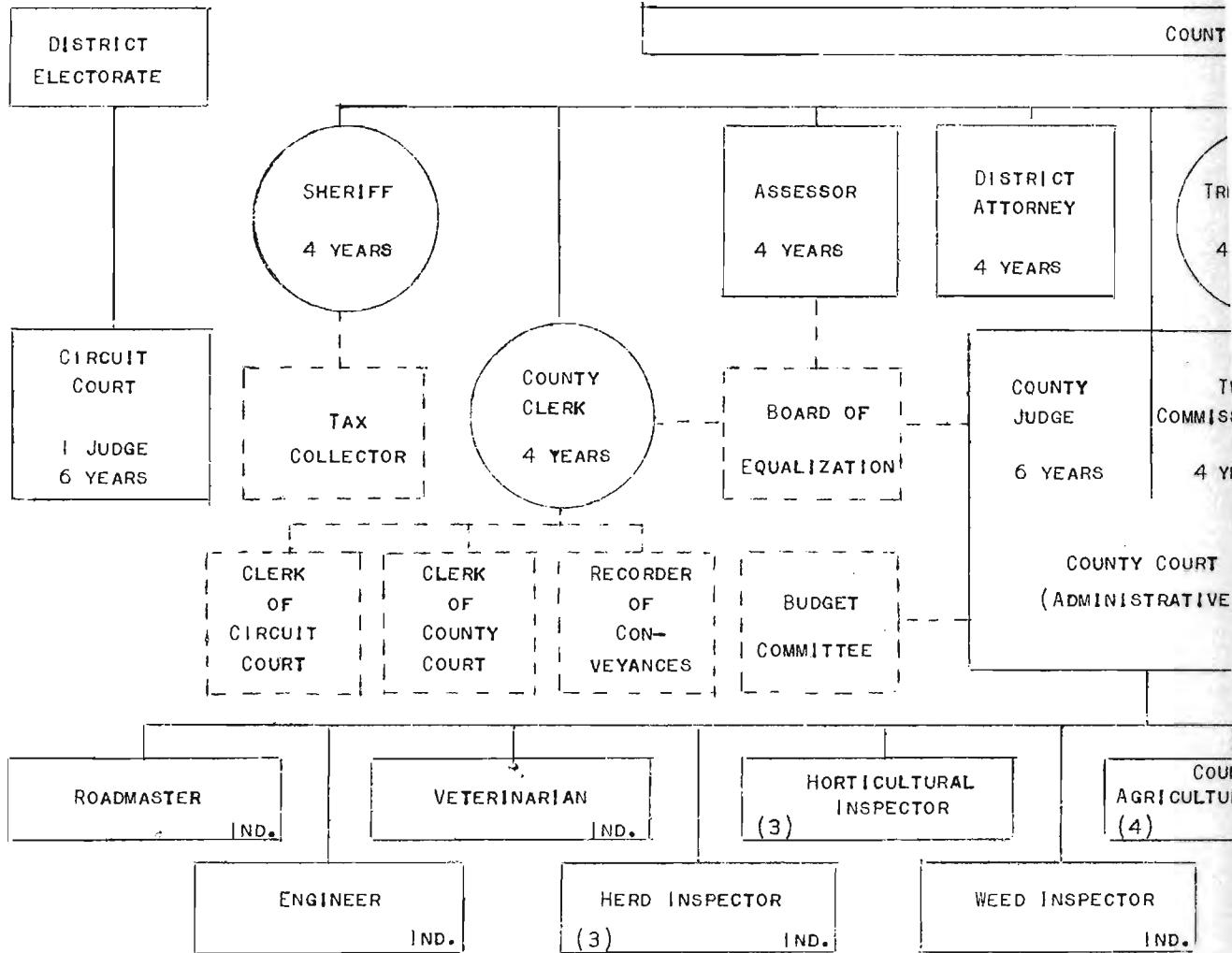
Purchase of all supplies and record forms comes under the jurisdiction of the county court. (64) Financial reports for all municipal corporations are made on forms furnished by the Secretary of State acting as State Auditor. (65)

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- 54. L. 1864, Deady, pp. 824, 826, secs. 11, 12, 21; 1940 O. C. L. A. secs. 87-104, 87-105, 87-206.
  - 55. L. 1862, Deady, p. 784; L. 1903, p. 99, sec. 1; 1940 O. C. L. A. sec. 63-107.
  - 56. L. 1891, p. 10, sec. 5; L. 1901, p. 352, sec. 5; 1913 S. L. ch. 288, sec. 5; 1919 S. L. ch. 283, sec. 3; 1940 O. C. L. A. sec. 81-1402.
  - 57. 1907 S. L. ch. 226, secs. 1, 2; 1940 O. C. L. A. secs. 81-2101, 81-2102.
  - 58. 1913 S. L. ch. 103, sec. 3; 1940 O. C. L. A. sec. 100-1603.
  - 59. 1919 S. L. ch. 361, sec. 3; 1923 S. L. ch. 53, sec. 1; 1939 S. L. ch. 156, sec. 1; 1940 O. C. L. A. sec. 81-2303.
  - 60. 1909 S. L. ch. 3, sec. 53; 1940 O. C. L. A. sec. 81-2551.
  - 61. 1905 S. L. ch. 1, sec. 13; 1919 S. L. ch. 283, sec. 17; 1939 S. L. ch. 128, sec. 1; 1940 O. C. L. A. sec. 81-402.
  - 62. L. 1864, Deady, secs. 345, 474; 1940 O. C. L. A. secs. 25-1506, 26-1703.
  - 63. L. 1854, Deady, p. 898, sec. 18; 1907 S. L. ch. 268, sec. 26; 1935 S. L. ch. 274, sec. 7; 1939 S. L. ch. 490, sec. 1; 1940 O. C. L. A. sec. 110-337.
  - 64. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. sec. 93-302.
  - 65. 1935 S. L. ch. 405, sec. 2; 1940 O. C. L. A. sec. 95-1502.

## HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

B-51

## CHART OF GOVERNMENT



CONSTITUTIONAL OFFICES



STATUTORY OFFICES



APPOINTED OR ELECTED



EX OFFICIO

IND.  
INDEFINITE TERM

1. COMPO
2. APPOI
3. APPOI
4. FACUL
5. APPOI
6. DEPUT

first entry, p. E-15)

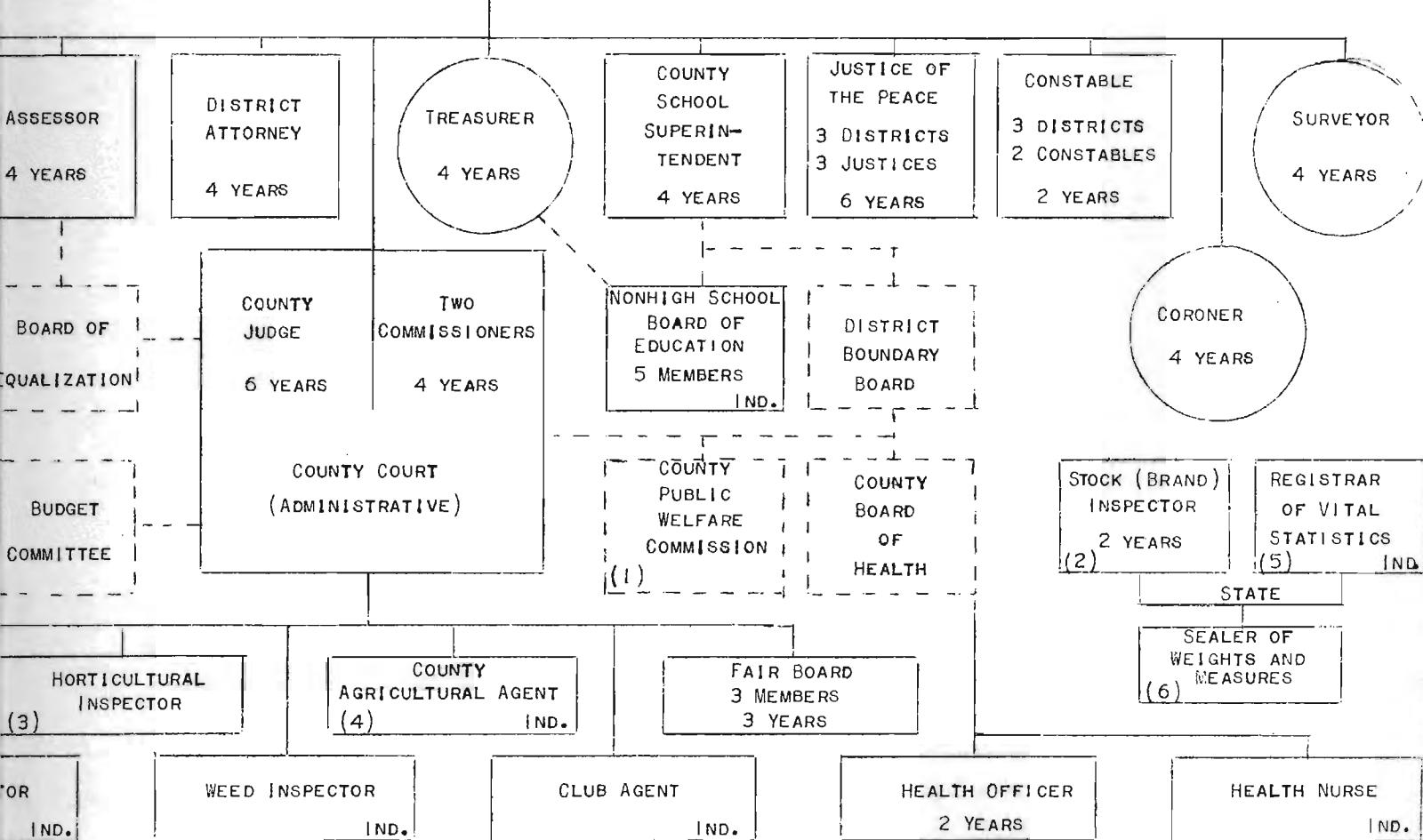
CORDS

B-51

BENTON COUNTY

RT OF GOVERNMENT

COUNTY ELECTORATE



1. COMPOSED OF MEMBERS OF COUNTY COURT (EX OFFICIO) AND 4 LAYMEN APPOINTED BY GOVERNOR.
2. APPOINTED BY DIRECTOR OF STATE DEPARTMENT OF AGRICULTURE UPON RECOMMENDATION OF CATTLE AND HORSE RAISERS' ASSOCIATION OF OREGON.
3. APPOINTED SUBJECT TO APPROVAL OF DIRECTOR OF STATE DEPARTMENT OF AGRICULTURE.
4. FACULTY MEMBER OF OREGON STATE COLLEGE AND CO-OPERATIVE EMPLOYEE OF UNITED STATES DEPARTMENT OF AGRICULTURE.
5. APPOINTED BY STATE BOARD OF HEALTH.
6. DEPUTY OF STATE SEALER OF WEIGHTS AND MEASURES.

## HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

The first courthouse in Benton County was a two-story frame structure erected in 1855. This building was replaced in 1889 by the present courthouse. (1)

The courthouse occupies the center of the public square, which is bounded by Fourth Street on the east, Monroe Street on the south, Fifth Street on the west, and Jackson Street on the north. Adjacent to the courthouse in the northwest corner of the square is the county jail. The landscaped grounds are shaded by magnificent, old, broadleaf maples, planted about 1860. From Fourth Street a sidewalk extends to a flight of steps leading to the main entrance, above which a clocktower rises atop the roof. In the rear an entrance opens into the basement from Fifth Street. Forming an irregular rectangle with recessed walls on the long sides, the structure is 118 feet long, 75 feet wide, and 40 feet high, providing approximately 354,000 cubic feet of space. Constructed of brick on concrete foundations, with wood floors and interior trimmings, the building is not rated fully fireproof.

In the interior, the doors throughout average 3 x 7 feet. The windows also average 3 x 7 feet, except for some variation in the basement. The brick interior walls and the ceilings are plastered.

The rooms are well ventilated and lighted, and in general are warm, dry, and clean. With a few exceptions hereinafter noted, ample accommodations are available for use of materials.

The four reinforced concrete vaults in the courthouse are considered fireproof, and provide protection for more than 90 percent of the Benton County records. The two vaults assigned to the county clerk are badly crowded, but ample room is left for expansion in the vaults used by the assessor and treasurer. The filing equipment is constructed of both wood and steel. In the main, the records of Benton County are well housed, well arranged, easily identified, and readily accessible. More filing space is needed by the county clerk, but otherwise there is considerable room for expansion.

In the basement of the courthouse are the offices of the public welfare commission, the clerk's storage vault, and the heating plant.

On the first floor are the offices and vaults of the county clerk, assessor, and treasurer; the offices of the sheriff, county nurse, and judge; and the county courtroom.

The second floor is occupied by the circuit court suite, and the offices of the surveyor and superintendent of schools.

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1. For the history of the courthouses of Benton County, see pp. A-39 - A-40.

The upper half of the circuit courtroom extends through the third floor, on which are also located the jury rooms and the two offices occupied by the State Highway Department and the Red Cross.

Several departments are situated outside of the courthouse. The justice of the peace of the Corvallis district has a private office in the Corvallis State Bank Building at Second and Madison Streets. The constable also works out of this office. The justice of the peace of the Monroe district, M. O. Mack, has an office in his residence in Monroe. The justice of the peace of the Philomath district also uses his residence for conducting county business. The coroner maintains a private office in the Keeney Funeral Home, at Fifth and Jackson Streets, Corvallis. The district attorney uses his private office in Room 224, Rennie Building, at Third and Madison Streets. The health office also maintains an office in the Rennie Building. The roadmaster's headquarters are in the county road barn, in South Corvallis. The stock (brand) inspector, who is also dairy herd inspector and veterinarian, works out of his residence at 526 South Third Avenue. The present weed inspector, Mr. Virgil Frink, uses his residence on Alsea Road. The county agent is quartered in the basement of the Federal Building, at Second and Jefferson Streets, Corvallis.

County Court (Administrative). The space in the courthouse occupied by the county court consists of the courtroom and the judge's office in the southeast corner of the first floor. No records are kept in these rooms. The administrative records of the court are in the custody of the county clerk, 26.6 percent being in the clerk's vault and 73.4 percent in the clerk's basement vault.

County Clerk. The quarters occupied by the clerk extend along the south side of the corridor to the west end of the first floor of the courthouse. The suite consists of a private office, a public office, and a vault. No records are kept in the private office.

The public office, 26 x 19 x 12 feet, is entered by a door at about the center of the south side of the corridor and is lighted by two windows on the south. An L-shaped counter forms an area for public service just within the entrance. In the office space behind the counter are 2 linear feet of bound volumes and 12 file drawers of unbound materials, comprising 13.7 percent of the clerk's records. In addition, one file drawer contains records of the public welfare commission.

Between the clerk's two offices and accessible to either is the vault. The room, 21 x 19 x 12 feet, is lighted and ventilated by one window on the south. About 130 linear feet of steel roller shelving along the walls and 36 linear feet of wooden shelving under desk tables in the center are occupied by 79 linear feet of bound volumes and seven bundles of unbound papers. Unbound materials are also contained in 417 file drawers. There are no accommodations for use of the materials in the vault, but records may be removed to the clerk's private office. Fifty-four and three-tenths percent of the clerk's records are deposited in this vault. Also records of the

following departments are stored here: County court (administrative and judicial), recorder, circuit court, sheriff, board of equalization, tax collector, treasurer, district boundary board, public welfare commission, and county agent.

The county clerk also has a storage vault, 18 x 14 x 10 feet, in the southwest corner of the basement. The vault is entered from the landing at the foot of the rear stairway and is lighted and ventilated by two small windows on the south. The ventilation is poor but the vault is warm, dry, and clean. Only tables are available for brief use of the materials but records may be removed to the clerk's office for extended use. Around the walls are about 170 linear feet of wooden shelving and in the center are 42 linear feet of steel roller shelving, which are filled with 79 linear feet of bound volumes and miscellaneous materials. Unbound records are contained in 234 file drawers, seven bundles, and 20 boxes. Thirty-two percent of the clerk's records are stored here. In addition, records of the following departments are deposited in this vault: County court (administrative and judicial), recorder, circuit court, justice of the peace (Corvallis district), sheriff, assessor, tax collector, treasurer, superintendent of schools, and district boundary board.

Recorder. The duties of recorder are assumed by the county clerk and the records of the department are deposited as follows: 80 percent in the clerk's vault and 20 percent in the clerk's basement vault.

Circuit Court. The space in the courthouse occupied by the circuit court consists of the courtroom, which extends in height through the center of the second and third floors, the judge's chambers and attorneys' room at the west end of the second floor, and the jury rooms in the northwest corner of the third floor. No records are kept in these rooms. The records of the circuit court are in the custody of the county clerk, with 77.4 percent deposited in the clerk's vault and 22.6 percent stored in the clerk's basement vault.

County Court (Judicial). For a description of the quarters occupied by the county court, see county court (administrative). The judicial records are in the custody of the county clerk, with 73.9 percent deposited in the clerk's vault and 26.1 percent stored in the clerk's basement vault.

Justice of the Peace. The justice of the peace of the Corvallis district maintains a private office in the Corvallis State Bank Building at Second and Madison Streets. About 4 linear feet of bound volumes and eight file drawers of unbound materials, comprising 95.5 percent of the department's records, are filed in that office. The remaining 4.5 percent are stored in the county clerk's vault.

In the Monroe district, the present justice of the peace, M. O. Mack, uses his private office for county business. All of his records, consisting of two bound volumes and one file drawer of unbound materials, are kept in the above office.

The justice of the peace of the Philomath district uses his residence for county business. All of the records of this department, consisting of three bound volumes and eight pigeonholes of unbound materials, are kept there.

Sheriff. The sheriff occupies two connecting rooms in the northwest corner of the first floor of the courthouse. These consist of a public office, 29 x 23 x 12 feet, and a private office, 19 x 15 x 12 feet. The public office is entered from the lobby near the main entrance by a door on the north, and is lighted by four windows on the south and east. A service counter facing the entrance extends across the room. Under the counter and along the west wall are about 35 linear feet of steel shelving. The private office is entered by a door opening on the north into the corridor, and is lighted by one window on the south. Along the south and east walls are 60 linear feet of wooden shelving. The sheriff's two offices contain 29 linear feet of bound volumes and two file drawers of unbound materials. These comprise 80 percent of the sheriff's records and include part of the tax collector's material. The remainder of the sheriff's records are deposited as follows: 10 percent in the county clerk's vault and 10 percent in the county clerk's basement vault.

Constable. The constable works out of the office of the justice of the peace of the Corvallis district. This officer is not required to keep any records.

Coroner. The coroner has a private office in the Keeney Funeral Home at Fifth and Jackson Streets. One file drawer in this office contains all of the department's records.

District Attorney. The district attorney uses an office he maintains for his private practice in Room 224, Rennie Building, Third and Madison Streets. All of the department's records, consisting of four bound volumes and two file drawers of unbound papers, are kept in this office.

Budget Committee. The budget committee meets in the county courtroom. The reports of the committee, contained in one file drawer, are stored in the clerk's basement vault.

Assessor. The space assigned to the assessor in the courthouse consists of an office and a vault in the northeast corner of the first floor. The office, 23 x 23 x 12 feet, is entered on the south from the main entrance lobby and is lighted by four windows on the north and east. A service counter extends across the room facing the entrance. Under the counter are 12 linear feet of wooden shelving, which are occupied by 1 linear foot of bound volumes and the current records brought from the vault during office hours. About 2.2 percent of the assessor's records and some of the tax collector's records are kept on the shelves permanently.

The assessor's vault, 9 x 8 x 12 feet, is entered by a door on the west side of the office. Having no windows, it can be ventilated by the door

Housing, Care, and Accessibility  
of the Records

(First entry, p. E-15)

only, but it is warm, clean, and dry. Along the north and south walls are about 50 linear feet of wooden shelving, which hold 5 linear feet of bound volumes. Unbound records are contained in 105 file drawers. No accommodations are available for use of materials in the vault. In addition to 95.6 percent of the assessor's records, a few of the tax collector's records are deposited here. The remaining 2.2 percent of the assessor's records are stored in the county clerk's basement vault.

Board of Equalization. The board meets in the assessor's office. The records of the board, consisting of two bound volumes, are deposited in the county clerk's vault.

Tax Collector. The business of the tax department is transacted in the sheriff's office, which has been described under that heading. The records of the department are deposited as follows: 29.2 percent in the sheriff's office, two-tenths of one percent in the assessor's office, 1.2 percent in the assessor's vault, two-tenths of one percent in the county clerk's vault, 12.2 percent in the county clerk's basement vault, and 57.2 percent on shelves in the basement outside of the vault.

Treasurer. The office and vault assigned to the treasurer are in the center north of the corridor on the first floor of the courthouse. The office, 24 x 19 x 12 feet, is entered from the corridor by a door on the south side and is lighted by two windows on the north. Two arms of a service counter form an area for public use just inside the entrance. A door behind the counter on the east side leads into the adjoining vault which is 9 x 8 x 12 feet. Having no windows, the vault can be ventilated only by the opened door, but it is warm, dry, and clean. About 6 linear feet of bound volumes are kept on wooden shelving along the north wall of the vault. These comprise 93 percent of the treasurer's records. The remainder are deposited as follows: 2.4 percent in the county clerk's vault and 4.6 percent in the county clerk's vault.

Superintendent of Schools. The office occupied by the school superintendent is in the southeast corner on the second floor of the courthouse. The room, 24 x 23 x 12 feet, is entered on the north by a door opening onto the landing at the head of the main stairway and is lighted by four windows on the south and east. Along the north wall are 40 linear feet of wooden shelving, which hold about 6 linear feet of bound volumes. Unbound records are contained in 49 file drawers. These comprise 94.4 percent of the superintendent's records and some records belonging to the district boundary board and the board of health. About 5.6 percent of the superintendent's records are stored in the county clerk's basement vault.

District Boundary Board. The board meets in the county courtroom. The records of the board are filed as follows: 54.5 percent in the office of the superintendent of schools, 9.2 percent in the county clerk's vault, and 36.3 percent in the county clerk's basement vault.

Nonhigh School Board of Education. The records of the board, contained in one volume and eight file drawers, are filed in the office of the county school superintendent.

Board of Health. See Health Officer.

Health Officer. The health officer maintains an office for his private practice in the Rennie Building, at Third and Madison Streets, and conducts his official business there.

Local Registrars. Registrars of vital statistics work out of their own offices or residences. They are custodians of their own records. The records for the Corvallis district, contained in 58 volumes, are housed in the health office, Rennie Building, Third and Madison Streets.

Health Nurse. The county nurse occupies an office in the courthouse in the center of the first floor north of the corridor. This room, 20 x 15 x 12 feet, is entered from the corridor by a door on the south side and is lighted by one window on the north. Unbound records, contained in three file drawers, comprise 100 percent of the board of health's records.

Public Welfare Commission. The public welfare commission is assigned quarters at the east end of the courthouse basement. The suite consists of a waiting room, a main office, three caseworkers' offices, and a storage room. No records are kept in the waiting room or storage room.

The main office, 23 x 17 x 10 feet, is entered from the waiting room by a door at the foot of the stairway leading to the first floor, and is lighted by one window on the east. Along the north end of the room, three small offices, each 9 x 5 x 10 feet, are partitioned off. These are entered from the main office, and each is lighted by one window. Unbound records contained in 23 file drawers, which are kept in these four rooms, comprise about 82.1 percent of the commission's records. One file drawer, containing 3.6 percent of the commission's records, is kept in the county clerk's office, and the remaining 14.3 percent are stored in the clerk's vault.

Surveyor. The surveyor, who also performs the duties of engineer, has an office in the northeast corner of the second floor of the courthouse. The room, 24 x 23 x 12 feet, is entered from the hall at the head of the main stairway and is lighted by four windows on the north and east. Along the north and east walls are 50 linear feet of wooden shelves and pigeon-holes, which are occupied by 6 linear feet of bound volumes and about 40 linear feet of maps and blueprints. Unbound papers are contained in six file drawers. 99.2 percent of the surveyor's records and 50 percent of the roadmaster's records are filed in this room. The remaining eight-tenths of one percent of the surveyor's records are stored in the county clerk's basement vault.

Engineer. See Surveyor.

Roadmaster. The roadmaster has an office in the county road barn in South Corvallis. This building, owned by the county, is a one-story structure of rough lumber. Rectangular in shape, 80 feet long, 64 feet wide, and 25 feet high, it contains approximately 128,000 cubic feet of space. The north part of the building is used for vehicle storage. In the southwest corner of the storage space, a small office is partitioned off for use of the roadmaster. The office is entered through the storage room, and is lighted by one window on the west. One volume, comprising 50 percent of the roadmaster's records, is kept here in a desk. The remaining 50 percent, or one volume, is kept in the surveyor's office.

Agricultural Agent. The county agricultural agent, who also acts as horticultural inspector, is quartered in the basement of the Federal Building, at Second and Jefferson Streets. 93 percent of the department's records are contained in 14 file drawers in this office. The remaining 7 percent are deposited in the county clerk's vault.

Club Agent. The club agent occupies a part of the county agent's room in the Federal Building. All the club agent's records are contained in two file drawers in the above office.

Fair Board. The fair board meets in the county courtroom. No records are kept by the board.

Horticultural Inspector. See Agricultural Agent.

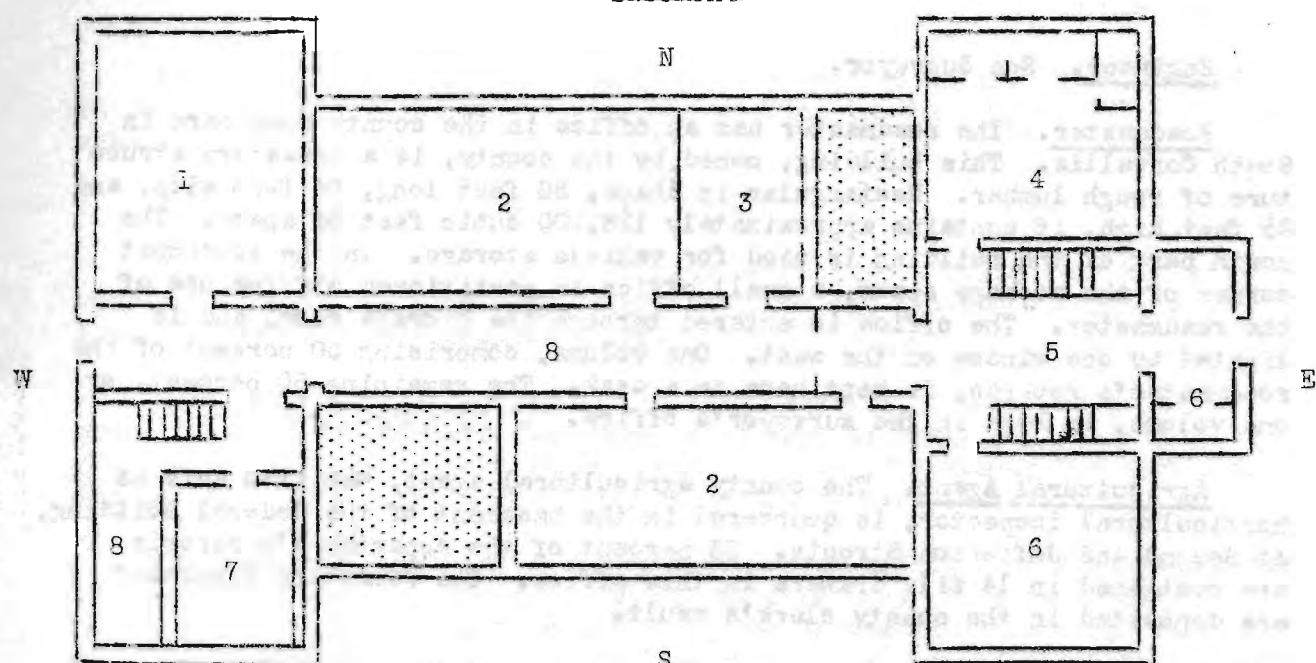
Weed Inspector. The present inspector, Mr. Virgil Frink, uses his residence on Alsea Road as his headquarters but keeps no records.

Stock (Brand) Inspector, Dairy Herd Inspector and Veterinarian. The duties of these departments are performed by Dr. F. C. Myers, 526 South Third Avenue. All of the records pertaining to the functions of stock (brand) inspector and dairy herd inspector, which consist of one bundle of unbound papers each, are kept at the above residence.

Sealer of Weights and Measures. The sealer of weights and measures works out of the district office. He keeps no county records.

## Benton County Courthouse

## Basement

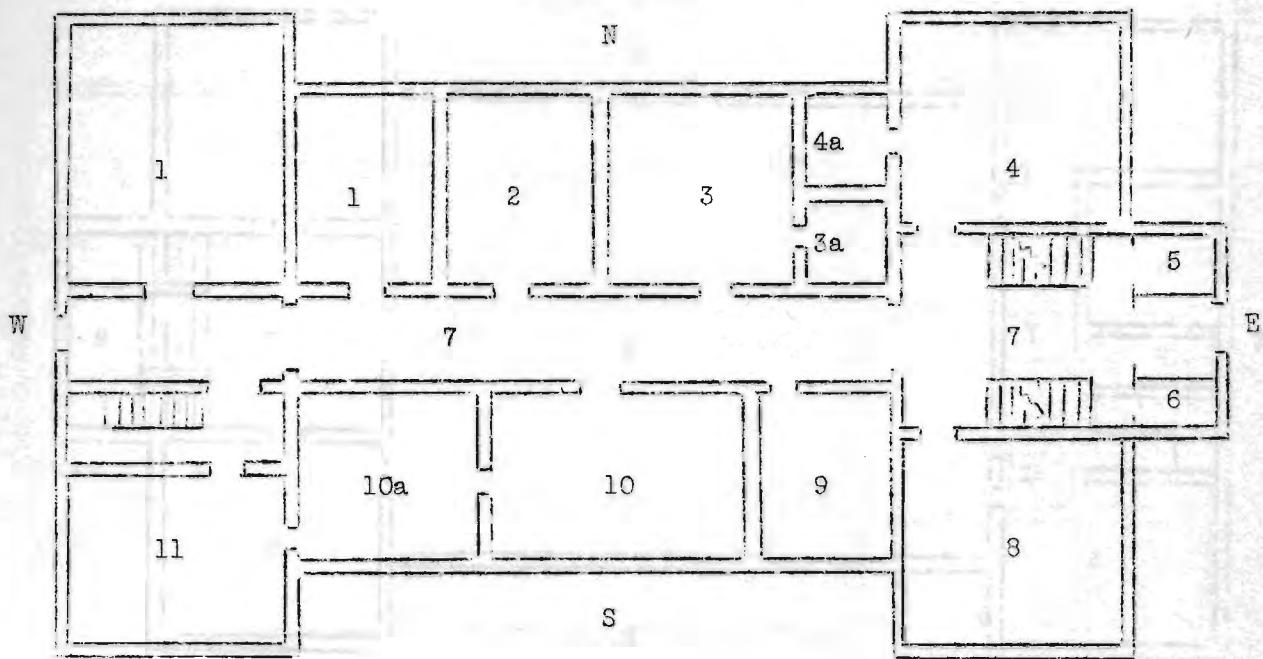


Scale 1 in. = 20 ft.

- |                       |                   |
|-----------------------|-------------------|
| 1. Heating Plant      | 5. Waiting Room   |
| 2. Storage            | 6. Rest rooms     |
| 3. Election Supplies  | 7. Basement Vault |
| 4. Welfare Commission | 8. Corridors      |

## Fenton County Courthouse

## First Floor



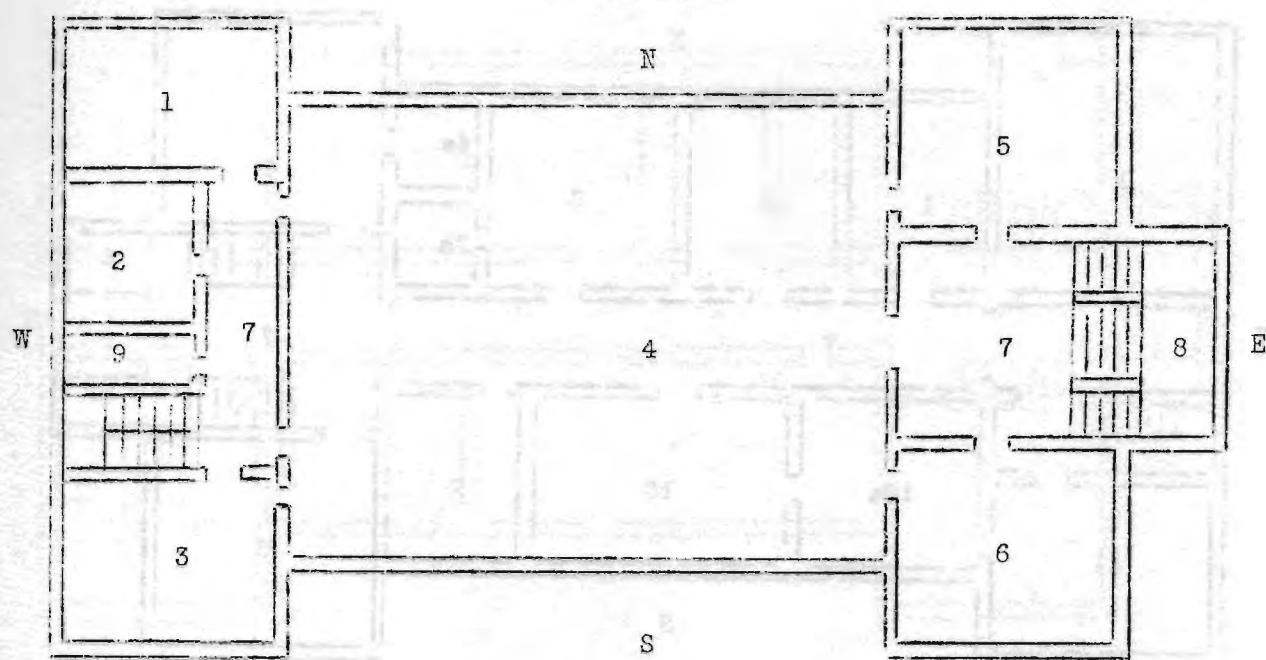
Scale 1 in. = 20 ft.

- Handwritten Labels
- |                       |                                   |
|-----------------------|-----------------------------------|
| 1. Sheriff's offices  | 6. Rest room                      |
| 2. Health nurse       | 7. Corridors                      |
| 3. Treasurer          | 8. County Court                   |
| 3a. Treasurer's vault | 9. County Judge                   |
| 4. Assessor           | 10. County clerk's main office    |
| 4a. Assessor's vault  | 10a. County clerk's vault         |
| 5. Jailer             | 11. County clerk's private office |

C-10

## Benton County Courthouse

Second Floor

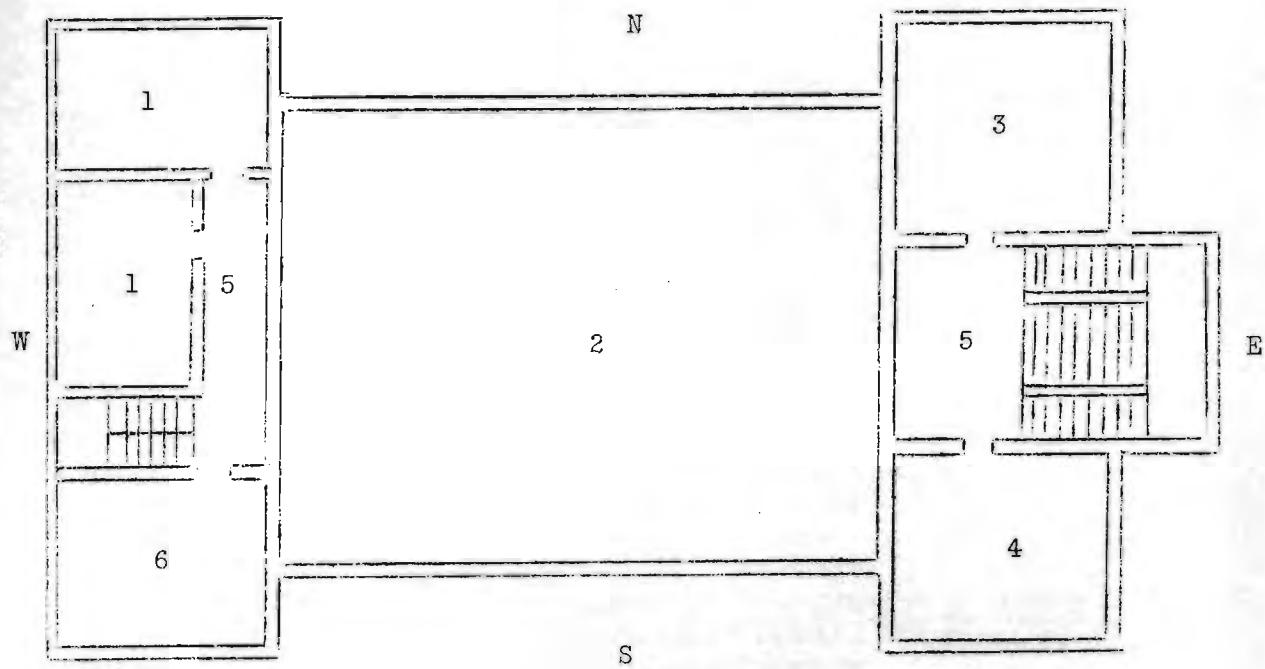


Scale 1 in. = 20 ft.

1. Judge's Chambers
  2. Grand Jury Room
  3. Attorneys' room
  4. Circuit court room
  5. Surveyor
  6. Superintendent of Schools
  7. Hall
  8. Landing
  9. Rest room

## Benton County Courthouse

## Third Floor



Scale 1 in. = 20 ft.

1. Jury Room
2. Upper part of Circuit Court Room
3. State Highway Department
4. Red Cross
5. Hall
6. Vacant

## ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

## Abbreviations

A. G.	.....	Attorney General('s)
agt.	.....	agent
alph.	.....	alphabetical(ly)
approx.	.....	approximate(ly)
Ar.	.....	The <u>Oregon Archives</u>
arr.	.....	arranged, arrangement
art.	.....	article
assr.	.....	assessor('s)
aver.	.....	average
bldg.	.....	building
bsmt.	.....	basement
ch.	.....	chapter
chron.	.....	chronological(ly)
clk.	.....	clerk('s)
co.	.....	company
cond.	.....	condition
Const.	.....	<u>Constitution of Oregon</u>
d. a.	.....	district attorney('s)
dist.	.....	district
ed.	.....	edited
eng.	.....	engineer('s)
et. al.	.....	et <u>alii</u> , et <u>aliae</u> (and others)
ex. rel.	.....	ex <u>relatione</u> (by or on the relation, or information, of)
f. b.	.....	file box(es)
f. d.	.....	file drawer(s)
f(f).	.....	and following page(s)
fl.	.....	floor
ft.	.....	foot(feet)
hdw.	.....	handwritten
hlth.	.....	health
ibid.	.....	<u>ibidem</u> (in the same place)
in.	.....	inch(es)
j. p.	.....	justice('s) of the peace
L.	.....	<u>Laws of Oregon</u>
loc. cit.	.....	<u>loco citato</u> (in the place cited)
L. O. L.	.....	<u>Lord's Oregon Laws</u>
m.	.....	main
mimeo.	.....	mimeograph
no(s).	.....	number(s)
numd.	.....	numbered
numer.	.....	numerical(ly)
off.	.....	office
op. cit.	.....	<u>opere citato</u> (in the work cited)

Abbreviations, Symbols, and  
Explanatory Notes

(First entry, p. E-15)

Or.	.....	<u>Oregon Reports</u>
O. C. Ann.	.....	<u>Oregon Code Annotated</u>
O. C. Ann. Supp.	.....	<u>Oregon Code Annotated</u> <u>Supplement</u>
O. C. L. A.	.....	<u>Oregon Compiled Laws</u> <u>Annotated</u>
OHQ	.....	<u>Oregon Historical Quarterly</u>
p(p).	.....	page(s)
Pac.	.....	<u>Pacific Reporter</u>
phst.	.....	photostat
pr. fm.	.....	printed form
rec.	.....	recorder('s)
reg.	.....	registrar('s), register('s)
rm.	.....	room
sec.	.....	section
shf.	.....	sheriff('s)
S. L.	.....	<u>Session Laws</u>
Sp. S.	.....	Special Session
st(s).	.....	street(s)
supt.	.....	superintendent('s)
sur.	.....	surveyor('s)
tax col.	.....	tax collector('s)
treas.	.....	treasurer('s)
twp.	.....	township
U. S. C. A.	.....	<u>United States Code Annotated</u>
U. S. Const.	.....	<u>United States Constitution</u>
U. S. Stat.	.....	<u>United States Statutes at large</u>
v.	.....	<u>versus</u> (against)
va.	.....	vault
vol(s).	.....	volume(s)

## Symbols

--	.....	to date
x	.....	by (in dimensions)
'	.....	foot, feet
"	.....	inch(es)

## Explanatory Notes

Each record belonging to the office is listed in the form of an entry containing the title (or assigned title) of the record and a description of the purpose and contents of the record. Numbered consecutively through all the county offices, the entries have been grouped within each office according to subject matter, with the several groups arranged in order of importance, or following an order of business.

Titles of Records. Exact titles of records are written in solid capitals without parentheses (as in entry 1). In the absence of titles, descriptive titles have been assigned, which are written in solid capitals and enclosed in parentheses (as in entry 4). If a record title is not descriptive of the contents of the record, an assigned explanatory title (or explanatory words), written with initial capitals and enclosed in parentheses, has been added (as in entry 22). The current or most recent title of a record is used as the entry title and title variation is indicated (as in entry 18).

Dates. All dates used are inclusive. Missing records are indicated by broken dates.

Quantity. When two or more types of containers are considered in a single entry, the quantity is shown in chronological order, insofar as possible.

Labeling. Figures or letters in parentheses, following the number of volumes, file boxes, or other type of container, indicate the labeling. If no labeling is indicated, it may be assumed that there is none.

Discontinuance. Where no statement is made that the record was discontinued at the last date shown in the entry, it could not be definitely established that such was the case. Where no comment is made on the absence of prior, subsequent, or intermediate records, no definite information could be obtained.

Description of Records. The description of the contents of a record applies only to the current or most recent record unless change in contents is actually shown in a record entry.

#### Arrangement

Following the description of contents, the body of the entry also contains a statement concerning the arrangement of the record. The arrangement of a record refers to the order or sequence in which the information is organized within each unit or container in the series; i.e., alphabetically, chronologically, or numerically.

#### Indexing

Records frequently have indexes covering the entire period during which the record has been kept. Self-contained indexes are contained either in the

front or back of individual volumes. However, in certain instances records have a self-contained index covering a particular period, although for another period a separate index may have been kept. When an index has been maintained separately, the separate index appears in the inventory as a separate entry usually following the record it indexes. If, on the other hand, the index serves more than one record, the entry listing the index then precedes the first record to which the index refers. The nature of the indexing is explained in the body of each entry of this type. Thus, master indexes to all or the greater part of the records belonging to an office are shown as the first entry under that office. Direct and indirect indexes to deed and mortgage records are entered as separate entries and follow the records indexed.

Condition of records

Records are in good condition unless otherwise indicated.

Dimensions

The number of pages and height, width, and thickness is shown for volumes, and height, width, depth for file boxes or bundles. If there is a considerable amount of variation in the size of the volumes or other containers, the two extremes within which variation is confined are given; otherwise the average size is shown.

Location

The location of the record is given as the last item in each entry. The inclusive dates and the exact number of volumes or file boxes are shown for each location. Abbreviations are used to designate offices or vaults in which records are located. (See list of abbreviations.)

Cross Reference

Title line cross references are used to show the continuity of a record series which has been kept separately for a period of time and with other records for different periods of time. An example is that in entry 2: "1850-1909 in (Clerk's Miscellaneous Files), entry 109." They are also used in all artificial entries in those set up to cover records which must be shown separately under their proper office even though they are kept in files or records described elsewhere in the inventory, as in entry 4, or in those set up for a record which is not kept separately but is found in two or more records of miscellaneous content, such as entry 7. In both instances, the description of the master entry (entry of miscellaneous content) show the title and entry number of the record from which the cross reference is made as, for example, these words in entry 49 do: "Also contains Canceled Warrants, 1852-54, entry 19." Dates shown in the description of the master entry are only for the part or parts of the record contained therein, and are shown only when they vary from those of the master entry.

## I. COUNTY COURT (Administrative)

Introduction. The chief governing body in Benton County is the county court, a small board composed of two commissioners and the county judge, acting together in an administrative capacity. The county judge serves as chairman of the body. The county court in most counties is so constituted as to fulfill two wholly separate functions--the one administrative, the other judicial. The twofold type of county court exists in Benton County. (1)

A study of the early background of the county court helps explain its structure. Initially, the earliest Legislatures of the Provisional Government empowered certain officers to serve locally, first in districts, later in counties, in both administrative and judicial capacities. A review of early statutes reveals several stages in the development of the county court.

Article 13 of the organic laws, as recommended by the Legislative Committee of the Provisional Government on July 5, 1843, prescribed that the Supreme Court should perform the duties of county commissioners; also, the Clerk of the Supreme Court should perform the duties of the clerk of the county commissioners, as prescribed in the Territorial Laws of Iowa, adopted in 1843. (2) However, as settlement was still sparse, no effective organization as such was achieved or was possible under the provisions of 1843. Of more significance is the change made in the judiciary in 1844, when a law was adopted establishing one circuit court and providing for the election by the House of Representatives of a circuit judge who held court in each of the counties. The circuit courts were given jurisdiction in all probate and county business. (3) Thus, under the law of 1844, the circuit courts were authorized to appoint overseers of roads, to establish new roads when petitioned to do so; in short, to exercise the powers of county commissioners. (4)

In 1845, when the judiciary was again revised, the administrative powers given in 1844 to the circuit courts were delegated to district courts (later called county courts), to be established in each organized district in the territory. (5) Accordingly, the district, or county courts, consisting of three members appointed by the Provisional Legislature, were given authority to levy ad valorem road taxes and to audit and settle all demands against the district by drawing on the district treasury. (6) Later, in December 1845, all matters not relating to county business pending in the district courts were transferred to the circuit court; (7) hence, the chief function of the district court after 1845, when the name was changed to

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1. L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
  2. Ar. pp. 30, 31, art. 13.
  3. L. 1843-49, p. 99, sec. 3.
  4. Ibid., pp. 88, 89, secs. 4, 12.
  5. L. 1845, p. 33, sec. 1.
  6. Ibid., pp. 33, 40, 41.
  7. L. 1843-49, p. 3, sec. 4.

county court, (8) was administrative. The president of the district court was, however, authorized to serve as ex officio probate judge in his district. (9) In addition, the judges of the district courts were empowered to act as ex officio justices of the peace and to hold court monthly at their offices or dwellings. (10)

In 1846 a further change was made in the structure of the county court. Under an act of December 17, 1846, provision was made for a board of county commissioners in each county, to be composed of the justices of the peace or any two of them. (11) It was specified that all earlier legislation relative to county business should have application to the county courts as constituted by this act. (12) By an act of December 19 of the same year, the county judges and other county officers were to be elected by the people. (13)

It was at this stage of the development of the county courts that Benton County came into existence. An enactment by the Territorial Legislature, December 23, 1847, created the county (14) and provided that the Governor should appoint the first county officers to serve until their successors could be elected and qualified. (15) No record can be found of these appointed officials. Although there is a record of an election in 1848, (16) the first record of county court business is in 1850. (17)

Further provision for the county courts, approximately of the type described in a preceding paragraph, was made in the act of Congress establishing the Oregon Territory in 1848. (18) However, an important change occurred in 1851, when a law was passed establishing county boards composed of three elected commissioners. (19) The same law authorized the probate judges then in office to act as county commissioners until the expiration of their terms. (20) Subsequent laws of 1853 and 1859 prescribed the election of a single judge in each county to handle probate matters. (21) The legislation of the 1850's thus indicates a disposition among the legislators to effect a separation between judicial and administrative offices.

The present structure of the typical Oregon county court was provided by the Constitution in 1859. County business is conducted by a small board

8. L. 1843-49, p. 35, sec. 1.
9. L. 1845, pp. 50, 51, sec. 2, act of August 15, 1845.
10. Ibid., p. 51, sec. 2.
11. L. 1843-49, pp. 7, 8, sec. 1.
12. Ibid.
13. Ibid., pp. 5, 6, sec. 1.
14. Ibid., p. 50, sec. 1.
15. Ibid., sec. 5.
16. Avery to Prim.
17. Probate Court, vol. A, p. 1, in County Court Journal.
18. L. 1850, p. 41, sec. 9; 9 U. S. Stat. 177.
19. L. 1850 (including L. 1851), pp. 76, 77, sec. 1.
20. Ibid., p. 79, sec. 17.
21. L. 1852-53, p. 11, sec. 1; L. 1859, p. 9, secs. 1, 3.

composed of the county judge and two commissioners, acting together in an administrative capacity. (22) The office of county judge, having exclusive probate jurisdiction, was created by the Constitution, (23) which further authorizes the Legislature to provide for the election of two commissioners to sit with the county judge while transacting county business. The latter provision was made in 1862, (24) and with the exception of Multnomah County, the structure of the county court as an administrative body remains in all Oregon counties as outlined.

According to a decision of the Oregon Supreme Court in 1907, in the absence of the county commissioners, the judge alone is the county court for the transaction of county business, as though one or both of the commissioners were sitting with him. (25) A later decision of 1915 provided that in the absence of the county judge, county commissioners alone may conduct county business. (26)

Qualifications, Oath, and Bond. Elective officers, the county commissioners are required to be citizens of the United States; qualified electors under the State Constitution; and residents, for 1 year immediately preceding the election, of the county in which they seek to hold office. (27) They are not required to give bond, (28) but they must take oath of office prior to the assumption of duties. (29) If a vacancy occurs in the office of county commissioner during the term of office, the law provides that the county court shall appoint a qualified person to fill the vacancy until a successor shall be elected and qualified. (30)

Compensation. The county judge of Benton County receives a salary of \$1,800 per year, and the county commissioners each receive \$5 per day for each day engaged on county business. (31) In addition, the members of the county court are paid for actual travel expenses in the performance of their duties. (32)

Tenure. The tenure of the members of the county court has changed during the course of the development of the office to its present form.

22. Const. original art. VII, sec. 12.
23. Ibid., secs. 11, 12.
24. L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
25. State v. McElrath, 49 Or. 296, 89 Pac. 805.
26. Russell v. Crook County Court, 75 Or. 169, 146 Pac. 806.
27. L. 1864, Deady, p. 825, sec. 18; 1940 O. C. L. A. sec. 87-203. For qualifications of county judge, see County Court (Judicial), p. E-65.
28. L. 1864, Deady, p. 826, sec. 22; 1940 O. C. L. A. sec. 87-207.
29. L. 1864, Deady, p. 825, sec. 19; L. 1891, p. 80, sec. 1; L. 1893, p. 92, sec. 1; 1940 O. C. L. A. sec. 87-204.
30. L. 1864, Deady, p. 825, sec. 20; 1931 S. L. ch. 23, sec. 1; 1940 O. C. L. A. sec. 87-205.
31. 1941 S. L. ch. 28, sec. 1.
32. L. 1893, p. 166, sec. 5; L. 1895, p. 80, sec. 5; L. 1901, p. 285, sec. 1; 1921 S. L. ch. 185, sec. 1; 1927 S. L. ch. 99, sec. 1; 1929 S. L. ch. 220, sec. 2; 1940 O. C. L. A. sec. 87-1049.

The statute of 1851, which provided for the election of three county commissioners to transact county business, fixed the term of office at 3 years. (33) Subsequently legislation provided for two county commissioners to hold office for 4 years. (34) The term of the third member of the board, the county judge, is 6 years. (35)

Manner of Removal. Prior to the enactment of the recall provisions of the Oregon Constitution, a member of the county court could be removed from office only by indictment and conviction in a higher court. An enactment of 1851 required that members of the county court, upon conviction in the district court, corresponding at that time to jurisdiction of the present circuit court, be removed from office. (36) The Constitution provides that public officers shall not be impeached, but that irregularities and corruption in office shall be tried as criminal offenses, with judgment including dismissal from office. (37) In 1908, Oregon adopted the recall procedure. This law provides for the popular recall of any public officer, the recall to be initiated by a petition signed by 25 percent of the legal voters, and stating the reasons for the proposed recall, which is then referred to the voters of the county. (38)

Sessions. The county court of Benton County is required to meet for the transaction of county business on the first Tuesday of each month at 10 a. m. (39)

Ex Officio Capacities. The members of the county court are ex officio members of the budget committee, (40) the school district boundary board, (41) and of the county public welfare commission. (42) The county judge is ex officio chairman of the county board of equalization. (43) The members of the county court of Benton County are ex officio members of the county board of health (44) and in this capacity enforce the rules and regulations of the State Board of Health.

33. L. 1850 (including L. 1851), p. 76, sec. 1.
34. L. 1864, Deady, p. 825, sec. 7; L. 1887, p. 93, sec. 1; L. 1903, p. 181, sec. 1; 1940 O. C. L. A. sec. 87-201.
35. Const. art. VII, sec. 1, as amended November 8, 1910.
36. L. 1850 (including L. 1851), p. 79, sec. 15.
37. Const. art. VII, sec. 6.
38. Const. art. II, sec. 18.
39. 1913 S. L. ch. 240, sec. 1; 1921 S. L. ch. 38, sec. 1; 1925 S. L. ch. 128, sec. 1; 1927 S. L. ch. 21, sec. 1; 1929 S. L. ch. 219, sec. 1; 1931 S. L. ch. 7, sec. 1; 1940 O. C. L. A. sec. 93-309.
40. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
41. 1907 S. L. ch. 116, sec. 6; 1940 O. C. L. A. sec. 111-401.
42. 1939 S. L. ch. 241, sec. 4; 1940 O. C. L. A. sec. 126-104.
43. L. 1853-54, p. 403, sec. 24; 1907 S. L. ch. 266, sec. 1; 1913 S. L. ch. 184, sec. 6; 1940 O. C. L. A. sec. 110-402.
44. 1905 S. L. ch. 170, sec. 1; 1940 O. C. L. A. sec. 99-201.

Clerk. The county clerk, as ex officio clerk of the county court, is required to perform the following duties: To keep the county seal and affix it as required; to record the proceedings and orders of the court; to keep the records, files, and other books and papers belonging to the court; to file all papers delivered to him for that purpose in any proceedings of the court; to attend the terms of the court and to administer oaths; and to authenticate, by certificate or transcript, the records, files, or proceedings of the court, or any other paper appertaining thereto and filed with him. (45)

Powers and Duties. A statute of 1862, as amended from time to time so as to define the increased responsibilities of the county administrative body, enumerates broadly the authority of the county court pertaining to county business. (46) Separate enactments specify in detail the powers and duties as outlined in the general definitions.

The county court is required to erect and maintain a courthouse, a jail, and other county-owned buildings, and to provide suitable quarters and equipment for county officials. (47)

The care of roads and bridges has always been a duty of the county court; the law requires that it establish, vacate, and alter county roads or highways within the county, and erect and repair county bridges. (48) As early as 1847, the judges of the several county courts were given administrative jurisdiction over all county highways and bridges, and were required to give directions for laying out, opening, and repairing roads and bridges in their respective counties. Further duties were to cause records to be made of such roads, and to divide counties into convenient road districts. The county judges were empowered to appoint road supervisors and to assign individuals to a period of work on the roads. The same enactment made provisions for the levying of additional taxes for road and bridge construction. (49) During the territorial period, private corporations were also authorized by the court to construct and operate certain toll roads and ferries. (50)

The basic procedure established by early enactments has been retained in more recent legislation governing the court's authority over public roads. Statutes have granted it the power to acquire land for public

45. L. 1862, p. 235, sec. 959; L. 1864, Deady, sec. 959; 1940 O. C. L. A. sec. 93-927.
46. L. 1832, Deady, sec. 870; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 95-302.
47. L. 1862, Deady, sec. 870; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
48. L. 1862, Deady, sec. 870; 1935 S. L. ch. 226, sec. 1; 1940 O. C. L. A. sec. 93-302.
49. L. 1843-49, p. 17, secs. 1, 3.
50. L. 1851-52, pp. 3-7, secs. 1-17, pp. 24, 25, secs. 1-3.

roads, (51) the power of eminent domain, (52) general authority over county roads, (53) and power to maintain (54) and alter roads. (55)

The county performs public works by procedure established by law. Upon petition of freeholders (56) or upon decisions of the county court to undertake a public work, an order is issued for the roadmaster or engineer to prepare complete specifications (57) which, after approval by the county court, are published along with advertisements for sealed bids. (58) The bids are opened publicly and a contract awarded to the lowest responsible bidder. (59) Public contracts are required by law to provide that the contractor shall pay for all supplies, materials, and labor; shall contribute to the State Industrial Accident fund; shall give bond for faithful performance of the terms of the contract; and shall employ no person more than 8 hours in any day or more than 48 hours in any week unless such employee be paid double wages. (60)

The construction and maintenance of both State and Federal roads and highways within the counties demand certain cooperative activities on the part of the county court and Federal and State road agencies. The county court is authorized to enter into cooperative agreement with the State Highway Commission, (61) and the county receives an annual appropriation from the State Highway funds. (62)

Under the Federal Post Road Act of 1916, the county court cooperates with the Forestry Service of the United States Department of Agriculture in the construction and maintenance of rural post roads. (63)

51. 1917 S. L. ch. 295, sec. 27; 1919 S. L. ch. 10, sec. 2; 1940 O. C. L. A. sec. 100-1229.
52. L. 1862, Deady, p. 671, sec. 52; 1940 O. C. L. A. sec. 12-301.
53. L. 1903, p. 262, sec. 6; 1917 S. L. ch. 295, sec. 2; 1940 O. C. L. A. sec. 100-1202.
54. 1917 S. L. ch. 299, sec. 3; 1940 O. C. L. A. sec. 100-1303.
55. 1917 S. L. ch. 295, sec. 21; 1927 S. L. ch. 155, sec. 2; 1927 S. L. ch. 238, sec. 1; 1940 O. C. L. A. sec. 100-1225.
56. 1921 S. L. ch. 356, sec. 2; 1940 O. C. L. A. sec. 100-1310b.
57. 1917 S. L. ch. 299, sec. 16; 1940 O. C. L. A. sec. 100-1317.
58. 1913 S. L. ch. 142, sec. 2; 1917 S. L. ch. 299, sec. 17; 1940 O. C. L. A. sec. 100-1318.
59. L. 1901, p. 138, sec. 2; 1915 S. L. ch. 262, sec. 2; 1940 O. C. L. A. sec. 86-502.
60. 1913 S. L. ch. 61, sec. 1; 1923 S. L. ch. 21, sec. 1; 1929 S. L. ch. 137, sec. 1; 1940 O. C. L. A. sec. 98-201.
61. 1917 S. L. ch. 237, sec. 13; 1940 O. C. L. A. sec. 100-128.
62. 1917 S. L. ch. 237, sec. 13; 1933 S. L. ch. 428, sec. 4; 1937 S. L. ch. 78, sec. 1; 1939 S. L. ch. 444, sec. 1; 1940 O. C. L. A. sec. 100-129; 1941 S. L. ch. 376, sec. 1.
63. 1919 S. L. ch. 391, sec. 1; 1940 O. C. L. A. sec. 100-412.

Authority of the county court to let contracts for the construction and repair of county bridges is specifically provided by statute. (64) The construction of dikes and dams for land improvement and reclamation is another phase of public work over which the county court has jurisdiction. (65)

The county court is required to accept the provisions of the State Workmen's Compensation Act to cover all employees engaged in public works. (66)

Special enactments have granted specific authority to the county courts to set aside certain county grounds for the establishment of public markets, (67) to establish experimental farms under the direction of the Oregon State Agricultural College, (68) to establish memorials and club-rooms for the use of ex-service men, (69) and to designate rooms in the county courthouse as a meeting place for ex-service men. (70) In 1919 the county courts were authorized to establish war or pioneer memorials and monuments. (71) Public libraries may be erected, equipped, and maintained, (72) and in counties of less than 100,000 population, the county court may establish and operate a law library. (73) County courts may also maintain unendowed cemeteries. (74)

The county court has certain duties to perform in creating various districts. When petitioned to do so by the residents, the county court is required to conduct an election to decide whether or not the following

- 64. L. 1903, p. 262, sec. 53; 1909 S. L. ch. 207, sec. 1; 1913 S. L. ch. 260, sec. 1; 1915 S. L. ch. 173, sec. 1; 1917 S. L. ch. 431, sec. 3; 1919 S. L. ch. 306, sec. 3; 1923 S. L. ch. 108, sec. 1; 1925 S. L. ch. 47, sec. 1; 1940 O. C. L. A. sec. 100-3202.
- 65. L. 1895, p. 117, sec. 1; 1909 S. L. ch. 146, sec. 1; 1940 O. C. L. A. sec. 123-201.
- 66. 1913 S. L. ch. 112, sec. 31; 1915 S. L. ch. 271, sec. 4; 1917 S. L. ch. 288, sec. 17; 1925 S. L. ch. 133, sec. 6; 1927 S. L. ch. 326, sec. 3; 1940 O. C. L. A. sec. 102-1717.
- 67. 1917 S. L. ch. 261, sec. 1; 1940 O. C. L. A. sec. 86-115.
- 68. 1909 S. L. ch. 61, sec. 9; 1940 O. C. L. A. sec. 31-209.
- 69. 1919 S. L. ch. 99, secs. 1, 2; 1920 Sp. S. L. ch. 16, secs. 1, 2; 1940 O. C. L. A. sec. 86-119.
- 70. 1913 S. L. ch. 46, sec. 2; 1919 S. L. ch. 316, sec. 2; 1929 S. L. ch. 61, sec. 2; 1931 S. L. ch. 6, sec. 1; 1940 O. C. L. A. sec. 104-502.
- 71. 1919 S. L. ch. 99, secs. 1, 2; 1920 Sp. S. L. ch. 16, secs. 1, 2; 1931 S. L. ch. 17, sec. 1; 1935 Sp. S. L. ch. 22, sec. 1; 1937 S. L. ch. 478, sec. 1; 1940 O. C. L. A. sec. 86-119.
- 72. 1919 S. L. ch. 357, sec. 1; 1927 S. L. ch. 432, sec. 1; 1940 O. C. L. A. sec. 111-3521.
- 73. 1927 S. L. ch. 222, sec. 3; 1940 O. C. L. A. sec. 93-819.
- 74. 1927 S. L. ch. 237, secs. 1, 3; 1940 O. C. L. A. secs. 99-1913, 99-1915.

districts shall be created: Irrigation districts, (75) artesian well districts, (76) domestic water supply municipal incorporations, (77) land-improvement districts, (78) sanitary districts, (79) port districts, (80) and incorporation of cities. (81) Statutes have been enacted authorizing the creation by the county courts upon petition of the residents of drainage districts, (82) rural fire protection districts, (83) flood-control districts, (84) diking districts, (85) dog control districts, (86) rodent control districts, (87) weed control districts, (88) and wind erosion districts. (89)

The county court has power to sell (90) and to exchange (91) county lands, and to lease county lands to the Federal Government for grazing purposes. (92) Lands acquired by the county through foreclosure may be deeded to the State for reforestation. (93) The county court may also utilize lands which are outside of the corporate limits of cities and towns for the establishment of parks and recreational areas. (94)

- 75. L. 1895, p. 13, sec. 2; 1909 S. L. ch. 86, sec. 1; 1911 S. L. ch. 228, sec. 2; 1915 S. L. ch. 189, sec. 2; 1917 S. L. ch. 257, sec. 3; 1929 S. L. ch. 134, sec. 1; 1940 O. C. L. A. secs. 125-202, 125-203.
- 76. 1909 S. L. ch. 69, sec. 3; 1940 O. C. L. A. sec. 116-903.
- 77. 1917 S. L. ch. 346, sec. 3; 1923 S. L. ch. 109, sec. 1; 1940 O. C. L. A. sec. 116-1003.
- 78. 1933 S. L. ch. 439, secs. 3-12; 1940 O. C. L. A. secs. 106-612 to 107-603.
- 79. 1935 S. L. ch. 385, sec. 2; 1940 O. C. L. A. sec. 99-2102.
- 80. 1909 S. L. ch. 39, secs. 1-3; 1940 O. C. L. A. secs. 105-501 to 105-504.
- 81. 1913 S. L. ch. 345, sec. 3; 1940 O. C. L. A. sec. 95-103.
- 82. L. 1889, p. 25, secs. 1-3; 1915 S. L. ch. 340, secs. 1-3; 1917 S. L. ch. 414, secs. 1, 2; 1919 S. L. ch. 184, sec. 1; 1940 O. C. L. A. secs. 123-101 to 123-103.
- 83. 1929 S. L. ch. 379, sec. 2; 1939 S. L. ch. 247, sec. 2; 1940 O. C. L. A. sec. 99-3002.
- 84. 1937 S. L. ch. 414, sec. 3; 1940 O. C. L. A. secs. 124-801 to 124-815.
- 85. L. 1895, p. 117, sec. 3; 1909 S. L. ch. 146, sec. 2; 1940 O. C. L. A. sec. 123-203.
- 86. 1929 S. L. ch. 430, sec. 1; 1939 S. L. ch. 317, sec. 1; 1940 O. C. L. A. sec. 32-2406.
- 87. 1925 S. L. ch. 5, sec. 1; 1927 S. L. ch. 64, sec. 1; 1940 O. C. L. A. sec. 32-2619.
- 88. 1923 S. L. ch. 51, sec. 1; 1927 S. L. ch. 31, sec. 1; 1940 O. C. L. A. sec. 35-503.
- 89. 1937 S. L. ch. 131, secs. 12, 13; 1940 O. C. L. A. sec. 109-201.
- 90. 1905 S. L. ch. 201, sec. 1; 1940 O. C. L. A. sec. 86-103.
- 91. 1935 S. L. ch. 95, sec. 1; 1937 S. L. ch. 396, sec. 1; 1940 O. C. L. A. sec. 86-107.
- 92. 1931 S. L. ch. 86, sec. 1; 1940 O. C. L. A. sec. 86-110.
- 93. 1933 S. L. ch. 305, sec. 2; 1939 S. L. ch. 478, sec. 2; 1940 O. C. L. A. sec. 107-302.
- 94. L. 1862, Deady, sec. 870; 1920 Sp. S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. sec. 93-302.

The county court, together with an equal number of qualified electors whom it appoints, constitute the budget committee. It is the duty of the budget committee to prepare all estimates of expenditures required. (95) The law provides that no tax may be levied unless an estimate be submitted and published to furnish opportunity for a full and complete discussion. (96) The county court is required to estimate at its July term in each year the amount of money to be raised in the county for county purposes; to apportion the amount, together with the amount of State, school, and other required and discretionary taxes; and to levy a tax upon all taxable property in the county sufficient to defray the county's expenses; as well as certain other taxes. (97)

Besides the general levying powers granted the county court, special levies are provided, including a levy for the construction and repair of public works, (98) a special tax to meet the debt service upon refunding bonds, (99) and a levy for payment of bounties on predatory animals. (1) While county expenditures are normally restricted by law to the annual levy, (2) special levies may be assessed to meet contingencies. (3)

The method by which the county pays bills involves the county court, clerk, and treasurer. A bill or claim, such as for payment of the salary of county judge, (4) is presented to the county court, which allows or disallows the claim. If the claim is allowed the county court issues an order to the county clerk to draw a warrant on the treasurer to the claimant. The treasurer pays money from the county treasury only upon warrants so drawn. The county clerk numbers all orders and warrants and keeps a register of them. (5) Specific statutes for various expenses provide that bills shall be paid by the county in the same manner as other county debts are paid. The treasurer returns the redeemed warrants to the county clerk. (6) Warrants not redeemed in 7 years are canceled by the county clerk. (7)

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- 95. See Budget Committee, p. E-96.
  - 96. 1921 S. L. ch. 118, secs. 7, 14; 1925 S. L. ch. 28, sec. 1; 1940 O. C. L. A. secs. 110-1207, 110-1214.
  - 97. L. 1862, Deady, sec. 870; 1907 S. L. ch. 267, secs. 1-3; 1913 S. L. ch. 184, secs. 9-11; 1920 S. L. ch. 28; 1933 S. L. ch. 446, secs. 8-10; 1935 S. L. ch. 226, sec. 1; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. secs. 93-302, 110-701 to 110-703; 1941 S. L. ch. 440, secs. 20-22.
  - 98. L. 1866, p. 21, sec. 2; 1940 O. C. L. A. sec. 86-113.
  - 99. 1933 S. L. ch. 43, sec. 1; 1940 O. C. L. A. sec. 88-603.
  - 1. 1907 S. L. ch. 213, sec. 2; 1940 O. C. L. A. sec. 32-2628.
  - 2. 1907 S. L. ch. 267, sec. 2; 1913 S. L. ch. 184, sec. 10; 1940 O. C. L. A. sec. 110-702.
  - 3. 1907 S. L. ch. 267, sec. 3; 1913 S. L. ch. 184, sec. 11; 1940 O. C. L. A. sec. 110-703.
  - 4. L. 1860, p. 69, sec. 3.
  - 5. L. 1891, p. 117, sec. 2; 1940 O. C. L. A. sec. 93-306.
  - 6. L. 1854, Deady, p. 930; 1915 S. L. ch. 96, sec. 1; 1940 O. C. L. A. sec. 87-227.
  - 7. L. 1889, p. 91, secs. 1-2; 1940 O. C. L. A. sec. 88-201.

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  - 98. L. 1866, p. 21, sec. 2; 1940 O. C. L. A. sec. 86-115.
  - 99. 1933 S. L. ch. 43, sec. 1; 1940 O. C. L. A. sec. 88-603.
  - 1. 1907 S. L. ch. 213, sec. 2; 1940 O. C. L. A. sec. 32-2628.
  - 2. 1907 S. L. ch. 267, sec. 2; 1913 S. L. ch. 184, sec. 10; 1940 O. C. L. A. sec. 110-702.
  - 3. 1907 S. L. ch. 267, sec. 3; 1913 S. L. ch. 184, sec. 11; 1940 O. C. L. A. sec. 110-703.
  - 4. L. 1860, p. 69, sec. 3.
  - 5. L. 1891, p. 117, sec. 2; 1940 O. C. L. A. sec. 93-306.
  - 6. L. 1854, Deady, p. 930; 1915 S. L. ch. 96, sec. 1; 1940 O. C. L. A. sec. 87-227.
  - 7. L. 1889, p. 91, secs. 1-2; 1940 O. C. L. A. sec. 88-201.

The county court exercises some control over other county offices in financial matters. It makes an annual audit of the accounts of all county officials (8) and examines the books of the county clerk, treasurer, and sheriff. (9) Semianual reports showing the exact financial status of the county are published in a weekly newspaper. (10) The court also fixes the bond of the county treasurer (11) and approves the bonds of the county clerk, sheriff, and coroner. (12)

The county court has extensive licensing powers. It licenses ferries (13) and fixes their tolls. (14) The licensing of grocery stores, (15) dance halls, (16) bowling alleys, (17) and public shows, (18) is also a function of the county court, provided that these concerns are not within the corporate limits of any city or town. Although public utilities receive their rights-of-way from the State the county court designates the location of all telegraph, telephone, and power lines upon county roads (19) and no lines may be strung over the tracks of any railroad without permission of the county court. (20) Private hospitals for the insane may not be operated unless a license is first obtained from the county court. (21) Prior to the enactment of the State prohibition law, the county court had authority to regulate the sale of liquor. (22) Since the repeal of the prohibition law, the State Liquor Commission may require of an applicant for a license, the recommendation of the county court in

8. 1915 S. L. ch. 266, sec. 1; 1940 O. C. L. A. sec. 88-101.
9. L. 1891, p. 117, sec. 1; 1940 O. C. L. A. sec. 93-305.
10. L. 1887, pp. 6, 7, secs. 1-5; 1915 S. L. chs. 97, 98, sec. 1; 1940 O. C. L. A. secs. 88-301 to 88-305.
11. L. 1864, Deady, p. 826, sec. 21; 1929 S. L. ch. 305, sec. 1; 1940 O. C. L. A. sec. 87-206.
12. L. 1864, Deady, p. 824, secs. 11, 12; 1940 O. C. L. A. secs. 87-104, 87-105.
13. L. 1854, Deady, p. 458, sec. 43; L. 1882, p. 34, sec. 1; 1940 O. C. L. A. sec. 100-5408.
14. L. 1857, p. 871, sec. 48; 1940 O. C. L. A. sec. 100-3415.
15. L. 1862, Deady, sec. 870; 1920 S. L. ch. 28; 1935 S. L. ch. 226, sec. 1; 1937 S. L. ch. 91, sec. 1; 1940 O. C. L. A. sec. 93-302; 1941 S. L. ch. 340, sec. 1.
16. L. 1864, Deady, p. 776; 1920 S. L. ch. 33, sec. 2; 1925 S. L. ch. 147, sec. 2; 1929 S. L. ch. 381, sec. 2; 1939 S. L. ch. 295, sec. 1; 1940 O. C. L. A. sec. 86-812.
17. L. 1854, Deady, p. 775, sec. 17; 1940 O. C. L. A. sec. 86-802.
18. L. 1882, p. 10, sec. 1; 1929 S. L. ch. 387, sec. 1; 1933 S. L. ch. 369, sec. 1; 1939 S. L. ch. 538, sec. 1; 1940 O. C. L. A. sec. 86-821.
19. L. 1862, Deady, p. 916, sec. 1; L. 1901, p. 132, sec. 1; 1923 S. L. ch. 102, sec. 1; 1940 O. C. L. A. sec. 112-501.
20. 1907 S. L. ch. 191, sec. 1; 1940 O. C. L. A. sec. 113-412.
21. 1911 S. L. ch. 65, sec. 1; 1940 O. C. L. A. sec. 126-522.
22. L. 1853-54, p. 500, sec. 1; L. 1885, p. 25, sec. 1; L. 1889, p. 9, sec. 1; L. 1891, p. 186, sec. 1; L. 1903, p. 169, sec. 1; 1915 S. L. ch. 265, sec. 1; 1915 S. L. ch. 141, sec. 41.

the event the place of business of the applicant is outside of an incorporated city. (23)

The county court has certain duties with respect to the conduct of elections. It establishes election precincts (24) and makes appropriations for the registration of voters. (25) A further duty is that of calling and regulating special elections held for the following purposes: To raise money for road construction by issuing bonds; (26) to increase the tax levy above the limit set by law; (27) to create irrigation, (28) sanitary, (29) and municipal (30) districts; to determine a change of the county boundaries; (31) to determine whether the voters desire to organize the school system under the county school law or to continue under the district system; (32) and to decide whether or not stock is to be allowed to run at large. (33)

Statutes governing the authority of the county court over the administration of public welfare have undergone numerous revisions since the Territorial Government first established county court jurisdiction over the care of indigents. (34) An early law provides for the control by the county court of workhouses, (35) special welfare legislation provided for the care of dependent children, later transferred to county welfare commission, (36) and of indigent war veterans. (37) The county court was authorized to con-

- 23. 1933 2d Sp. S. L. ch. 17, sec. 16; 1935 S. L. ch. 428, sec. 7; 1937 S. L. ch. 448, sec. 9; 1940 O. C. L. A. sec. 24-117.
- 24. 1931 S. L. ch. 81, sec. 1; 1940 O. C. L. A. sec. 81-201.
- 25. 1915 S. L. ch. 225, sec. 1; 1940 O. C. L. A. sec. 81-101.
- 26. 1913 S. L. ch. 103, sec. 2; 1940 O. C. L. A. sec. 100-1602.
- 27. 1917 S. L. ch. 150, sec. 1; 1940 O. C. L. A. sec. 110-1101.
- 28. L. 1895, p. 13, sec. 2; 1909 S. L. ch. 86, sec. 1; 1911 S. L. ch. 223, sec. 2; 1915 S. L. ch. 189, sec. 2; 1917 S. L. ch. 357, sec. 3; 1929 S. L. ch. 134, sec. 1; 1940 O. C. L. A. secs. 125-202, 125-203.
- 29. 1935 S. L. ch. 385, sec. 2; 1940 O. C. L. A. sec. 99-2102.
- 30. 1913 S. L. ch. 345, sec. 3; 1917 S. L. ch. 246, sec. 3; 1923 S. L. ch. 109, sec. 1; 1940 O. C. L. A. secs. 95-103, 116-1003.
- 31. 1913 S. L. ch. 10, sec. 1; 1940 O. C. L. A. sec. 85-201.
- 32. 1921 S. L. ch. 265, sec. 31; 1933 S. L. ch. 246, sec. 24; 1940 O. C. L. A. sec. 111-703.
- 33. L. 1893, p. 89, sec. 1; 1907 S. L. ch. 229, sec. 1; 1913 S. L. ch. 120, sec. 1; 1915 S. L. ch. 75, sec. 1; 1917 S. L. ch. 61, sec. 1; 1940 O. C. L. A. sec. 32-1420.
- 34. L. 1854, p. 505.
- 35. L. 1854, p. 848, sec. 9; 1940 O. C. L. A. sec. 126-202.
- 36. 1913 S. L. ch. 42, sec. 1; 1915 S. L. ch. 90, sec. 1; 1917 S. L. ch. 267, sec. 1; 1921 S. L. ch. 202, sec. 1; 1927 S. L. ch. 357, sec. 1; 1929 S. L. ch. 45, sec. 1; 1937 S. L. ch. 288, sec. 1; 1939 S. L. ch. 454, sec. 5; 1940 O. C. L. A. sec. 126-305.
- 37. L. 1889, p. 52, sec. 1; L. 1895, p. 41, sec. 1; L. 1901, p. 178, sec. 1; 1921 S. L. ch. 13, sec. 1; 1925 S. L. ch. 46, sec. 1; 1940 O. C. L. A. sec. 104-301.

stitute an old age pension commission in 1933 (38) but in 1935 the old age pension act was repealed and old age assistance became the function of the relief committee (39) with its organization for visiting and investigating cases. The county relief committee, composed of the county court and four lay members, (40) was created by the Legislature in 1933 and re-designated the county public welfare commission in 1939. (41) Powers relating to public welfare vested in the county court include the appointment and supervision of a board of visitors to visit homes provided for dependent children. (42)

As ex officio members of the public welfare commission, the county court participates in the appointment of the county commission for self-help and rehabilitation, (43) and transfers land to that body for rehabilitation purposes. (44) The county court is also instructed to cooperate with the rural rehabilitation corporation. (45)

Legislation enacted in 1921 gave the county court certain powers over military matters. The county court may establish armories in counties which sustain one or more National Guard units, (46) and may request the Governor to declare martial law. (47)

The county court is authorized to make a number of appointments, and to fill the vacancies in county offices. Furthermore, the county court fixes the salaries of all county deputies unless these salaries are provided for specifically by law. (48) The county court also appoints the county engineer, (49) the county roadmaster, (50) and the superintendent of the county fair. (51) With the approval of the State Director of Agriculture, the county court appoints the horticultural inspector, (52) the meat and herd

- 38. 1933 S. L. ch. 284, sec. 1.
- 39. 1935 S. L. ch. 407, sec. 2; 1935 Sp. S. L. ch. 50, sec. 2; 1937 S. L. ch. 309, sec. 2; 1939 S. L. ch. 455, sec. 2; 1940 O. C. L. A. sec. 126-604.
- 40. 1933 S. L. ch. 15, sec. 6; 1955 O. C. Ann. Supp. sec. 68-2606.
- 41. 1939 S. L. ch. 241, sec. 1; 1940 O. C. L. A. sec. 126-101. See Public Welfare Commission, p. E-142.
- 42. 1907 S. L. ch. 34, sec. 15; 1940 O. C. L. A. sec. 93-617.
- 43. 1933 2d Sp. S. L. ch. 97, sec. 1; 1940 O. C. L. A. sec. 126-801.
- 44. 1933 2d Sp. S. L. ch. 97, sec. 4; 1940 O. C. L. A. sec. 126-806.
- 45. 1935 S. L. ch. 396, sec. 4; 1940 O. C. L. A. sec. 126-818.
- 46. 1921 S. L. ch. 207, sec. 76; 1940 O. C. L. A. sec. 103-223.
- 47. 1921 S. L. ch. 207, sec. 85; 1940 O. C. L. A. sec. 103-242.
- 48. 1919 S. L. ch. 168, sec. 1; 1940 O. C. L. A. sec. 87-1053.
- 49. 1919 S. L. ch. 431, sec. 3; 1925 S. L. ch. 361, sec. 1; 1940 O. C. L. A. sec. 100-902.
- 50. 1917 S. L. ch. 299, sec. 4; 1940 O. C. L. A. sec. 100-1304.
- 51. 1911 S. L. ch. 85, sec. 2; 1940 O. C. L. A. sec. 30-215.
- 52. 1905 S. L. ch. 222, sec. 1; 1913 S. L. ch. 174, sec. 1; 1915 S. L. ch. 205, sec. 1; 1917 S. L. ch. 235, sec. 1; 1931 S. L. ch. 232, sec. 2; 1939 S. L. ch. 23, sec. 1; 1940 O. C. L. A. sec. 29-501.

inspector, (53) and the county veterinarian. (54) A number of boards and commissions are subject to the appointive powers of the county court, including three of the five members of the land classification committee, (55) the county fair board, (56) and the housing authority commission. (57) The county court appoints the judges and clerks of election. (58) Vacancies filled by county court appointments include the offices of county clerk, sheriff, coroner, (59) county school superintendent, (60) constable, (61) and, in case of temporary vacancy, justice of the peace. (62)

Records. The Constitution establishes the county clerk as custodian of the records of the county court. (63) The statutes, in defining the jurisdiction of the county court, direct that the business of that body shall be classified and recorded separately as probate and county business; that is, judicial and administrative business shall be recorded in separate books. (64) However, the Supreme Court has ruled that the law pertaining to the separate books is directory, and that an order of the county court entered in any of its books is valid. (65) The Supreme Court has also ruled that the county court, when transacting county business, acts as a court of record, although oral evidence is admissible to supplement the records. (66)

The chief administrative record of the county court is the county court journal, a record of all business conducted by the county court. Specific statutes provide that certain transactions must be recorded in the journal. Some of these are orders for the sale of land, (67) land transactions involving the State and Federal Governments, (68) resolutions

53. 1919 S. L. ch. 383, sec. 1; 1939 S. L. ch. 23, sec. 3; 1940 O. C. L. A. sec. 32-701.
54. 1913 S. L. ch. 14, sec. 8; 1917 S. L. ch. 412, sec. 2; 1939 S. L. ch. 23, sec. 4; 1940 O. C. L. A. sec. 32-202.
55. 1937 S. L. ch. 381, sec. 2; 1940 O. C. L. A. sec. 107-402.
56. 1913 S. L. ch. 146, sec. 1; 1931 S. L. ch. 356, sec. 1; 1940 O. C. L. A. sec. 30-201.
57. 1937 S. L. ch. 442, sec. 5; 1940 O. C. L. A. sec. 99-2005.
58. L. 1891, p. 9, sec. 3; L. 1901, p. 351, sec. 3; 1913 S. L. ch. 288, sec. 3; 1915 S. L. ch. 326, sec. 1; 1940 O. C. L. A. sec. 81-202.
59. L. 1864, Deady, p. 823, sec. 10; 1940 O. C. L. A. sec. 87-108.
60. 1907 S. L. ch. 116, sec. 40; 1940 O. C. L. A. sec. 111-302.
61. L. 1864, Deady, p. 829, sec. 39; 1929 S. L. ch. 422, sec. 1; 1940 O. C. L. A. sec. 27-221.
62. L. 1864, Deady, p. 828, sec. 31; 1917 S. L. ch. 239, sec. 1; 1937 S. L. ch. 335, sec. 1; 1940 O. C. L. A. sec. 27-206.
63. Const. original art. VII, sec. 15.
64. L. 1862, Deady, sec. 876; 1937 S. L. ch. 278, sec. 2; 1940 O. C. L. A. sec. 93-307.
65. State v. McElrath, 49 Or. 294, 89 Pac. 803.
66. Stout v. Yamhill County, 31 Or. 312, 51 Pac. 442.
67. 1905 S. L. ch. 201, sec. 2; 1940 O. C. L. A. sec. 86-104.
68. 1935 S. L. ch. 234, sec. 1; 1940 O. C. L. A. sec. 86-111.

of eminent domain, (69) orders calling special elections (70) and declaring the results of special elections, (71) and orders appointing various office deputies. (72)

In Benton County, the county court journal has been the means of recording the activities of the county court since the first meeting in 1850. (73) There is a file of original papers relating to county business, including petitions, bills, warrants, receipts, and damage claims. The official bonds of the different county officers have been kept in a separate file since 1908. (74)

Budget estimates prepared by the budget committee are filed by the county court after being used in the preparation of the county tax levy. (75) Benton County has a separate record of claims presented to the county court and an exhibit of warrants drawn in payment of these claims. (76) Claims and warrants on the road funds are kept in a separate file (77) as well as claims and warrants on the dog fund. (78) The clerk of the county court is required to publish semiannually, reports showing correctly the number and amount of claims allowed by the county court, on what account, the amount of warrants drawn, and the amount of outstanding warrants not paid. (79)

Because road matters comprise a large volume of county business, many counties, including Benton County, keep separate records of road business. These records include road petitions, (80) surveyor's and viewers' reports, (81) and a road register showing alterations, vacations, new roads, names, numbers, and descriptions of roads. (82)

- 69. 1917 S. L. ch. 335, sec. 2; 1940 O. C. L. A. sec. 12-326.
- 70. 1935 S. L. ch. 385, sec. 2; 1940 O. C. L. A. sec. 99-2102.
- 71. 1933 S. L. ch. 439, sec. 6; 1940 O. C. L. A. secs. 24-136, 107-606.
- 72. L. 1895, p. 83, sec. 11; 1940 O. C. L. A. sec. 87-1052.
- 73. L. 1862, Deady, sec. 876; 1940 O. C. L. A. sec. 93-307.
- 74. L. 1864, Deady, p. 824, secs. 11, 12; 1940 O. C. L. A. secs. 87-104, 87-105.
- 75. 1921 S. L. ch. 118, sec. 4; 1940 O. C. L. A. sec. 110-1204.
- 76. L. 1891, p. 117, sec. 2; 1940 O. C. L. A. sec. 93-306.
- 77. 1917 S. L. ch. 299, sec. 24; 1919 S. L. ch. 339, sec. 1; 1925 S. L. ch. 328, sec. 1; 1927 S. L. ch. 356, sec. 1; 1940 O. C. L. A. sec. 100-1325.
- 78. 1929 S. L. ch. 430, sec. 1; 1933 S. L. ch. 228, sec. 1; 1939 S. L. ch. 317, sec. 1; 1940 O. C. L. A. sec. 32-2406.
- 79. L. 1887, p. 6, sec. 1; 1915 S. L. ch. 98, sec. 1; 1933 S. L. ch. 33, sec. 1; 1940 O. C. L. A. sec. 88-301.
- 80. L. 1903, p. 262, sec. 7; 1913 S. L. ch. 168, sec. 1; 1917 S. L. ch. 295, sec. 5; 1927 S. L. ch. 59, sec. 1; 1940 O. C. L. A. sec. 100-1206.
- 81. 1917 S. L. ch. 295, sec. 29; 1940 O. C. L. A. sec. 100-1231.
- 82. L. 1903, p. 262, sec. 6; 1917 S. L. ch. 295, sec. 2; 1940 O. C. L. A. sec. 100-1202.

Early legislation gave certain licensing power to the county court and licenses granted under this authority are recorded in the county court journal. Benton County in the past has kept separate files for licenses granted for the sale of intoxicating liquors, (83) for peddling, (84) for operating ferries, (85) warehouses, (86) and public shows. (87)

There are numerous reports submitted by county officers among which are the county clerk's semiannual report showing the financial status of the county, (88) the treasurer's semiannual report of receipts and disbursements, (89) the sheriff's semiannual report, (90) and the coroner's report. (91)

#### Proceedings

1. COUNTY COURT JOURNAL, 1850--. 21 vols. (A-C, 1-18). Title varies: Probate Court, 1850-66; Journal, County Court, 1867-85; County Court, 1886-97.

Proceedings of the county court, covering all administrative business of the county: tax levies, budget estimates, report of budget committee, appropriations for indigents including sailors and soldiers, appointment of county officials, road viewers, and election judges, approval of officials' bonds, officials' annual reports, petitions and remonstrances concerning county roads, definition and establishment of county roads, calling of bond elections for construction of county buildings, jury lists, and petitions for hearings and meetings, showing date of meeting and names of members present. Also contains: Journal Probate, 1850-66, entry 200; and Board of Equalization, 1907--, entry 248. Arr. chron. by date of meeting. Indexed alph. by subject matter. Hdw. 1850-July 1902; typed Aug. 1902--. Aver. 600 pp. 17 x 12 x 2½. 15 vols., 1850-Sept. 1923, clk. bsmt. va.; 6 vols., Oct. 1923--, clk. va.

83. L. 1853-54, p. 500, sec. 1; L. 1885, p. 25, sec. 1; L. 1889, p. 9, sec. 1; L. 1891, p. 186, sec. 1; L. 1903, p. 169, sec. 1; 1913 S. L. ch. 265, sec. 1; 1915 S. L. ch. 141, sec. 5.
84. L. 1853-54, p. 502, sec. 14; L. 1903, pp. 77, 78; secs. 1-4; 1905 S. L. ch. 206, sec. 1; 1909 S. L. ch. 229, sec. 8.
85. L. 1853-54, p. 458, sec. 43; L. 1882, p. 34, sec. 1; 1940 O. C. L. A. sec. 100-3408.
86. L. 1903, p. 253, sec. 2; 1940 O. C. L. A. sec. 60-103.
87. L. 1882, p. 10, sec. 1; 1929 S. L. ch. 287, sec. 1; 1933 S. L. ch. 369, sec. 1; 1939 S. L. ch. 538, sec. 1; 1940 O. C. L. A. sec. 86-821.
88. L. 1887, p. 6, sec. 1; 1915 S. L. ch. 98, sec. 1; 1940 O. C. L. A. sec. 88-301.
89. L. 1867, p. 7, sec. 3; 1940 O. C. L. A. sec. 88-303.
90. L. 1887, p. 7, sec. 2; 1940 O. C. L. A. sec. 88-302.
91. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294, sec. 1; 1925 S. L. ch. 138, sec. 1; 1935 S. L. ch. 105, sec. 1; 1940 O. C. L. A. sec. 93-965.

2. COMMISSIONERS' COURT (Files), 1859--. 132 file boxes (dated).  
1850-1909 also in (Clerk's Miscellaneous Files), entry 109.

Original papers pertaining to county business handled by county commissioners: petitions, bills, vouchers, warrants, receipts, damage claims, indigent aid, elections, road right-of-way, auditing of accounts, and transfer of funds, showing date of session, nature of business, and orders issued. Arr. chron. by date of court session. No index. Hdw. and typed. 11 x 5 x 14. 99 boxes, 1859-May 1933, clk. bsm. va.; 33 boxes, June 1933--, clk. va.

#### Petitions (and/or applications)

3. STALLION LICENSES, WAREHOUSE LICENSES, APPLICATIONS TO REGISTER PHYSICIANS AND DRUGGISTS, 1879-1915. 1 file box.

Original applications for licenses consisting of:

- i. Applications to become public charge, 1879-86, showing date of petition, name, age, and physical condition of applicant, statement of inability of applicant or relatives to contribute to support, and notarial attestation. For contracts to care for poor, 1854--, see entry 6.
- ii. Applications of physicians and druggists for licenses to dispense drugs, opium and other habit forming drugs, 1888-89, showing date of application, name and address of applicant, and place of business. For record of licenses issued, 1889-1904, see entry 8.
- iii. Applications to keep stallions for service, 1889-1912, showing date of petition, name and address of petitioner, name, age, breed, physical condition, and pedigree of stallion, and notarial attestation. For record of stallion and jack licenses, 1911-16, see entry 91.
- iv. Applications for warehouse license, 1903-15, showing date of application, name, ability and resources of applicant, and amount of bond.

Also contains: (Liens on Mares for Service), 1888-1911, entry 159. Arr. chron. by date of petition. No index. Hdw. and typed. 11 x 5 x 14. Clk. va.

4. (PETITIONS FOR PERMISSION TO ERECT POWER POLES), 1921-24. In (Miscellaneous Files), entry 110.

Petitions for permission to erect power poles and to place wire and equipment along roads and highways, showing date of petition, reason for construction, location, description of equipment, and names of petitioners.

#### Bids and Contracts

5. BIDS SUBMITTED, 1934--. 1 file box.

Original bids submitted to county for furnishing equipment and supplies, showing amount of bid, name and address of bidder, number and description of article, and date of acceptance or refusal of bid. Arr. chron. by date of bid. No index. Hdw. and typed. 11 x 5 x 14. Clk. va.

County Court (Administrative) - Licenses;  
Official and Surety Bonds

(6-14)

6. CONTRACTS AND SPECIFICATIONS, 1854--. 2 file boxes (1, 2).  
Original contracts entered into by county court for construction and repair  
of buildings, roads and bridges, for sale of real estate, and care of poor,  
showing date and terms of contract, names of parties concerned, specifica-  
tions, and date and amount of bid. Arr. chron. by date of contract. No  
index. Hdw. and typed. 11 x 5 x 14. Clk. va.

For application to become public charge, 1879-86, see entry 3-i.

#### Licenses

7. (LIQUOR SELLERS' LICENSES), 1865-1909. In Record of Licenses,  
entry 87. 1870-99 also in (Clerk's Miscellaneous Files),  
entry 109.

Record of liquor sellers' licenses, showing date and duration of license,  
name and address of licensee, length of residence in county, bond of  
licensee, receipt by tax collector for license fee, and signature.

8. (DRUG DISPENSING LICENSES), 1889-1904. In Record of Licenses,  
entry 87.

Record of drug dispensing licenses, showing date of license, name and ad-  
dress of licensee, name and address of store dispensing drugs, duration  
of license, and amount of fee.

For applications of physicians and druggists to sell drugs, 1888-89,  
see entry 3-ii.

9. (PEDDLERS' LICENSES), 1865-1901. In Record of Licenses, entry 87.  
Record of peddlers' licenses, showing date of license, name and address of  
licensee, purpose of license, duration of license, and amount of fee.

10. (FERRY LICENSES), 1865-1901. In Record of Licenses, entry 87.  
Record of ferry licenses, showing date of license, name and address of  
licensee, location of ferry, duration of license, and amount of fee.

11. (WAREHOUSE LICENSES), 1903-8. In Record of Licenses, entry 87.  
Record of warehouse licenses, showing date of license, name and address of  
licensee, location and size of warehouse, duration of license, and amount  
of fee.

12. (BILL BOARD LICENSES), 1903-8. In Record of Licenses, entry 87.  
Record of bill board licenses, showing date of license, name and address of  
licensee, type of sign, duration of license, and amount of fee.

13. (CIRCUS LICENSES), 1889. In Record of Licenses, entry 87.  
Record of circus licenses, showing date of license, name of licensee, name  
of circus, duration of license, location, and amount of fee.

#### Official and Surety Bonds

14. BONDS, 1851--. 4 vols. (C,B,3,4).

Recorded copies of bonds: to insure care of parents, guarantee trust,  
assignees, official, contractors, warehouses, pharmacists, dance

halls, for extraordinary use of roads, for cost of road viewing, log hauling, lost instrument, bond to insure fulfillment of contract, and circuit court case bonds, showing amount of bond, purpose, names of sureties, to whom issued, date issued, and date recorded. Also contains: (Bonds for Deeds), 1851-86, entry 117; Chattel Mortgages, June 1854-April 1859, entry 150. Arr. chron. by date of entry. Indexed alph. by surname of bondee. Hdw. 1851-1902; typed 1903--. Aver. 347 pp.  $14\frac{1}{2}$  x  $7\frac{1}{2}$  x 3/4. 2 vols., 1851-Sept. 1880, clk. bsmt. va.; 2 vols., Oct. 1880--, clk. va.

15. OFFICIAL BONDS, 1908--. 2 file boxes (1, 2). 1856-90 in (Clerk's Miscellaneous Files), entry 109.

Original bonds of county officials and employees, showing names of bondee and sureties, title of office, date, number, amount and terms of bond, and date filed. Arr. chron. by date filed. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

#### Finance

#### Taxation

16. (BUDGET STATEMENTS), 1926-35. 1 vol.

Budget statements by month and year for all county offices and funds, showing total amount of funds budgeted for each office for year, monthly expenditures, and monthly balances. Arr. chron. by date of statement. No index. Hdw. 84 pp. 24 x 12 x 1. Clk. va.

For Budget Reports, 1922--, see entry 238.

17. TAX LEVIES, BOARD OF EQUALIZATION, 1880--. 5 file boxes (dated). Original tax levies, showing school district number, name of school superintendent, date, amount of levy, and signatures of members of school board. Also contains: Budget Reports, 1922--, entry 238; (Minutes of Board of Equalization), 1880--, entry 247. Arr. chron. by date filed. No index. Hdw. and typed. 11 x 5 x 29. 4 boxes, 1880-1932, clk. bsmt. va.; 1 box, 1933--, clk. va.

#### Claims and Warrants

18. EXHIBIT OF CLAIMS AND WARRANTS - GENERAL FUND, 1855--. 11 vols. (1-11). Title varies: Record of Orders, 1855-1902; Abstracts of County Warrants, 1903-14.

Record of claims and warrants on general fund, showing name of claimant, amount and purpose of claim, date allowed, and number, date and amount of warrant. Arr. numer. by serial no. and thereunder chron. by date issued. No index. Hdw. 1855-1902; hdw. on pr. fm. 1903--. Aver. 400 pp.  $17 \times 20 \times 2\frac{1}{2}$ . 7 vols., 1855-1924, clk. bsmt. va.; 4 vols., 1925--, clk. va.

E-19  
County Court (Administrative) - Finance

(19-24)

19. CANCELED WARRANTS, 1906--. 36 file boxes (dated). 1852-54 in Volunteer Papers, Old Papers, entry 49. Original canceled warrants, showing date, number, amount and purpose of warrant, name of payee, and date redeemed. Also includes treasurer's original monthly turnover sheets, showing date, number and amount of warrant, name of payee, total amount of warrant, and date warrant redeemed. Arr. chron. by date warrant redeemed. No index. Hdw. on pr. fm. 26 boxes 11 x 5 x 20; 10 boxes 11 x 5 x 14. 26 boxes, Mar. 1906-Mar. 1934, clk. bsmr. va.; 10 boxes, Apr. 1934--, clk. va.  
For treasurer's annual report, 1850-- see entry 38.
20. GENERAL FUND WARRANTS, 1906--. 155 vols. (150 vols. unlabeled; 5 vols. dated). Record of general fund warrants issued, showing name of claimant, nature of claim, date, number and amount of warrant, and signatures of claimant and clerk. 1906-31 kept in stub form; 1932--, in duplicate warrant form. Arr. numer. by warrant no. No index. Hdw. on pr. fm. 150 vols. aver. 200 pp. 18 x 14 x 1; 5 vols. aver. 500 loose-leaf pp. 18 x 9 x 2. 150 vols., 1906-31, clk. bsmr. va.; 5 vols., 1932--, clk. va.
21. EXHIBITS OF CLAIMS AND WARRANTS - ROAD FUND, 1912--. 5 vols. (1, 1-4). Title varies: Abstracts of Road District Warrants, 1912-14. Record of claims and warrants drawn on road funds, showing name of claimant, amount and nature of claim, date allowed, number and amount of warrant, name of road, and date canceled. Arr. numer. by warrant no. No index. Hdw. on pr. fm. Aver. 300 pp.  $17\frac{1}{2}$  x  $13\frac{1}{2}$  x  $1\frac{1}{2}$ . 3 vols., 1912-Sept. 1925, clk. bsmr. va.; 2 vols., Oct. 1925--, clk. va.
22. ABSTRACTS OF ROAD DISTRICT WARRANTS (Market Roads), 1909--. 1 vol. Record of claims and warrants drawn on road funds, showing name of claimant, amount and nature of claim, date allowed, date canceled, and road district number. Arr. numer. by warrant no. No index. Hdw. on pr. fm. 600 pp. 18 x 20 x  $1\frac{1}{2}$ . Clk. va.
23. CLAIMS AND WARRANTS - DOG FUND, 1933--. 1 vol. Duplicate receipts for warrants issued on claims, reimbursing owners of sheep and goats for animals slain by dogs, showing claim number, name of claimant, nature of loss, amount allowed, date, number and amount of warrant, interest and date canceled. Arr. numer. by warrant no. No index. Hdw. 420 pp. 18 x 12 x 2. Clk. va.
24. (AUTHORIZATION TO ISSUE WARRANTS), 1900-1920. In (Clerk's Miscellaneous Files), entry 109. Authorization to issue warrants, showing name of payee, date, amount and number of warrant, purpose of warrant, and date and to whom delivered.

Receipts

25. (OFFICIAL RECEIPTS), 1869-1910. 8 boxes. 1855-76, 1905-15, 1922-32 also in (Miscellaneous Files), entry 110.

Duplicate official receipts issued by county officials or deputies for money received, showing amount and number of receipt, for what paid, name of officer, and date of receipt. No obvious arr. No index. Hdw. 6 boxes  $12\frac{1}{2}$  x 11 x 6; 2 boxes 42 x 18 x 8. Clk. bsmt. va.

Accounts (See also entries 263, 265)

26. JOURNAL (Clerk's), 1926--. 1 vol.

Daily record of receipts and expenditures of county departments, showing date of entry, salary payments, clerk's collection of fees, and sheriff's turnover of taxes collected. Arr. chron. by date of entry. No index. Hdw. 300 pp. 16 x 12 x  $1\frac{1}{2}$ . Clk. va.

27. REPORTS ON AUDITS, 1925-35. 17 vols. (dated).

Original reports of audits by certified public accountants of financial records, showing date of report, name of office audited, name of account, balance of each account, totals, and signature of accountant. Arr. chron. by date of report. No index. Typed. Aver. 50 pp. 11 x  $18\frac{1}{2}$  x  $\frac{1}{2}$ . Clk. va.

28. ROADS AND HIGHWAYS LEDGER, 1914. 2 vols. Discontinued.

Record of claims against county, chargeable to general, road, highway, and special tax account funds, showing name of claimant, date, number, amount and nature of claim, date paid, purpose, and road number. Arr. numer. by road no. No index. Hdw. Aver. 150 pp. 17 x 12 x  $1\frac{1}{2}$ . Clk. va.

29. FEE JOURNAL (Road Account), 1851-93. 1 vol.

Record of fees due county clerk for filing, recording, and attesting papers pertaining to opening of roads, showing name of road and road district number, date of petition, reports, affidavits and remonstrances, oaths of viewers, surveyor's report, and date of entry. Arr. chron. by date of entry. No index. Hdw. Condition poor. 200 pp. 16 x 17 x 1. Clk. va.

## Roads

(See also entries 21, 22, 28, 29, 42, 45, 329, 331, 332, 336)

30. ROADS, 1854--. 14 file boxes (labeled by contained petition nos.).

Original road papers consisting of:

- i. Road petitions and related papers, remonstrances, and establishing, changing, and repairing of roads, showing date filed, date of paper, signatures of petitioners, and amount of bond for expenses in case petitions are disallowed.
- ii. Plats and surveyors' notes, showing location of tract or road, road district number, date and number of survey, name of surveyor, and date filed.

iii. Viewers' oaths and reports, showing date and nature of report, location of tract or road viewed, name of viewer, notarial attestation, and date filed.

Arr. numer. by road dist. no. No index. Hdw. and typed. 11 x 5 x 14. 4 boxes, 1854-1912, clk. bsm. va.; 10 boxes, 1913--, clk. va.

31. ROADS TRANSCRIBED TO LINCOLN COUNTY, 1878-93. 2 file boxes (dated).

Transcripts of original road papers for the portion of Benton County now a part of Lincoln County, showing road number, publication of notices, petitions, protests, notice of hearing, reports of viewers, plats of surveyors, and awards and damages. Arr. numer. by road no. No index. Hdw. 11 x 5 x 14. Clk. va.

32. LEDGER (Road Districts), 1888-1908. 1 vol. Discontinued.

Record of road districts, showing road district number and name, and name of road supervisor. Also includes record of road district boundaries, 1908, showing name and number of district, and location by section, township and range numbers. Arr. numer. by road no. No index. Hdw. 1888-June 1902; typed July 1902-8. 300 pp. 16 x 8 x 2. Clk. bsm. va.

33. ROAD REGISTER, 1926--. 1 vol.

Record of roads, 519-608, showing alterations, vacation of old and establishment of new roads, name, number and description of road, names of petitioners, dates petitions filed and bond posted, dates of remonstrance and hearing, surveyor's report, and action taken. Also includes record of roads, numbers 1-518, showing name and number of road, and plat number. This is also used as an index to Road Record, entry 332. Arr. numer. by road no. Indexed alph. by surnames of petitioners and road name. Hdw. and typed. 250 loose-leaf pp. 14 x 18 x 2. Clk. va.

34. (BRIDGE REPAIR), 1860-78. In (Clerk's Miscellaneous Files), entry 109.

Requests from road district supervisors for lumber and spikes for repair of bridges, showing location of bridge, amount of material required, bids for building or repairing bridges, and supervisor's report on bridges repaired or constructed.

35. RECORD OF ROAD POLL RECEIPTS, 1901-11. 1 vol.

Record of county clerk's accounts with road district supervisors for collection of poll tax, showing district number, name of supervisor, date of report, and collection and accounting of road poll tax. Arr. numer. by road dist. no. Indexed alph. by surname of supervisor. Hdw. 200 pp. 11 x 9 x 1. Clk. bsm. va.

36. (CORRESPONDENCE FROM STATE HIGHWAY COMMISSION), 1923-29. In (Miscellaneous Files), entry 110.

Original correspondence pertaining to load limits, road fund and market roads, showing date and nature of communication, name of road, source of fund, and signatures of members of commission. Also includes reimbursement vouchers, 1933, for money expended by county on secondary highways, showing date and amount of voucher, and name of road.

Reports  
(See also entry 268)

37. (CLERK'S REPORT), 1850--. 1850-1900 in (Clerk's Miscellaneous Files), entry 109. 1901-- in (Miscellaneous Files), entry 110. Clerk's annual report on fees received, showing date of report, from whom received, total amount received, expenditures, and balances on hand.
38. (TREASURER'S REPORT), 1850--. 1850-1900 in (Clerk's Miscellaneous Files), entry 109. 1901-- in (Miscellaneous Files), entry 110. Treasurer's annual report of receipts and disbursements, showing date of receipt, from whom received, amount paid out on warrants, and total on hand. For treasurer's monthly turnover sheets, 1906--, see entry 19.
39. (SHERIFF'S REPORT), 1850--. 1850-1900 in (Clerk's Miscellaneous Files), entry 109. 1901-- in (Miscellaneous Files), entry 110. Sheriff's semiannual report, showing fees received from State and county tax collections and fines, total money received, and total amount turned over to treasurer.
40. SHERIFF'S TURNOVER BOOK TO COUNTY CLERK, 1920--. 10 vols. (dated). Record of sheriff's financial report to clerk, showing date of turnover, segregation of amounts credited to tax funds, amount of turnover, and treasurer's receipt. Arr. chron. by date of turnover. No index. Typed on pr. fm. Aver. 200 pp. 18 x 9 x 2. Clk. va. For receipts given treasurer, 1907-25, see entry 266.
41. SHERIFF'S LEDGER, 1896-98, 1902-6. 2 vols. Clerk's record of reports on sheriff's tax collections, showing date of entry, debit by amount of tax levy collected, and credit by payment to treasurer. Arr. chron. by date of entry. No index. Hdw. Aver. 200 pp. 18 x 12 x 2. Clk. bsm. va. For records of tax collection, 1892-98, 1904--, see entry 256.
42. (ROAD SUPERVISOR'S REPORT), 1855-1900. In (Clerk's Miscellaneous Files), entry 109. 1901-- in (Miscellaneous Files), entry 110. Road supervisor's report, showing date of report, work accomplished beyond assessment, number of days worked, amount of materials used, and cash paid in lieu of labor.
43. (REPORT OF COUNTY AGRICULTURAL AGENT), 1930--. In (Miscellaneous Files), entry 110. Duplicate reports on soil fertility, cereals, horticulture, insects, disease, rodent control, livestock, and home economics, showing date of report, length of time taken to complete work, and name of agent. For county agent's copy of report, 1928-29, see entry 338; for dairy herd inspector's report, 1938--, see entry 344.
44. (REPORT OF COUNTY EXHIBITS AT STATE FAIR), 1922-27. In (Miscellaneous Files), entry 110. Original reports by agricultural agent of expenditures in collecting and

preparing exhibits, related vouchers, and photographs, showing date and nature of report, amount expended, awards received, and signature of agent.

45. (ROAD SURVEY REPORTS), 1925-28. In (Miscellaneous Files), entry 110.

Original final reports of surveyor on road projects, showing date of report, description of road, expenditures for right-of-way, clearing, grading, surfacing, and bridges, and signature of surveyor.

46. (REPORT OF HEALTH NURSE), 1930--. In (Miscellaneous Files), entry 110.

Duplicate monthly reports pertaining to activities of the health nurse in prevention of contagious diseases, educational and relief work, showing date and nature of report, and name of nurse.

For copies of monthly reports of health nurse, 1930--, see entry 310.

47. (CHILDREN'S FARM HOME ANNUAL REPORTS), 1932--. In (Miscellaneous Files), entry 110.

Duplicate reports of children's farm home, showing date of report, summary of activities and finances, and signature of superintendent.

48. (BOILER INSPECTION REPORTS), 1925--. In (Miscellaneous Files), entry 110.

Original inspection reports of courthouse boiler, showing date of report, condition of boiler, corrections to be made, and name of company.

#### Miscellaneous

49. VOLUNTEER PAPERS, OLD PAPERS, 1850-64. 1 file box.

Original miscellaneous papers consisting of:

- i. Construction of first county jail, 1854-56, showing date of paper, building sites offered, orders for construction, specifications, contracts, names of parties concerned, and date of acceptance by county court.
- ii. Mary's River navigation, 1856, showing date of paper, declaration that stream is navigable, names of petitioners, appointment of viewers, and viewers' reports.
- iii. Permanent location of county seat, 1854, showing date of paper, building sites offered, names of petitioners, and court decision.
- iv. Territorial University land selection, 1854, showing date of paper, building sites offered, names of petitioners, and decision of county court.

Also contains: Canceled Warrants, 1852-54, entry 19; (Volunteer Papers), 1864, entry 102; (Donation Land Claims), 1850, entry 122; (Survey of North and South County Lines), 1853-61, entry 330. No obvious arr. No index. Hdw. 11 x 5 x 14. Clk. bsm. va.

50. (COMMUNICATIONS FROM UNITED STATES ENGINEERS CORPS), 1922-24. In (Miscellaneous Files), entry 110.

Original communications granting county permission to take gravel from Willamette River, showing date of communication and signatures of engineers.

51. INSURANCE - COURTHOUSE, 1904--. 1 file box.  
Original fire insurance policies covering courthouse, showing policy number, names of insurance company and agent, description of property insured, amount of coverage, terms, and duration of policy. Arr. chron. by date recorded. No index. Hdw. and typed on pr. fm. 11 x 5 x 14. Clk. va.

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II. COUNTY CLERK

Introduction. Originally, on February 18, 1841, the settlers of the Willamette Valley chose one from among their number to fill the office of clerk of courts and public recorder. (1) It may be pointed out, however, that no effective governmental organization immediately resulted from this early meeting of the settlers. Of more significance was the meeting held at Champoeg on May 2, 1843, when there was elected a clerk-recorder of the Provisional Government. (2) On June 27, 1844, when the judiciary system of the Provisional Government was revised, the territorial clerk and recorder was empowered to act as clerk of the circuit court of each county. (3) In the following year, the judiciary system was again revised and statutes were enacted providing for the following courts: Supreme Court, the district courts (later the county courts), and probate courts. With the advice of the House of Representatives of the Provisional Government, these courts of record were to appoint their own clerks, whose tenure of office was to be the same as that of the various judges. (4) In January 1853, the Territorial Government passed an enactment creating the office of county auditor and providing that he should be ex officio clerk for the board of county commissioners, county recorder, and should perform the duties of the probate clerk except such duties as had been transferred to the probate judge. (5) The Constitution further provided that whenever the voters in any county exceed 1,200 the Legislature might authorize the election of one person as clerk of the circuit court, one person as clerk of the county court, and one person as recorder of conveyances. (6)

Benton County was created in 1847 and the office of county clerk went through the various changes during this period of development. (7) The enactment that created Benton County also specified that the Governor shall appoint the first county officers to serve until their successors could be

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1. Ar. p. 6.
  2. Ar. p. 30.
  3. L. 1843-49, p. 3, sec. 4.
  4. L. 1845, p. 44, sec. 5.
  5. L. 1852-53, p. 54, sec. 8.
  6. Const. original art. VII, sec. 15.
  7. L. 1843-49, p. 50, sec. 1.

elected and qualified. (8) The first record of a county clerk was in 1848. (9) As the Constitution had provided, the Legislature created a separate office of recorder of conveyances for Benton County in 1891. (10) In 1921 this office was abolished and the county clerk again assumed his duties. (11)

Manner of Selection. As has been mentioned, prior to statehood, clerical officials connected with the various courts were normally appointed by the judge. Since the adoption of the Oregon Constitution, however, the county clerk has always been an elective official. (12) In the event of a vacancy, the county court may appoint a suitable person to hold office until a successor has been elected and qualified. (13)

Qualifications, Oath, and Bond. The county clerk is required to be a citizen of the United States, a qualified elector under the Constitution, and a resident of the county for 1 year immediately preceding his election. (14) The clerk is further required to take an oath of office and to file a bond of \$10,000 which may be increased by the county court to \$15,000. (15)

Tenure. The Constitution in 1859 provided that the county clerk serve for 2 years. (16) However, in 1920 the Constitution was amended by initiative petition of the people, and the term of office of the county clerk was increased to 4 years. (17)

Compensation. The compensation of the county clerk originally consisted of the fees which he received for recording instruments. However, since 1880, county clerks have been paid a fixed salary. (18) At present, the county clerk of Benton County receives a salary of \$2,100 per year. (19)

Deputies. The county clerk shall appoint such deputies as may be necessary. Deputy appointments are approved and their compensation fixed by the county court. (20)

Ex Officio Duties. The county clerk is ex officio clerk of the circuit

8. L. 1843-49, p. 50, sec. 8.
9. Avery to Prim.
10. Const. original art. VII, sec. 15; L. 1891, p. 48, sec. 1.
11. 1921 S. L. ch. 101, sec. 1.
12. Const. original art. VII, sec. 15.
13. L. 1864, Deady, p. 823, sec. 10; 1940 O. C. L. A. sec. 87-108.
14. L. 1864, Deady, p. 823, sec. 8; 1940 O. C. L. A. sec. 87-102.
15. L. 1864, Deady, p. 823, sec. 9; 1940 O. C. L. A. secs. 87-103, 87-105.
16. Const. art. VI, sec. 6; see The Oregon Constitution, ed. by Charles H. Carey, p. 415.
17. Const. art. VI, sec. 6, as amended 1920; 1921 S. L. p. 8.
18. L. 1880, pp. 40-44, sec. 4; L. 1893, p. 166, sec. 4; 1937 S. L. ch. 81, sec. 1; 1940 O. C. L. A. sec. 87-1006.
19. 1941 S. L. ch. 28, sec. 1.
20. 1919 S. L. ch. 48, sec. 1; 1921 S. L. ch. 120, sec. 1; 1940 O. C. L. A. sec. 87-1006.

and county courts, (21) an ex officio member of the board of equalization, (22) and prior to 1891 and subsequent to 1921 ex officio recorder of conveyances. (23)

Powers and Duties. The duties and functions which the county clerk may be called upon to exercise are so numerous and varied that they do not readily lend themselves to any completely satisfactory system of classification. It is difficult, for example, always to distinguish where the duties of the county clerk as such leave off and where his ex officio duties as clerk of the county court begin. Nevertheless, it is possible to indicate certain activities of the clerk in which he acts as custodian of county records in general consisting of various reports, documents, and papers relating broadly to the business of the county both as a unit of the government and as a community. There are other activities in connection with election procedure, issuing of licenses, and preparing reports, which the county clerk carries on independently of his specific functions as ex officio clerk of the circuit and county courts.

Thus, in election procedure of the county the clerk holds a central position. Besides supervising the registration of voters, (24) he also prepares election ballots, (25) delivers supplies to the sheriff for use at polling places, (26) conducts the county-wide canvass of votes, (27) and forwards an abstract of election returns to the Secretary of State. (28) For irregularities in the conduct of elections the county clerk is subject to certain penalties. (29) Among the election records kept by the clerk are some which he is required to preserve for the limited period of 2 years after the election to which the records pertain. At the end of that time, unless he is forbidden to do so by court order, the clerk is required to destroy the records by fire. Records which under these circumstances may be destroyed include all certificates of nomination, acceptances, withdrawals, poll books, tally sheets, ballots, and ballot stubs. (30)

21. Const. original art. VII, sec. 15; L. 1862, p. 235, sec. 959; L. 1864, Deady, sec. 959; 1940 O. C. L. A. sec. 93-927.
22. 1907 S. L. ch. 266, sec. 1; 1913 S. L. ch. 184, sec. 6; 1933 S. L. ch. 446, sec. 2; 1940 O. C. L. A. sec. 110-402.
23. Const. original art. VII, sec. 15; 1921 S. L. ch. 101, sec. 1; 1940 O. C. L. A. sec. 87-418.
24. 1915 S. L. ch. 225, sec. 3; 1923 S. L. ch. 126, sec. 1; 1931 S. L. ch. 342, sec. 1; 1940 O. C. L. A. sec. 81-103.
25. L. 1891, p. 23, sec. 46; 1905 S. L. ch. 1, sec. 21; 1940 O. C. L. A. secs. 81-601, 81-1308.
26. L. 1891, p. 26, sec. 54; 1940 O. C. L. A. sec. 81-1510.
27. L. 1870, p. 89, sec. 29; 1940 O. C. L. A. sec. 81-1801.
28. L. 1870, p. 90, sec. 31; 1940 O. C. L. A. sec. 81-1804.
29. 1915 S. L. ch. 225, sec. 19; 1940 O. C. L. A. sec. 81-115.
30. L. 1891, p. 21, sec. 40; 1939 S. L. ch. 389, sec. 1; 1940 O. C. L. A. sec. 81-1302.

Independently of any action by the county court, the county clerk has authority to issue various licenses. Licenses thus issued by the clerk upon the proper application include marriage licenses, (31) dog licenses, (32) and fish and game licenses. In issuing these fishing and hunting licenses the county clerk acts as agent of the State Fish and Game Commission. (33)

As the chief custodian of records in the county, the county clerk is also the agent through which certain reports and record copies are transmitted to State officials. To the Secretary of State the county clerk is required to transmit a quarterly report on the judicial business of the circuit and county courts. (34) He reports to the various boards of professional examiners. Five days after he has filed a dentist's certificate, the clerk is required to send a copy of the certificate of registration to the State Board of Dental Examiners. (35) Furthermore, on or before the 1st of February in each year the clerk must furnish the Secretary of the State Board of Examiners a list of all physicians' and surgeons' licenses filed in his office during the preceding year. (36) Whenever the State Board of Examiners for Naturopaths may request it the county clerk will furnish a list of certificates on file in his office for naturopaths. (37)

It is also the duty of the clerk to prepare semiannual reports on the financial activity of the county. Thus, on the 1st day of January and on the 1st day of July of each year, the clerk is required to publish in one of the local newspapers a report showing the number and the amount of claims allowed by the county court, on what account these claims are allowed, and the amount of warrants drawn and of those remaining unpaid. (38) The clerk semiannually publishes a report of the sheriff of his county showing money collected, the amount of warrants received for taxes, the amount turned over by the sheriff each month to the treasurer, and the total during the past 6 months; (39) also a report of the financial business of the treasurer

- 31. L. 1862, Deady, p. 785, sec. 12; 1911 S. L. ch. 214, sec. 3; 1925 S. L. ch. 82, sec. 1; 1933 S. L. ch. 57, sec. 1; 1940 O. C. L. A. sec. 63-112.
- 32. 1919 S. L. ch. 186, sec. 8; 1925 S. L. ch. 254, sec. 1; 1929 S. L. ch. 432, sec. 1; 1931 S. L. ch. 266, sec. 1; 1933 S. L. ch. 309, sec. 1; 1939 S. L. ch. 188, sec. 1; 1940 O. C. L. A. sec. 32-2414.
- 33. 1921 S. L. ch. 153, sec. 42; 1939 S. L. ch. 40, sec. 1; 1940 O. C. L. A. sec. 82-401.
- 34. 1917 S. L. ch. 35, sec. 1; 1940 O. C. L. A. sec. 87-109.
- 35. L. 1899, p. 205, sec. 7; 1913 S. L. ch. 253, sec. 2; 1940 O. C. L. A. sec. 54-426.
- 36. L. 1895, p. 65, sec. 7; 1927 S. L. ch. 452, sec. 10; 1935 S. L. ch. 42, sec. 5; 1940 O. C. L. A. sec. 54-922.
- 37. 1927 S. L. ch. 451, sec. 11; 1940 O. C. L. A. sec. 54-526.
- 38. L. 1887, p. 6, sec. 1; 1933 S. L. ch. 33, sec. 1; 1940 O. C. L. A. sec. 88-301.
- 39. L. 1887, p. 7, sec. 2; 1940 O. C. L. A. sec. 88-302.

during the past 6 months. (40) The clerk prepares and attaches to these reports a summary of the exact financial condition of his county at this date. (41)

Records. The chief duties of the county clerk concern the keeping of various records, the majority of which are mandatory and listed in the Oregon laws. The records kept by the county clerk of Benton County are grouped in this inventory under the following headings, suggesting the purpose of the record or aspect of county activity to which the record is related: Oaths, vital statistics, elections, registration, licenses, articles of incorporation, animals, military, finance, and reports.

Oaths of office of various deputies such as deputy sheriffs (42) and deputy constables (43) are filed with the county clerk.

Since 1915 the county clerk has been required to keep record copies of birth and death certificates, which he receives from the State Registrar. (44) The county clerk of Benton County, following the law of 1905, kept a complete record of births and deaths beginning with 1907. (45) Legal regulations affecting the issuing and recording of marriage licenses have been in existence for many years. Under an act of 1862, the county clerk is required to keep a record of marriage licenses (46) and to record certificates containing information about the marriage ceremony. Marriage returns are filed with the county clerk by whoever performs the ceremony. (47) Since 1913 male applicants for marriage licenses have been required to file with the county clerk medical certificates certifying to their freedom from venereal disease. (48) By a referendum of voters in 1938, it is at present necessary for both parties to a marriage to file with the county clerk certificates of medical examination. (49)

Certain records of the county clerk concern election affairs. He is required to keep an official register of electors since 1900, (50) petitions

40. L. 1887, p. 7, sec. 3; 1940 O. C. L. A. sec. 88-303.
41. L. 1887, p. 7, sec. 4; 1940 O. C. L. A. sec. 88-304.
42. L. 1862, Deady, sec. 962; 1927 S. L. ch. 213, sec. 1; 1940 O. C. L. A. sec. 93-930.
43. 1911 S. L. ch. 215, sec. 2; 1913 S. L. ch. 387, sec. 1; 1929 S. L. ch. 472, sec. 1; 1940 O. C. L. A. sec. 27-254.
44. 1915 S. L. ch. 268, sec. 18; 1919 S. L. ch. 264, sec. 138; 1940 O. C. L. A. sec. 99-1026; 1941 S. L. ch. 130, sec. 44. See also Local Registrar, p. E-135.
45. 1905 S. L. ch. 170, sec. 2.
46. L. 1862, Deady, p. 784, sec. 12; 1940 O. C. L. A. secs. 63-108, 63-112.
47. L. 1862, Deady, p. 784, sec. 7; 1940 O. C. L. A. sec. 63-107.
48. 1913 S. L. ch. 187, sec. 1; 1940 O. C. L. A. sec. 63-118.
49. 1937 S. L. ch. 434, sec. 1; 1940 O. C. L. A. sec. 63-118.
50. L. 1899, p. 128; 1915 S. L. ch. 225, sec. 2; 1940 O. C. L. A. sec. 81-102; Const. art. II, sec. 2, as amended 1927.

and certificates of nominations to county offices, (51) a register of candidates for nomination at primary elections since 1906, (52) a register of nominations at general elections since 1892, (53) and a record of election results since 1908. (54)

A number of the records of the county clerk are in the form of business and professional registers. He keeps registers of farm names, (55) log brands, (56) and assumed business names. (57) The law requires that licenses issued to certain professional people be filed and registered with the county clerk. Among those who are required to file their licenses are physicians and surgeons practicing in the county, (58) registered nurses, (59) optometrists, (60) dentists, (61) and naturopaths. (62) In addition, the clerk records the names of the persons in the county authorized to solemnize marriages. (63) Likewise, he keeps a record of persons authorized to act as notaries public. (64)

The county clerk keeps a record of licenses issued from his office. He keeps a register of dog licenses. (65) Until the law was changed in 1933 he was required to keep a record of licenses issued to persons keeping bees. (66) Other records of licenses he has kept are stallion and jack licenses, (67) and copies of hunters' and anglers' licenses. (68)

51. 1905 S. L. ch. 1, sec. 12; 1919 S. L. ch. 283, sec. 16; 1940 O. C. L. A. sec. 81-402.
52. 1905 S. L. ch. 1, sec. 17; 1940 O. C. L. A. sec. 81-407.
53. L. 1891, p. 20, sec. 39; 1940 O. C. L. A. sec. 81-1301.
54. 1907 S. L. ch. 195, sec. 1; 1940 O. C. L. A. sec. 81-1802.
55. 1911 S. L. ch. 7, sec. 1; 1940 O. C. L. A. sec. 30-401.
56. L. 1891, p. 84, sec. 2; 1940 O. C. L. A. sec. 107-902.
57. 1913 S. L. ch. 154, sec. 1; 1923 S. L. ch. 36, sec. 1; 1940 O. C. L. A. sec. 43-501.
58. L. 1895, p. 65, sec. 7; 1927 S. L. ch. 452, sec. 10; 1935 S. L. ch. 42, sec. 5; 1940 O. C. L. A. sec. 54-922.
59. 1911 S. L. ch. 32, sec. 3; 1940 O. C. L. A. sec. 54-631.
60. 1905 S. L. ch. 139, sec. 8; 1907 S. L. ch. 120, sec. 8; 1919 S. L. ch. 285, sec. 6; 1940 O. C. L. A. sec. 54-725.
61. L. 1899, p. 205, sec. 5; 1940 O. C. L. A. sec. 54-425.
62. 1927 S. L. ch. 451, sec. 11; 1940 O. C. L. A. sec. 54-526.
63. L. 1862, Deady, p. 783, sec. 4; 1911 S. L. ch. 214, sec. 1; 1940 O. C. L. A. sec. 63-104.
64. 1915 S. L. ch. 64, sec. 1; 1921 S. L. ch. 122, sec. 1; 1923 S. L. ch. 262, sec. 1; 1940 O. C. L. A. sec. 96-101.
65. 1919 S. L. ch. 186, sec. 8; 1925 S. L. ch. 254, sec. 1; 1929 S. L. ch. 432, sec. 1; 1931 S. L. ch. 266, sec. 1; 1933 S. L. ch. 309, sec. 1; 1939 S. L. ch. 188, sec. 1; 1940 O. C. L. A. sec. 32-2414.
66. 1923 S. L. ch. 162, sec. 1; 1933 S. L. ch. 160, sec. 9; 1940 O. C. L. A. sec. 32-2509.
67. 1911 S. L. ch. 216, sec. 1; 1917 S. L. ch. 425, sec. 5.
68. 1905 S. L. ch. 204, sec. 1; 1913 S. L. ch. 232, sec. 46; 1915 S. L. ch. 287, sec. 2; 1917 S. L. ch. 297, sec. 3; 1921 S. L. ch. 153, sec. 78.

## County Clerk

(Next entry 52, p. E-31)

Certain records relating to corporations in the county correspond to records kept by the Secretary of State. Articles of incorporation are made in triplicate. One copy is transmitted by the corporation to the Secretary of State and another is filed with the county clerk of the county in which the enterprise is situated. The county clerk is required to keep a record of articles of incorporation filed with him. (69) Basically, the same procedure is followed in the filing and recording of articles of association. (70)

Among the records of the county clerk are usually several relating to domestic and wild animals. In Benton County the clerk keeps a record of marks and brands, (71) a record of estrays, (72) and a record of bounties paid. (73)

Military records of the county clerk include a record of final discharge of soldiers, sailors, and marines. (74) Earlier military records usually consist of the military rolls of persons eligible for service. Until 1941 the Governor could order an enrollment of all men of military age, other than those already enlisted in the National Guard. The enrolling officer files a copy of the list with the county clerk. (75) Under a law of 1887 a military list was prepared annually and filed by the county assessor, a practice still followed in Multnomah County. (76)

Reports kept by the county clerk vary from county to county in Oregon. Uniformly, however, the county clerk is required to keep a coroner's report, showing the testimony and verdict in cases of death in which the coroner's jury finds no crime has been committed. (77)

The financial records of the county clerk also vary from county to county, although the clerk is always required to keep a record of fees collected for his services. (78)

- 69. L. 1862, Deady, p. 658, sec. 2; L. 1891, p. 110, sec. 1; 1913 S. L. ch. 220, sec. 1; 1940 O. C. L. A. sec. 77-204.
- 70. 1915 S. L. ch. 226, secs. 4, 5; 1925 S. L. ch. 237, sec. 1; 1929 S. L. ch. 412, sec. 3; 1940 O. C. L. A. sec. 77-503.
- 71. L. 1843-49, p. 67, sec. 8; L. 1853-54, p. 489, sec. 1; L. 1887, p. 101, sec. 9; 1917 S. L. ch. 85, sec. 1; 1939 S. L. ch. 149, sec. 2; 1940 O. C. L. A. sec. 32-1112.
- 72. L. 1860, p. 53, sec. 1; L. 1862, p. 56, sec. 1; 1911 S. L. ch. 149, sec. 5; 1913 S. L. ch. 328, sec. 6; 1921 S. L. ch. 413, sec. 5; 1940 O. C. L. A. sec. 32-1575.
- 73. 1909 S. L. ch. 113, sec. 6; 1911 S. L. ch. 203, sec. 3; 1913 S. L. ch. 191, sec. 4; 1940 O. C. L. A. sec. 32-2642.
- 74. 1920 S. L. ch. 15, sec. 1; 1940 O. C. L. A. sec. 87-111.
- 75. 1921 S. L. ch. 207, sec. 3; 1940 O. C. L. A. sec. 103-108; 1941 S. L. ch. 91, sec. 15.
- 76. L. 1887, p. 134, sec. 30; 1940 O. C. L. A. sec. 87-513.
- 77. L. 1864, Deady, sec. 459; 1940 O. C. L. A. sec. 26-2507.
- 78. L. 1901, p. 396, sec. 7; 1940 O. C. L. A. sec. 87-914.

Miscellaneous records of the county ordinarily contain many records resulting from the clerk's ex officio functions as clerk of the circuit and county courts and recorder of conveyances.

#### Oaths

52. DEPUTIES' OATHS, 1908--. 1 file box.

Original oaths of office of county deputies, showing date sworn, name of officer, title of office, and notice of appointment. Arr. chron. by date sworn in. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

#### Vital Statistics

##### Births

53. (RECORD OF BIRTHS), 1893--. In Miscellaneous Records, entry 111. Recorded copies of births, showing name, date and place of birth, sex and legitimacy of child, names and addresses of parents, by whom reported, and date recorded.

For registrar's record of births, 1926--, see entry 306.

54. RECORD OF BIRTHS, 1907--. 22 vols. (1-5; 17 vols. dated).

Oct. 1915-Sept. 1929 also in Record of Deaths (Births), entry 60. Duplicate certificates of births, showing certificate number, date and place of birth, father's name, mother's maiden name, age, color, occupation and address of parents, and by whom reported; includes certificate of attending physician or midwife. Arr. chron. by date of birth. For index see entry 55. Hdw. 1907-20; typed on pr. fm. 1921--. Aver. 200 pp. 8 $\frac{1}{2}$  x 9 x 1. Clk. va.

For registrar's record of births, 1926--, see entry 306.

55. INDEX TO CERTIFICATES OF BIRTHS, 1907--. 1 vol.

Index to Record of Births, entry 54, showing date of birth, name of child, names of parents, address, and volume and page where recorded. Arr. alph. by surname of child. Typed on pr. fm. 700 loose-leaf pp. 11 x 13 x 4. Clk. va.

##### Marriages

56. MARRIAGE RECORD, 1850--. 10 vols. (A-D, 5-10). 1893-- also in Miscellaneous Records, entry 111.

Recorded copies of marriage certificates, and affidavits of eligibility, showing date and place license issued, names of contracting parties, witnesses and official performing ceremony, date and place of ceremony, and date and number of certificate. Affidavits of eligibility show date of affidavit, names and addresses of contracting parties, and date filed. Arr. chron. by date of certificate. 1850-Apr. 24, 1895 indexed alph. by surname of male; Apr. 27, 1895-- indexed alph. by surnames of contracting parties. Hdw. 1850-Oct. 24, 1876; hdw. on pr. fm. Oct. 25, 1876--. Aver. 390 pp. 12 x 9 $\frac{1}{2}$  x 2 $\frac{1}{2}$ . Clk. va.

57. MARRIAGE CERTIFICATES, 1854--. 6 file drawers (dated). Original certificates of marriage, showing date of license and names of contracting parties. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. Old certificates badly faded. 8 x 5 x 30. Clk. bsm. va.

58. MEDICAL CERTIFICATES, 1913--. 4 file drawers (dated). Original certificates of physicians attesting physical condition of male applicants for marriage licenses, showing date of certificate, name and address of applicant, age, physical condition, and signature of physician; after 1938 shows also medical certificates for female applicants. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. 10 x 5 x 22. 3 file drawers, 1913-35, clk. bsm. va.; 1 file drawer, 1936--, clk. va.

#### Deaths and Births

59. (RECORD OF DEATHS), 1893--. In Miscellaneous Records, entry 111. Recorded copies of deaths, showing name, age, sex, color, birthplace, occupation and marital status of deceased, date, place and cause of death, names and addresses of parents, by whom death reported, and date recorded.

For registrar's record of deaths, 1926--, see entry 307.

60. RECORD OF DEATHS (Births), 1907--. 22 vols. (1-5, 17 vols. dated).

Duplicate certificates of deaths, showing name, sex, age, color, residence, birthplace, and occupation of decedent, date and cause of death, names and birthplaces of parents, and by whom death reported. Also contains: Record of Births, Oct. 1915-Sept. 1929, entry 54. Arr. chron. by date of death. For index, see entry 61. Hdw. 1907-20; typed on pr. fm. 1921--. Aver. 160 pp. 9 x 10 x 1. 5 vols., 1907-20, clk. va.; 17 vols., 1921--, clk. off.

For registrar's record of deaths, 1926--, see entry 307.

61. INDEX TO RECORD OF DEATHS (Births), 1907--. 1 vol.

Index to Record of Deaths (Births), entry 60, showing name of decedent, and volume and page where recorded. Arr. alph. by surname of decedent. Typed. 600 loose-leaf pp. 10 x 12 x 4. Clk. va.

#### Elections

#### Electors

62. REGISTRATION BLANK A (Electors), 1900-1914. 2 vols. (dated). Register of electors, showing precinct number, name, residence, age, nativity, party affiliation and signature of elector, and if foreign born, naturalization record. Arr. chron. by years and thereunder numer. by precinct no. No index. Hdw. on pr. fm. Aver. 100 pp. 14 x 9 x 4. Clk. bsm. va.

63. GENERAL REGISTER (Electors), 1900-1902, 1906-14. 7 vols. Record of registered electors, showing precinct number, party affiliation, name, address, age, nativity, occupation, naturalization record, signature of elector, and date registered. Arr. numer. by precinct no. No index. Hdw. on pr. fm. Aver. 150 pp. 17 x 12 x 1. Clk. bsm. va.

64. (INDEX TO VOTERS' REGISTRATION RECORDS), 1926--. 4 file boxes. Index to (Voters' Registration Records), entry 65, and (Cancelled Registration Cards), entry 66, showing name and address of voter, and precinct number. Arr. alph. by surname of voter. Hdw. on pr. fm. 4 x 6 x 20. Clk. off.

65. (VOTERS' REGISTRATION RECORDS), 1926--. 15 file boxes (labeled by contained precinct nos.).

Original registration cards of electors, showing precinct number, name, address, birthplace, occupation and party affiliation of voter, names of parents, name of husband or wife, naturalization record, oath and signature of voter, and clerk's attestation. Arr. numer. by precinct no. and thereunder alph. by surname of voter. For index, see entry 64. Hdw. on pr. fm. 4 x 6 x 20. Clk. va.

66. (CANCELED REGISTRATION CARDS), 1926--. 8 file boxes.

Original canceled registration cards, showing same information as entry 65. Arr. alph. by surname of voter. For index, see entry 64. Hdw. on pr. fm. 4 x 6 x 20. Clk. off.

#### Candidates

67. ELECTIONS, 1892-1904, 1910-28. 7 file boxes (dated). Title varies slightly.

Original petitions of candidates for nomination, acceptances of nominations, certificates of Secretary of State to State and district nominees, certificates from party conventions as to candidates nominated, candidates' sworn statements of primary and election expenses, and duplicate of clerk's certificates of elections issued to successful candidates, showing date of election, name of candidate, dates of petition, statement, and certificate, and signatures of candidates, clerks and Secretary of State. Arr. chron. by date of election. No index. Hdw. 11 x 5 x 14. 3 file boxes, 1892-1904, 1910-18, clk. bsmt. va.; 4 file boxes, 1919-28, clk. va.

68. REGISTER OF NOMINATIONS FOR ELECTIONS, 1892-1916. 1 vol.

1917-- in Register of Candidates for Primary Elections, entry 69. Register of nominations, showing name of candidate, office sought, date of election, certification, date certified, date of acceptance, and copy of referred measures to be voted on. Arr. chron. by date of election. No index. Hdw. 400 pp. 18 x 12 x 2 $\frac{1}{2}$ . Clk. va.

69. REGISTER OF CANDIDATES FOR PRIMARY ELECTIONS, 1906--. 3 vols. (dated).

Register of candidates for nomination at primary elections, showing date of election, name of candidate, party affiliation, office sought, number of signatures on petition, statement of expenses, and date registered. Also contains: Register of Nominations for Elections, 1917--, entry 68. Arr. chron. by date of election. No index. Hdw. Aver. 50 pp. 17 x 11 x  $\frac{1}{2}$ . Clk. va.

Election Returns

70. ABSTRACT OF VOTES, 1851--. 6 file drawers (dated).  
 Original reports of board of canvassers on elections, showing date of election, name of candidate, ballot number, votes cast for and against each initiated or referred measure, total number of votes cast and summation of votes. Arr. chron. by date of election. No index. Hdw. 11 x 5 x 14.  
 3 drawers, 1851-1905, 1920--, clk. va.; 3 drawers, 1906-19, clk. bsm. va.

71. (CERTIFICATES OF ELECTION OR APPOINTMENTS OF COUNTY OFFICERS),  
 1852-56. 1 vol.

Original certificates of election or appointment of precinct officers, showing date of election, precinct number, name of officer, oaths of office, and signatures of appointee and county clerk. Arr. chron. by date of election. Indexed alph. by surname of officer. Hdw. on pr. fm. 200 pp.  
 (13 pp. used) 8 x 7 x  $\frac{1}{2}$ . Clk. bsm. va.

72. RECORD OF ELECTIONS, 1908--. 4 vols. (1-4).  
 Record of general and special elections, showing date of election, ballot number, name of candidate, office sought, number of votes cast for each candidate, total votes, number required to elect, election board's decision, and names and ballot numbers of measures referred and votes cast for and against. Arr. chron. by date of election. No index. Hdw. on pr. fm.  
 Aver. 300 pp. 19 x 13 x 2. Clk. va.

73. QUESTIONS SUBMITTED TO PEOPLE ON BALLOT, 1910--. 1 file box.  
 Original petitions and related papers pertaining to special referendum election affecting only county or subdivisions, showing dates of petition and election, notice of election, abstract of votes, and publication of returns. Arr. chron. by date of election. No index. Typed. 11 x 5 x 14.  
 Clk. va.

## Registration

Non-Professional

74. REGISTER OF FARM NAMES, 1911--. 1 vol.  
 Register of farm names, showing date application filed, name and location of farm, name of owner, and date certificate issued. Arr. alph. by name of farm. No index. Hdw. 240 pp. 8 x 13 x 2. Clk. va.

75. (CERTIFICATES OF FARM NAMES), 1911--. 1 vol.  
 Stubs of certificates issued for farm names, showing date and number of certificate, name and location of farm, and name of owner. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. 200 pp. 8 x 14 x 1. Clk. va.

76. (FARM NAMES), 1911-20, 1922-27. 1911-20 in (Miscellaneous Files), entry 110; 1922-27 in Mechanics' Liens - U. S. Liens, entry 130.  
 Original applications for registration of farm names, showing proposed name of farm, location, name of owner, certificate of registration issued on approval of Secretary of State, or notice that name is already claimed by another.

77. (REGISTER OF LOG MARKS), 1893--. In Miscellaneous Records, entry 111.

Record copies of log marks, showing date recorded, name of owner, facsimile and description of mark, and date recorded.

78. CERTIFICATES OF ASSUMED BUSINESS NAMES, 1918--. 2 file boxes. Original certificates of assumed business names, showing date of certificate, name assumed, name of owner, nature and location of business, and date filed. Arr. chron. by date filed. No index. Typed. 11 x 5 x 14. 1 file box, 1918-21, clk. bsmt. va.; 1 file box, 1922--, clk. va.

79. ASSUMED BUSINESS NAMES, 1929. 1 vol. 1913-28 in Miscellaneous Records, entry 111.

Record of names assumed by business organizations, showing date filed, assumed name, nature and location of business, and names of owners. Arr. chron. by date filed. Indexed alph. by assumed name. Typed. 600 pp. 18 x 12 x 3. Clk. va.

Professional

80. REGISTER, PHYSICIANS' AND SURGEONS', 1889--. 1 vol. 1893-- also in Miscellaneous Records, entry 111.

Record copies, consisting of:

- i. Chiropractic certificates issued by State Board of Examiners, Chiropractics, July 1921, showing certificate number, name, age, residence, sex and educational qualifications of licensee, date of certificate, and date recorded.
- ii. Dentists' certificates, February 1891, showing same information as entry 81.
- iii. Naturopathic certificates, July 1928, showing same information as entry 82.
- iv. Osteopathic certificates, August 1915, issued by State Board of Medical Examiners, showing certificate number, name, age, residence, sex and educational qualifications of licensee, date of certificate and date recorded.
- v. Physicians and surgeons' certificates issued by State Board of Medical Examiners, showing certificate number, name, age, residence, sex and educational qualifications of licensee, date of certificate, and date recorded.

Arr. chron. by date recorded. Indexed alph. by subject head and thereunder alph. by surname of licensee. Hdw. 84 pp. 15 x 11 x  $\frac{1}{2}$ . Clk. va.

- 81 DENTISTS' CERTIFICATES, 1899--. 1 vol.

Record copies of certificates issued by State Board of Dental Examiners, showing date of certificate, name, age, residence, sex, and educational qualifications of licensee, date of certificate, and date recorded. Arr. chron. by date recorded. Indexed alph. by surname of dentist. Hdw. on pr. fm. 1899-1914; typed 1915--. 160 pp. 16 x 12 x 1. Clk. va.

82. (RECORD OF NATUROPATHS), 1893--. In Miscellaneous Records, entry 111.

Record copies of certificates issued by State Board of Examiners, Naturopathic, showing date and number of certificate, name, age, residence, sex, and educational qualifications of licensee, name of medical director, and date recorded.

83. OPTOMETRY RECORD, 1905--. 1 vol.

Record copies of certificates issued by State Board of Examiners to optometrists, showing date and number of certificate, name, address, and residence of optometrist. Arr. chron. by date recorded. Indexed alph. by surname of optometrist. Hdw. on pr. fm. 1905-16; typed 1917--. 160 pp. 16 x 12 x 1. Clk. va.

84. (NURSES' CERTIFICATES), 1912--. In Miscellaneous Records, entry 111.

Record copies of nurses' certificates, showing name and address of nurse, date of requisition, names of members of board of examiners, and date recorded.

85. AUTHORITY TO SOLEMNIZE MARRIAGE, 1911--. 1 vol.

Record copies of certificates of authority to solemnize marriage, showing date and number of certificate, names of clergyman and affiant, evidence of holder's right to certificate, and date filed. Arr. chron. by date filed. Indexed alph. by surname of clergyman. Typed on pr. fm. 1911-18; hdw. on pr. fm. 1919--. 200 pp. 18 x 13 x 1½. Clk. va.

86. NOTARIAL RECORD, 1889--. 1 vol.

Record copies of certificates of appointment of notary public, showing date of certificate, expiration, name and address of notary, signature of State official, and date filed. Arr. chron. by date filed. Indexed alph. by surname of notary. Hdw. on pr. fm. 200 pp. 18 x 12 x 1½. Clk. va.

Licenses

(See also entries 7-13, 232, 233)

87. RECORD OF LICENSES, 1865-1912. 1 vol.

Record of stallion service licenses, showing date of license, name and address of applicant, name, age, breed, physical condition and pedigree of stallion, duration of license, and amount of fee. Also includes hunters and anglers' licenses, 1903-12, showing name and physical description of licensee, date, number of license, signatures of authorized deputy and licensee, and amount of fee. Also contains: (Liquor Sellers' Licenses), 1865-1909, entry 7; (Drug Dispensing Licenses), 1889-1904, entry 8; (Peddlers' Licenses), 1865-1901, entry 9; (Ferry Licenses), 1865-1901, entry 10; (Warehouse Licenses), 1903-8, entry 11; (Billboard Licenses), 1903-8, entry 12; (Circus Licenses), 1889, entry 13. Arr. chron. by date of license. Indexed alph. by title of license, and thereunder alph. by surname of applicant. Hdw. 310 pp. 10 x 18 x 1. Clk. va.

## 88. DOG LICENSES, 1924--. 2 vols. (2, 3).

Record of dog licenses issued, showing date and number of license, name and address of owner, sex and breed of dog, and amount of fee. Arr. chron. by date of license. Indexed alph. by surname of owner. Hdw. on pr. fm. Aver. 480 pp. 18 x 12 x 2 $\frac{1}{2}$ . 1 vol., 1924-27, clk. bsmt. va.; 1 vol., 1928--, clk. va.

89. (BEEKEEPERS' LICENSES, APPLICATION FOR), 1923-27. In  
(Miscellaneous Files), entry 110.

Original applications for beekeepers' licenses, showing date of application, name, address and affidavit of applicant, number of colonies, and location of hives.

## 90. BEE RECORD, 1923--. 2 vols. (1, 2).

Record of bee licenses issued, showing date and number of license, name and address of owner, and location of hives. Arr. chron. by date of license. Indexed alph. by surname of owner. Typed on pr. fm. Aver. 200 pp. 10 x 14 x 1 $\frac{1}{2}$ . Clk. va.

## 91. STALLION AND JACK RECORD, 1911-16. 1 vol.

Record of stallion and jack licenses, showing date of license, name and address of owner, breed, pedigree and physical condition of animal, registry number, and date recorded. Arr. chron. by date recorded. Indexed alph. by surname of owner. Typed. 260 pp. (34 pp. used) 18 x 12 x 2. Clk. va.

For applications to keep stallions, 1889-1912, see entry 3-iii; for liens on mares, 1888-1911, see entry 159.

## 92. (GAME LICENSES), 1906-12. 3 file boxes.

Duplicates of licenses issued to hunters and anglers, showing name and personal description of licensee, date, number of license, signatures of clerk and licensee, and amount of fee. Arr. chron. by date issued. No index. Hdw. on pr. fm. Aver. 14 x 11 $\frac{1}{2}$  x 8. Clk. bsmt. va.

For receipts from State Treasurer to clerk, 1923-25, see entry 110-vi.

## Articles of Incorporation

## 93. ARTICLES OF INCORPORATION, 1865--. 3 file boxes (labeled by contained letters of alph.).

Original articles of incorporation, showing name, address, and purpose of organization, amount of capital stock, division and duration, and date papers filed. Arr. alph. by name of incorporation. No index. Hdw. and typed. 11 x 5 x 14. Clk. va.

## 94. RECORD OF INCORPORATION, 1891--. 3 vols. (1-3).

Record copies of incorporations, showing date of application, name, address and purpose of corporation, amount of capital stock, number, value and ownership of shares, names of incorporators, date filed, and notarial attestation. Arr. chron. by date filed. Indexed alph. by name of corporation. Hdw. 1891-June 1902; typed July 1902--. Aver. 500 pp. 18 x 13 x 3. Clk. va.

Animals  
(See also entries 23, 343, 344)

95. STOCK MARKS AND BRANDS, 1852--. 3 vols.  
Record of stock marks and brands used to identify livestock, showing date registered, name and address of owner, and description and illustration of brand. Arr. chron. by date registered. Indexed alph. by surname of owner. Hdw. on pr. fm. Aver. 107 pp. 12 x 11 x 2 $\frac{1}{2}$ . 1 vol., 1852-86, clk. bsm. va.; 2 vols., 1887--, clk. va.

96. CERTIFICATES OF REGISTRATION OF MARKS AND BRANDS, 1916--. 1 vol.  
Certified copies of certificates of registration of marks and brands issued by State Division of Animal Industry, showing date and number of certificate, name and address of owner, description and illustration of brand, and date registered. Arr. chron. by date of certificate. No index. Hdw. on pr. fm. 100 loose-leaf pp. 9 x 9 x 1. Clk. va.

97. ESTRAYS, 1860-1913. 1 vol.  
Record of estrays, showing date claim filed, description of animal and identifying brands and marks, date of impounding, appraised value, affidavits as to posting notices and nonappearance of owner, report of sale, and distribution of proceeds. Arr. chron. by date claim filed. Indexed alph. by surname of person impounding animal. Hdw. 400 pp. 13 x 9 x 1 $\frac{1}{2}$ . Clk. va.

For notices of estrays, 1855-56, see entry 109.

98. BOUNTY RECORD, 1899--. 2 vols. (dated). Last entry April 1930.  
Record of bounties, showing number and kind of animals, date killed, number of scalps and forefeet, names of claimant and taxpayer verifying claim, number, date, and amount of warrant, and date issued. Arr. chron. by date of claim. No index. Hdw. on pr. fm. Aver. 80 pp. 13 x 11 x 3/4. Clk. bsm. va.

99. SCALP AFFIDAVITS, 1907--. 2 file boxes.  
Original scalp bounty affidavits, showing date of affidavit, name of claimant, number and kind of scalps, order for payment, and receipt. Arr. chron. by date of affidavit. No index. Hdw. on pr. fm. 11 x 5 x 14. Clk. va.

Military

100. REGIMENTAL ORDER BOOK, 1855-56. 1 vol.  
Record of regimental orders given the right column second regiment of the State troops, mobilized to protect settlers from Indians, showing direction of companies, detachments and individuals guarding roads, date of report, and names of persons to whom orders were issued. Arr. chron. by date of order. Indexed alph. by surname of person receiving order. Hdw. 64 pp. 13 x 8 $\frac{1}{2}$  x  $\frac{1}{2}$ . Clk. bsm. va.

101. MILITARY LISTS, 1864-74, 1884-1900. 7 folders (dated), 1 vol. (2).  
List of persons liable for military duty, showing names, precinct number, and year of census. Arr. chron. by year and thereunder numer. by precinct

County Clerk - Finance; Reports;  
Miscellaneous

(102-106)

no. No index. Hdw. Folders aver. 20 pp. 11 x 8 $\frac{1}{2}$  x  $\frac{1}{2}$ ; vol. 144 pp. 11 x 9 x 1. Clk. bsm. va.

102. (VOLUNTEER PAPERS), 1864. In Volunteer Papers, Old Papers, entry 49.

Original papers pertaining to voluntary enlistment, showing date, name of volunteer, amounts subscribed by citizens for bounty subscription list, vouchers of recruiting officers for expenses incurred, receipts for bounty paid, muster roll, Company C, 3rd Oregon Volunteer Infantry, receipts for muskets, ordnance and stores, and list of equipment received from Federal Government.

103. RECORD OF DISCHARGE - SOLDIERS, SAILORS AND MARINES, 1920--.

2 vols. (1-2). 1881-1920 in Miscellaneous Records, entry 111.

Record of discharge, showing name, number, class, rank and branch of service of enlisted man, history of service, date of enlistment and discharge, name of commanding officer, and date filed. Arr. chron. by date filed. Indexed alph. by surname of enlisted man. Typed. Aver. 640 pp. 18 x 12 x 3. Clk. va.

#### Finance

104. RECORD OF FEES RECEIVED, 1894--. 3 vols. (1-3). 1858-1902 also in Fee Book-Circuit Court, entry 183.

Record of fees received by clerk for issuing marriage licenses, certificates, certified copies of records, and migratory fees, showing date, from whom received, for what service, and amount of fee. Also contains: Fee Book-Circuit Court, 1894--, entry 183; Fee Book-County Court, 1894--, entry 197; Probate (Fee Book), 1894--, entry 210. Arr. chron. by date fee received. No index. Hdw. Aver. 320 pp. 17 x 14 x 2. 1 vol., 1894-June 1913, clk. bsm. va.; 2 vols., July 1913--, clk. va.

For recorder's record of fees received, 1894--, see entry 112.

#### Reports

105. CORONER'S REPORT, 1859--. 3 file boxes (1-3).

Original inquest reports, showing date filed; name, age, sex, color, birthplace and parentage of deceased; date, time, place and cause of death, names of witnesses, undertaker, and coroner, transcript of testimony, and bill of costs. Arr. chron. by date filed. No index. Hdw. 1859-1900; typed 1901--. 11 x 5 x 14. Clk. va.

For coroner's duplicate reports, 1923--, see entry 235.

#### Miscellaneous

106. ENUMERATION OF INHABITANTS OF BENTON COUNTY, 1854-55, 1857-58.  
4 vols.

Census record of county, showing precinct number, date of census, name of head of family, whether legal voter, number of males twenty-one years and over, under twenty-one years and over ten, ten years and under, number of

females eighteen years and over, under eighteen years and over ten, and ten years and under. Arr. numer. by precinct no., and thereunder alph. by surname of head of family. No index. Aver. 32 pp. 8 $\frac{1}{2}$  x 13 x  $\frac{1}{4}$ . Clk. bsmnt. va.

For census of school children, 1913--, 1934--, see entries 292, 293.

107. (PROCEEDINGS OF BUILDING COMMISSION FOR TERRITORIAL UNIVERSITY), 1854-57. 1 vol.

Original minutes of sessions of commission appointed to erect a territorial university at Corvallis, showing names of members present, business transacted, action taken, and date; latter pages, used as a daybook by a drug store in Corvallis, names doctors in early Corvallis. Arr. chron. by date of entry. No index. Hdw. 150 pp. 14 x 8 x  $\frac{1}{2}$ . Clk. va.

108. APPRENTICE INDENTURES, 1858-64. 1 vol.

Record of apprentices bound over to tradesmen, farmers or housewives in return for education and care, showing date of indenture, name of dependent minor, name and address of person providing care, and term of indenture. Arr. chron. by date of indenture. No index. Hdw. 500 pp. (10 pp. used) 14 x 9 x 2. Clk. bsmnt. va.

109. (CLERK'S MISCELLANEOUS FILES), 1850-1920. 11 boxes.

Original agreements deposited with clerk for delivery to individuals under certain conditions, 1859-98, showing conditions under which agreement is to be delivered, to whom delivered, and date. Also includes original estray notices, 1855-56, showing description of stock taken up, name and address of person taking up estray, and appraised value of estray. Also contains: Commissioners' Court (Files), 1850-1909, entry 2; (Liquor Sellers' Licenses), 1870-99, entry 7; Official Bonds, 1856-90, entry 15; (Authorization To Issue Warrants), 1900-1920, entry 24; (Bridge Repair), 1860-78, entry 34; (Clerk's Report), 1850-1900, entry 37; (Treasurer's Report), 1850-1900, entry 38; (Sheriff's Report), 1850-1900, entry 39; (Road Supervisor's Report), 1855-1900, entry 42; (Land Receipts), 1860-1903, entry 124; (Mechanics' Liens), 1854-94, entry 129; (Mining Claims), 1866-89, entry 135; (Married Women's Separate Property Lists), 1859-91, entry 145; (Subpenas), 1879-1900, entry 176. Arr. chron. by date of paper. No index. Hdw. Boxes aver. 12 x 12 x 8 to 30 x 18 x 8. Clk. bsmnt. va.

For record of estray livestock, 1860-1913, see entry 97.

110. (MISCELLANEOUS FILES), 1855--. 8 file drawers.

Original and duplicate miscellaneous papers consisting of:

- i. Affidavits of publishers, 1925-30, showing date of affidavit, circulation of paper, name of publisher, and notarial attestation.
- ii. Certificates of title to county owned cars, 1936-38, showing date of certificate, name and address of applicant, type of car, serial and motor numbers, and signature of Secretary of State.
- iii. Clerk's correspondence regarding dog licenses, 1931-32, showing date and nature of communication, and signature of correspondent.

- iv. Copy of State registration of stills, April 30, 1933, showing name and address of owner, description, location and purpose of still.
- v. Fire permits, application for, 1905-6, showing date of application, name and address of applicant, location and extent of area and proposed dates of burning.
- vi. Receipts from State Treasurer to county clerk for hunting and fishing license fees, 1923-25, and related correspondence, showing date and amount of receipts, and name of licensee. For duplicates, 1906-12, see entry 92.
- vii. State Industrial Accident Commission reports, 1923-32, monthly statement of payments and awards to county employees and receipt to county for contributions to industrial accident funds, and related correspondence, showing date and amount of receipt or statement, and name of payee.
- viii. United States notices of tax liens, 1923--, showing tax year, name and address of taxpayer, nature and amount of tax, description of property levied on, and notarial attestation. For U. S. tax levies, 1917--, see entry 127; for liens filed by Federal government, 1909--, see entry 130-iii.
- ix. Lis pendens, 1932, notices of liens filed in courts outside Benton County against property in Benton County, showing date and amount of claim, name of county where claim is filed, names of plaintiff and defendant, and description of property. For papers, 1922-27, see entry 130.

Also contains: (Petitions for Permission to Erect Power Poles), 1921-24, entry 4; (Official Receipts), 1855-76, 1905-15, 1922-32, entry 25; (Correspondence from State Highway Commission), 1923-29, entry 36; (Clerk's Report), 1901--, entry 37; (Treasurer's Report), 1901--, entry 38; (Sheriff's Report), 1901--, entry 39; (Road Supervisor's Report), 1901--, entry 42; (Report of County Agricultural Agent), 1930--, entry 43; (Report of County Exhibits at State Fair), 1922-27, entry 44; (Road Survey Reports), 1925-28, entry 45; (Report of Health Nurse), 1930--, entry 46; (Children's Farm Home Annual Reports), 1932--, entry 47; (Boiler Inspection Reports), 1925--, entry 48; (Communications from United States Engineers Corps), 1922-24, entry 50; (Farm Names), 1911-20, entry 76; (Beekeepers' Licenses, Application for), 1923-27, entry 89; (Mechanics' Liens), 1924-36, entry 129; (Warehousemen's Liens), 1927-28, entry 156; (Certificates of Attachment in Circuit Court), 1920-31, entry 174; (Application for Permits to Carry Concealed Firearms), 1925--, entry 232; (Treasurer's Receipts), 1918-25, entry 267. Arr. chron. by date filed. No index. Hdw. and typed. 2 drawers 11 x 5 x 16; 6 drawers 10 x 5 x 28. 6 drawers, 1855-1904, clk. bsmt. va.; 2 drawers, 1905--, clk. va.

For record of estrays, 1860-1913, see entry 96.

- 111. MISCELLANEOUS RECORDS, 1852--. 9 vols. (A, D, F, 2, 1, 3, 4, 3, 4).

Recorded copies of instruments, consisting of:

- i. Affidavits supporting allegations, identifications, and knowledge of fact documents, 1891--, showing date of affidavit, to whom addressed, signature of affiant, notarial attestation, and date recorded.

- ii. Agreements of partnership, and sales contracts, 1852--, showing date, term and nature of agreement, names of parties involved, and date recorded.
- iii. Application or tender for railroad land purchase, 1907-26, showing date of application, number of acres, price per acre, total amount, names of applicant and witnesses, notarial attestation, and date recorded.
- iv. Assignments of patent rights and other claims, 1854-60, 1867--, showing date of instrument, names and addresses of assignor and assignee, description of property, consideration, and date recorded.
- v. Foreign matters, 1890--, record copies of legal and quasi-legal documents originating outside Benton County, showing date and nature of instrument, names of persons involved, and date recorded.
- vi. Letters, 1914--, relative to agreements, showing date and nature of communication, name of correspondent, and date recorded.
- vii. Orders, rulings, and promulgations of various boards and agencies, 1934--, showing nature of new rulings, and date recorded.

Also contains: (Record of Births), 1893--, entry 53; (Marriage Record), 1893--, entry 56; (Record of Deaths), 1893--, entry 61; (Register of Log Marks), 1893--, entry 77; Assumed Business Names, 1913-28, entry 79; Register, Physicians and Surgeons', 1893--, entry 80; (Record of Naturopaths), 1893--, entry 82; (Nurses' Certificates), 1912--, entry 84; Record of Discharged Soldiers, Sailors, and Marines, 1881-1920, entry 103; (Record of Land Office Receipts and Warrants), 1871-92, entry 125; Mechanics' Liens, 1852-68, 1893--, entry 128; Chattel Mortgage Record, 1854-59, entry 150; (Carriers and Warehousemen Liens, Automobile Liens), 1852-68, 1893--, entry 155; (Hospital Liens), 1852-68, 1893--, entry 158; (Leases), 1857--, entry 160; (Bills of Sale), 1852--, entry 162; Power of Attorney, 1855, entry 164; (Assignment for the Benefit of Creditors), 1854-60, 1893--, entry 173; (Citizenship Certificates), 1893--, entry 187; Sheriff's Sale Record, 1865, 1869--, entry 262. Arr. chron. by date recorded. Indexed alph. by surname of person involved. Hdw. 1852-June 1907; typed July 1907--. 3 vols. aver. 190 pp. 13 x 9 x 3/4; 6 vols. aver. 600 pp. 18 x 12 x 3. 3 vols., 1852-82, clk. bsmt. va.; 6 vols., 1883--, clk. va.

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### III. RECORDER OF CONVEYANCES

Introduction. During the first years of organized government in Oregon, all conveyances were recorded by the Territorial Recorder. (1) The Federal Surveyor General was required to keep a record of donation land

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1. L. 1843-49, p. 5, sec. 1.

claims, transcripts of which were made for each county. (2) Recording land claims was made a duty of the clerk of the county court in 1849. (3) In 1853, when the office of county clerk was created under the ambiguous title of county auditor, recording of conveyances became a function of that office. (4) The Constitution authorized the county clerk to act as recorder of conveyances but provided that the Legislature might create a separate office in any county whenever the population reached 1,200 voters. (5) Under this provision the Legislature passed an enactment in 1891 creating the office of county recorder of conveyances for Benton County. The person elected was to take office in July of the following year. (6) Further enactment in 1921 abolished the separate office of county recorder of conveyances in Benton County. (7) In January 1923, the county clerk again became ex officio recorder. (8)

Powers and Duties. The duties of the recorder relate primarily to the filing and recording of instruments affecting title to real and personal property. The recorder is required to keep and preserve all files and records of deeds and mortgages of real property and all maps, plats, contracts, and powers of attorney affecting title to real property. (9) He is further required to record legibly and permanently in books provided by the county all deeds, mortgages, powers of attorney, contracts, and other instruments authorized by law to be recorded. (10)

Upon every instrument recorded by him the recorder is required to certify the time the instrument was received and a reference to the book and page where recorded. Such instrument is considered as recorded at the time it was received. (11) A transcript of any record so recorded and duly certified under the seal of the recorder is accepted as evidence in any court of the State with the same force and effect as the original instrument. (12)

The recording officer makes monthly reports to the Secretary of State on satisfactions and partial satisfactions of chattel mortgages. He is required to execute certificates in reference to chattel mortgages on migratory chattels required by law to be registered with the Secretary of State

2. L. 1850, p. 50, sec. 6.
3. L. 1843-49, p. 66, sec. 1.
4. L. 1852-53, p. 54, sec. 8.
5. Const. original art. VII, sec. 15.
6. L. 1891, p. 48, sec. 1.
7. 1921 S. L. ch. 101, sec. 1.
8. Const. original art. VII, sec. 15; 1921 S. L. ch. 101, sec. 1; 1940 O. C. L. A. sec. 87-418.
9. L. 1887, p. 61, sec. 4; L. 1889, p. 8, sec. 1; 1913 S. L. ch. 100, sec. 1; 1940 O. C. L. A. sec. 87-407.
10. L. 1887, p. 61, sec. 4; L. 1889, p. 8, sec. 1; 1913 S. L. ch. 100, sec. 1; 1940 O. C. L. A. sec. 87-407.
11. L. 1887, p. 61, sec. 4; L. 1889, p. 8, sec. 1; 1913 S. L. ch. 100, sec. 1; 1940 O. C. L. A. sec. 87-407.
12. L. 1887, p. 61, sec. 4; L. 1889, p. 8, sec. 1; 1913 S. L. ch. 100, sec. 1; 1940 O. C. L. A. sec. 87-407.

and to forward such certificates made on forms furnished by the latter to the Secretary of State. (13)

In connection with the taxation of inheritances, the recorder transmits to the Secretary of State and to the State Treasurer, quarterly, reports of conveyances filed or recorded in his office which appear to have been or intended to take effect in possession or enjoyment of property after the death of the grantor or vendor. (14)

A special function of the recorder of conveyances is to serve as registrar of title to real property under the Oregon Torrens system. (15) This is a system, similar to that used in Australia and parts of Canada, whereby title to property and all encumbrances against the title, as determined by the circuit court in proceedings for registration of land title, (16) are shown clearly on one instrument called the certificate of title. (17)

Records. In Benton County the county clerk, acting as ex officio recorder of conveyances, keeps a record of instruments and fees received. (18) He keeps complete deed and mortgage records (19) with indexes thereto, (20) records of land claims, grants, and patents, (21) and original deeds to county-owned property. (22)

Real property liens recorded or filed in Benton County include: United States liens, (23) horticultural liens, (24) miners' liens, (25) mechanics' liens, (26) and liens for the extermination of rodents. (27)

13. L. 1901, p. 125, sec. 3; 1917 S. L. ch. 87, sec. 2; 1935 S. L. ch. 200, sec. 2; 1939 S. L. ch. 544, sec. 1; 1940 O. C. L. A. sec. 68-205.
14. L. 1903, p. 49, sec. 29; 1940 O. C. L. A. sec. 20-142.
15. L. 1901, p. 438, sec. 1; 1940 O. C. L. A. sec. 70-301.
16. L. 1901, p. 442, sec. 15; 1940 O. C. L. A. sec. 70-314.
17. L. 1901, p. 447, sec. 32; 1940 O. C. L. A. sec. 70-331.
18. L. 1887, p. 62, sec. 6; 1940 O. C. L. A. sec. 87-410.
19. L. 1854, Deady, p. 650, sec. 23; L. 1887, p. 61, sec. 4; L. 1889, p. 86, sec. 1; 1913 S. L. ch. 100, sec. 1; 1940 O. C. L. A. secs. 70-127, 87-407.
20. L. 1854, Deady, p. 651, sec. 25; L. 1887, p. 61, sec. 5; 1940 O. C. L. A. secs. 70-129, 87-409.
21. L. 1843-49, p. 66, sec. 1; L. 1860, p. 55, sec. 6; L. 1872, p. 22, sec. 1; 1940 O. C. L. A. sec. 70-134.
22. L. 1854, Deady, p. 672, secs. 1, 2; 1940 O. C. L. A. secs. 86-101, 86-102.
23. 1923 S. L. ch. 5, sec. 1; 1940 O. C. L. A. sec. 67-1801.
24. 1917 S. L. ch. 135, sec. 1; 1931 S. L. ch. 232, sec. 11; 1937 S. L. ch. 89, sec. 1; 1939 S. L. ch. 104, sec. 1; 1940 O. C. L. A. sec. 35-109.
25. L. 1891, p. 77, sec. 1; 1907 S. L. ch. 152, sec. 1; 1940 O. C. L. A. sec. 108-802.
26. L. 1885, p. 15, sec. 6; 1940 O. C. L. A. sec. 67-106.
27. 1919 S. L. ch. 127, sec. 5; 1940 O. C. L. A. sec. 32-2615.

As ex officio registrar under the Torrens system the county clerk keeps: A land registration docket, (28) a register of titles, (29) and indexes to registered lands (30) and owners. (31)

Married women's separate property was listed and registered (32) until a law of 1891, permitting married women the use of regular property conveyances, became effective. (33)

Certificates of water rights (34) and mining claims (35) are filed and recorded in this office. All maps and plats of towns and cemeteries are preserved in a special plat book. (36)

Personal property records kept by the recorder are: Chattel mortgages and liens, (37) horseshoers' liens, (38) hospital liens, (39) and conditional sales contracts. (40)

Powers of attorney are recorded here for the protection of property owners. (41)

#### Reception Records

**112. RECORD OF INSTRUMENTS AND FEES RECEIVED, 1894--. 8 vols. (1-8).**

Title varies: Recorder's Record of Fees Paid County Treasurer, 1894-1908; Reception Record and Fee Book, 1909-13.

Record of fees collected for recording real property conveyances, showing number and kind of instrument, date and hour recorded, names of persons involved, amount of fees collected, date delivered, to whom, and volume and

- 28. L. 1901, p. 442, sec. 15; 1940 O. C. L. A. sec. 70-314.
- 29. L. 1901, p. 448, sec. 34; 1940 O. C. L. A. sec. 70-333.
- 30. L. 1901, p. 463, sec. 96; 1940 O. C. L. A. sec. 70-395.
- 31. L. 1901, p. 463, sec. 97; 1940 O. C. L. A. sec. 70-396.
- 32. L. 1859, p. 31, sec. 2; L. 1866, p. 6, sec. 1; L. 1868, p. 191, sec. 1.
- 33. L. 1891, p. 152, sec. 2; 1940 O. C. L. A. sec. 70-140.
- 34. 1909 S. L. ch. 216, sec. 25; 1923 S. L. ch. 283, sec. 23; 1940 O. C. L. A. sec. 116-813.
- 35. L. 1898, p. 17, sec. 2; L. 1901, p. 140, sec. 2; 1940 O. C. L. A. sec. 108-302.
- 36. L. 1843-49, p. 66, sec. 3; L. 1887, p. 62, sec. 7; 1909 S. L. ch. 70, sec. 5; 1919 S. L. ch. 139, sec. 1; 1940 O. C. L. A. secs. 87-412, 95-1308.
- 37. L. 1864, Deady, p. 655, sec. 44; L. 1893, p. 150, sec. 1; L. 1901, p. 124, sec. 2; 1917 S. L. ch. 87, sec. 1; 1931 S. L. ch. 35, sec. 1; 1933 S. L. ch. 261, sec. 1; 1935 S. L. ch. 200, sec. 1; 1939 S. L. ch. 60, sec. 1; 1940 O. C. L. A. sec. 68-203.
- 38. L. 1895, p. 121, sec. 3; 1917 S. L. ch. 27, sec. 2; 1940 O. C. L. A. sec. 67-1203.
- 39. 1931 S. L. ch. 400, sec. 2; 1940 O. C. L. A. sec. 67-1702.
- 40. 1909 S. L. ch. 166, sec. 2; 1925 S. L. ch. 175, sec. 1; 1940 O. C. L. A. sec. 71-202.
- 41. L. 1854, Deady, p. 652, sec. 34; 1940 O. C. L. A. sec. 70-132.

page where recorded. Arr. chron. by date recorded. No index. Hdw. Aver. 220 pp. 16 x 12 x 1 $\frac{1}{2}$ . Clk. va.

For clerk's record of fees received, 1894--, see entry 104.

### Real Property

#### Deeds

113. BOOK OF DEEDS, 1850--. 116 vols. (A-Z, 1-90).

Record copies of deeds, showing date of deed, names of grantor and grantee, description of property, section, township and range numbers, name of addition, lot and block numbers, consideration, and date recorded. Arr. chron. by date recorded. For indexes, see entries 114, 115. Hdw. 1850-March 7, 1907; typed March 8, 1907--. Aver. 690 pp. 17 x 11 x 2 $\frac{1}{2}$ . 12 vols., 1850-June 1879, clk. bsm. va.; 104 vols., Aug. 1876--, clk. va.

For assessor's record of deeds, 1922--, see entry 242.

114. INDEX TO DEEDS, DIRECT, 1850--. 3 vols.

Index to Book of Deeds, entry 113, showing date recorded, names of grantor and grantee, description of property, and volume and page where recorded. Arr. alph. by name of grantor. Hdw. on pr. fm. Aver. 400 pp. 14 x 18 x 2 $\frac{1}{2}$ . Clk. va.

115. INDEX TO DEEDS, INDIRECT, 1850--. 3 vols.

Index to Book of Deeds, entry 113, showing date recorded, names of grantee and grantor, description of property, and volume and page where recorded. Arr. alph. by name of grantee. Hdw. on pr. fm. Aver. 400 pp. 14 x 18 x 2 $\frac{1}{2}$ . Clk. va.

116. BENTON COUNTY DEEDS, 1898--. 1 file box.

Original quitclaim and warranty deeds transferring to Benton County, parcels of land for right-of-way for roads, showing date of deed, name of grantor, legal description of land, name of addition, lot and block numbers, date recorded, and volume and page where recorded. Arr. chron. by date recorded. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

117. (BONDS FOR DEEDS), 1851-86. In Bonds, entry 14.

Record copies of bonds for deeds, showing name and address of obligor, amount, date and conditions of bond, name of surety, and signatures of obligor and surety.

#### Mortgages

118. BOOK OF MORTGAGES, 1850--. 62 vols. (A-Z, 27-62).

Record copies of mortgages, showing names of mortgagor and mortgagee, date, amount and terms of mortgage, description of property by section, township and range numbers, name of addition, lot and block numbers, satisfaction, and date recorded. Arr. chron. by date recorded. For indexes, see entries 119, 120. Hdw. 1850-March 7, 1907; typed March 8, 1907--. Aver. 635 pp. 18 x 12 x 3. 7 vols., 1850-87, clk. bsm. va.; 55 vols., 1888--, clk. va.

119. INDEX TO MORTGAGES (Direct), 1850--. 2 vols.  
Index to Book of Mortgages, entry 118, showing names of mortgagor and mortgagee, number of instrument, date and hour received, and volume and page where recorded. Arr. alph. by surname of mortgagor. Hdw. on pr. fm. Aver. 500 pp. 14 x 18 x 3. Clk. va.

120. INDEX TO MORTGAGES (Indirect), 1850--. 2 vols.  
Index to Book of Mortgages, entry 118, showing names of mortgagee and mortgagor, number of instrument, date and hour received, and volume and page where recorded. Arr. alph. by surname of mortgagee. Hdw. on pr. fm. Aver. 500 pp. 14 x 18 x 3. Clk. va.

121. MORTGAGES, 1854--. 7 bundles, 1 file box (labeled by contained letters of the alph.).  
Original mortgage papers, showing names of mortgagor and mortgagee, date, amount and terms of mortgage, legal description of property, name of addition, lot and block numbers, satisfaction and release of mortgage, volume and page where recorded, and receipt stamp. Arr. alph. by surname of mortgagee. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

Patents (See also entry 300)

122. (DONATION LAND CLAIMS), 1850. In Volunteer Papers, Old Papers, entry 49.  
Original donation land claims, showing description of boundaries, location of claim, date claim filed, and signature of claimant or surveyor.

123. U(nited) S(tates) PATENTS, 1856--. 1 file box.  
Original United States land patents for donation land and homestead claims, left for recording and not called for, showing date of patent, name of grantee, legal description of land, amount of fee paid, date recorded, and volume and page where recorded. Arr. alph. by surname of grantee. No index. Hdw. on pr. fm. 11 x 5 x 14. Clk. bsm. va.

124. (LAND RECEIPTS), 1860-1903. In (Clerk's Miscellaneous Files), entry 109.  
Original land receipts from land office for fees in connection with homesteads, pre-emption claims, and final proofs, showing date and amount of receipt, location of homestead or claim, and signature.

125. (LAND OFFICE RECEIPTS AND WARRANTS), 1871-92. In Miscellaneous Records, entry 111.  
Recorded copies of land office receipts and warrants, showing to whom issued, date of completion of proof, certification, amount of fee, and date recorded.

126. LAND BOOK RECORDS, 1925-29. 1 vol.  
Record of fees paid in connection with entry of homestead claims, showing date of entry, name of grantee, and date of final proof. Arr. chron. by date of entry. No index. Hdw. 150 pp. 13 x 9 x  $\frac{1}{2}$ . Clk. va.

Liens (See also entries 153-159)

127. U. S. GOVERNMENT TAX LIENS; GRAY DIGGER LIENS, 1917--. 1 vol. Original lien papers filed by United States Government on property and property rights to insure payment of income tax, showing date filed, date and number of lien, name of taxpayer, description of property levied on, nature of tax, amount of interest and penalty, date taxes due, and receipt stamp. Also includes original lien papers filed against property owners for expenses incurred in ground squirrel eradication, under law of 1919, showing date of lien, name of defendant, description of property, and vouchers and affidavits in support of amount and legality of claim. Arr. chron. by date of lien. No index. Hdw. on pr. fm. 140 pp. 12 x 10 x  $\frac{1}{2}$ . Clk. va.

For notices of United States tax liens, 1923--, see entry 110-viii.

128. MECHANICS' LIENS, 1852--. 5 vols. (A-E). 1852-68, 1893-- also in Miscellaneous Records, entry 111.

Record of mechanics' liens, showing date filed, names of claimant and debtor, description of property, and service rendered. Arr. chron. by date filed. Indexed alph. by surnames of claimant and debtor. Hdw. 1852-1902; typed 1903--. Aver. 260 pp. 15 x  $9\frac{1}{2}$  x 2. 1 vol., 1852-68, clk. bsmt. va.; 4 vols., 1869--, clk. va.

129. (MECHANICS' LIENS), 1854-94, 1924-36. 1854-94 in (Miscellaneous Files), entry 109; 1924-36 in (Miscellaneous Files), entry 110. Original lien papers filed against property for labor and material, showing date filed, names of claimant and debtor, description of property, nature of service, amount due, and date released.

130. MECHANICS' LIENS - U. S. LIENS, 1909--. 3 file boxes (dated). Original papers consisting of:

- i. Lis pendens, 1922-27, transcripts of cases filed and pending in other counties whose outcome might affect titles to property in Benton County, showing name of county, names of plaintiff, defendant, and attorneys, and description of property. 1932 also in (Miscellaneous Files), entry 110-viii.
- ii. Mechanics' and labor liens, showing date filed, names of claimant and debtor, description of property, statement of labor or material furnished, date supplied, amount due, signatures of claimant and notary, and date of release.
- iii. United States liens, filed by Federal government against property of persons delinquent in payment of income tax, showing name of defendant, year of delinquent tax, amount of tax, and penalty added. For notice of United States tax liens, 1923--, see entry 110-vii.

Also contains: (Farm Names), 1922-27, entry 76. Arr. alph. by subject matter. No index. Typed on pr. fm. 11 x 5 x 14. 1 box, 1909-21, clk. bsmt. va.; 2 boxes, 1922--, clk. va.

131. MINERS' LIENS, 1892.. 1 vol. Discontinued.

Record of liens filed to collect money due for labor or material furnished in mining operations, showing date filed, names of claimant and debtor,

date and amount of lien, description of property, service rendered, circumstances of employment, and signatures of claimant and notary. Arr. chron. by date filed. Indexed alph. by surname of claimant. Hdw. 300 pp. (50 pp. used) 14 x 8 x 1 $\frac{1}{2}$ . Clk. bsm. va.

132. HORTICULTURAL LIEN BOOK, 1924-30. 1 vol. Discontinued. Record of horticultural liens filed by county to recover expenses incurred in combating farm, garden, and orchard pests, showing date filed, date and amount of claim, description of land, name of owner, recording fee, and date of satisfaction. Arr. chron. by date filed. Indexed alph. by surname of owner. Hdw. on pr. fm. 200 pp. 18 x 8 x  $\frac{1}{2}$ . Clk. va.

Water Rights

133. WATER RIGHT RECORD, 1914--. 1 vol. Record copies of water certificates issued by State, showing certificate number, date issued, name of holder, description and location of water supply, use of water, and amount allowed. Arr. alph. by surname of grantee. No index. Typed on pr. fm. 300 loose-leaf pp. 14 x 12 x 2. Clk. va.

134. RECORD OF NOTICE OF APPROPRIATION OF WATER, 1902-8. 1 vol. Record of notices of appropriation of water and related maps and diagrams, showing name of claimant, amount, source and location of water supply, purpose of appropriation, description of diversion and conduit, and date notice filed. Arr. chron. by date filed. Indexed alph. by surname of claimant. Hdw. 100 pp. 14 x 9 x  $\frac{1}{2}$ . Clk. bsm. va.

Mining Claims

135. (MINING CLAIMS), 1866-89. In (Clerk's Miscellaneous Files), entry 109. Original notices of mining claims, showing nature of claim, location and description of claim, volume and page where recorded, and signature of claimant.

136. MINING CLAIMS, 1867--. 1 vol. Record copies of mining claim notices, showing copy of notice posted, date and time filed, name of claimant, description and location of claim, and notation of recorder. Arr. chron. by date filed. No index. Hdw. 300 pp. 14 x 19 x 1. Clk. va.

137. MINING CLAIM RECORD, 1867--. 1 vol. Record of notices of formation of mining districts and affidavits of compliance with legal requirements, showing date filed, name of claimant, description and location of claim, type of mineral, water rights, and location of canal and water ditches. Arr. chron. by date filed. Indexed alph. by surname of claimant. Hdw. 320 pp. 9 x 14 x 1 $\frac{1}{2}$ . Clk. va.

Torrens System

138. REGISTER - TITLE RECEIPTS, 1908--. 1 file box. Original receipts from owners for certificates of title to real property, showing date of receipt, legal description of property, name of addition,

lot and block numbers, signature of owner, and notarial attestation. Arr. chron. by date of receipt. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

139. RECEPTION RECORD LAND TITLES, 1904--. 1 vol.  
Record of titles filed for recording, showing names of grantor and claimant, nature of title, date filed, date and to whom delivered, and amount of fee. Arr. chron. by date filed. For index, see entry 140. Hdw. 150 pp. (50 pp. used) 18 x 12 x 1. Clk. va.

140. INDEX TO REGISTERED LANDS - DIRECT AND INDIRECT, 1904--. 1 vol.  
Index to Reception Record Land Titles, entry 139, showing number and nature of title, names of grantor and grantee, file number and subdivision. Arr. alph. by surnames of grantor and grantee. Hdw. on pr. fm. 200 pp. 12 x 16 x 3 $\frac{1}{2}$ . Clk. va.

141. CERTIFICATE OF TITLE REGISTER, 1904--. 1 vol.  
Record of certificates of title that person named is owner in fee simple of property described, showing memoranda of all incumbrances on land, description of property, name of owner, and date filed. Arr. chron. by date filed. For index, see entry 142. Typed 1904-20; hdw. on pr. fm. 1921--. 640 pp. 18 x 12 x 3. Clk. va.

142. LAND INDEX, 1904--. 1 vol.  
Index to Certificate of Title Register, entry 141, showing name of owner, and volume and page where recorded. Arr. alph. by surname of owner. Hdw. on pr. fm. 300 pp. 14 x 10 x 2. Clk. va.

143. LAND REGISTRATION DOCKET, 1902-15. 1 vol.  
Land registration docket, showing number of application, name of applicant, description of property, name of attorney, record of minutes of circuit proceedings, fees, and date recorded. Arr. chron. by date recorded. No index. Hdw. 500 pp. (56 pp. used) 18 x 14 x 3. Clk. bsm. va.

#### Separate Property Rights

144. REGISTER OF MARRIED WOMEN'S SEPARATE PROPERTY, 1859-1903.  
1 vol. Discontinued.  
Record copies of separate property ownership filed by married women, showing date filed, value, location and description of property, and signatures of owner, witnesses and notary. Arr. chron. by date filed. No index. Hdw. 150 pp. 14 x 9 x 1. Clk. bsm. va.

145. (MARRIED WOMEN'S SEPARATE PROPERTY LISTS), 1859-91. In (Clerk's Miscellaneous Files), entry 109.  
Original papers of the separate property rights of married women, showing description of property, declaration of ownership, signatures of owner, witnesses and notary, and date recorded.

Maps and Plats (See also entries 243-245)

146. TOWN PLATS AND CEMETERY PLATS, 1850--. 6 vols. (1-3; 3 unlabeled).

Original plats of townsites, additions and cemeteries with affidavits of surveyor and of dedication, showing location by section, township and range numbers, name of addition or cemetery, lot and block numbers, and name of owner. Arr. numer. by sec., twp. and range nos. For index, see entry 147. Hdw. and hand-drawn on pr. fm. Aver. 105 pp.  $17\frac{1}{2}$  x 24 x  $2\frac{1}{2}$ . 1 vol., 1850-83, clk. bsm. va.; 5 vols., 1884--, clk. va.

147. INDEX TO TOWN AND CEMETERY PLATS, 1850--. 1 vol.

Index to Town Plats and Cemetery Plats, entry 146, showing names of towns and additions, lot and block numbers, name of owner, and volume and page where recorded. Arr. alph. by name of town and addition. Hdw. 180 pp. 14 x 9 x 1. Clk. va.

148. OLD MAPS AND BLUEPRINTS, 1870-1920. 4 file boxes (1-4).

Miscellaneous maps and blueprints of towns, cemetery, bridges and public buildings, showing name of surveyor, date of map or blueprint, size and scale. No obvious arr. No index. Hdw. and hand-drawn. Size varies. Scale varies. 18 x 3 x 30. Clk. bsm. va.

## Personal Property

Chattel Mortgages

149. CHATTEL MORTGAGES, 1850--. 2 file boxes (labeled by contained letters of alph.), 11 boxes (dated).

Original chattel mortgages, showing date of mortgage, date recorded, names of mortgagor and mortgagee, description of chattel, terms of mortgage, satisfaction, and date of release of mortgage. Arr. alph. by surname of mortgagor. No index. Typed on pr. fm. 11 x 5 x 14. 11 boxes, 1860-98, clk. bsm. va.; 2 boxes, 1899--, clk. va.

150. CHATTEL MORTGAGE RECORD, 1859--. 23 vols. (1 unlabeled; 1-3, 1-19). 1854-59 in Miscellaneous Records, entry 111; June 1854-April 1859 also in Bonds, entry 14.

Record copies of chattel mortgages, showing date recorded, names of mortgagor and mortgagee, number, amount and date of indenture, description of chattel, terms of payment, date of releases, partial releases, assignments and extensions. Arr. chron. by date recorded. 1859-92 indexed alph. by surnames of mortgagor and mortgagee; for indexes, 1893--, see entries 151, 152. Hdw. 1859-Feb. 1907; typed Mar. 1907--. Aver. 600 pp. 18 x 12 x 3. 15 vols., 1859-Sept. 1925, clk. bsm. va.; 8 vols., Oct. 1925--, clk. va.

151. INDEX TO CHATTEL MORTGAGES (Direct), 1893--. 2 vols.

Index to Chattel Mortgage Record, entry 150, showing number of instrument, time received, names of mortgagor and mortgagee, and volume and page where recorded. Arr. alph. by surname of mortgagor. Hdw. Aver. 500 pp. 14 x 18 x 3. Clk. va.

152. INDEX TO MORTGAGES (Indirect), 1893--. 2 vols.  
Index to Chattel Mortgage Record, entry 150, showing number of instrument, time received, names of mortgagee and mortgagor, and volume and page where recorded. Arr. alph. by surname of mortgagee. Hdw. Aver 500 pp. 14 x 18 x 3. Clk. va.

Chattel Liens (See also entries 127-132)

153. AUTO LIENS, 1920--. 4 file boxes (dated).  
Original liens filed to secure payment of claims for wages and labor expended in repair of motor vehicles, showing date filed, names of claimant and debtor, description of work, amount due, date performed, and legal time limit attested before notary. Arr. chron. by date filed. No index. Hdw. on pr. fm. 11 x 5 x 14. 1 box, 1920-26, clk. bsmt. va.; 3 boxes, 1927--, clk. va.

154. AUTOMOBILE LIEN RECORD, 1920--. 1 vol.  
Record of automobile liens, showing date recorded, names of claimant and debtor, description of automobile, service rendered and date of release. Arr. chron. by date recorded. Indexed alph. by surnames of claimant and debtor. Hdw. on pr. fm. 640 pp. 18 x 12 x 3. Clk. va.

155. CARRIERS AND WAREHOUSEMEN'S LIENS, AUTOMOBILE LIENS, 1917-29.  
1 vol. 1852-68, 1893-- also in Miscellaneous Records, entry 111.  
Record of liens on chattels filed for payment of services, showing date filed and names of claimant and debtor. Arr. chron. by date filed. Indexed alph. by surnames of claimant and defendant. Hdw. 200 pp. 14 x 9 x 2. Clk. va.

156. (CARRIERS AND WAREHOUSEMEN'S LIENS), 1927-28. In (Miscellaneous Files), entry 110.  
Original liens filed to recover charges for transporting and storing goods, showing date filed, names of claimant and debtor, description and location of goods, services performed, and amount due.

157. BLACKSMITHS' LIENS, 1914--. 1 file box.  
Original liens filed to recover charges for horseshoeing, showing date filed, name of horse, date work performed, amount due, name of owner, and signatures of claimant and notary. Arr. chron. by date filed. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

158. (HOSPITAL LIENS), 1852-68, 1893--. In Miscellaneous Records, entry 111.  
Recorded copies of hospital liens, showing name of patient, date of injury, name and address of hospital, amount of lien, date patient released, and date recorded.

159. (LIENS ON MARES FOR SERVICE), 1888-1911. In Stallion Licenses, Warehouse Licenses, Applications to Register Physicians and Druggists, entry 3.  
Liens on mares for service, showing name of stallion, name and description of mare, date and time of service, name of owner, and amount claimed.  
For record of stallion and jack licenses, see entry 91.

Leases

160. (LEASES), 1857--. In Miscellaneous Records, entry 111. Recorded copies of leases on chattels, showing names of lessor and lessee, number of lease, terms, description of property, and date recorded.

Conditional Sales

161. CONDITIONAL SALES, 1909--. 2 file boxes (dated). Original conditional sales contracts, showing date filed, names of vendor and vendee, description of property, terms and amount of contract, and signatures of contracting parties. Arr. chron. by date filed. No index. Hdw. and typed on pr. fm. 11 x 5 x 14. Clk. va.

162. (BILLS OF SALE), 1852--. In Miscellaneous Records, entry 111. Recorded copies of bills of sale, showing date of instrument, names and addresses of vendor and vendee, description of property, consideration, and date recorded.

163. RECORD OF CONDITIONAL SALES, 1909--. 1 vol. Record of conditional sales, showing contract file number, date filed, names of vendor and vendee, description of property, date, amount and terms of contract, and date of release. Arr. chron. by date filed. Indexed alph. by surnames of vendor and vendee. Hdw. 200 pp. 17 x 15 x 1 $\frac{1}{2}$ . Clk. va.

## Power of Attorney

164. POWER OF ATTORNEY, 1878--. 2 vols. (1, 2). 1855 also in Miscellaneous Records, entry 111. Record copies of powers of attorney, showing names of grantor and appointee, description and duration of service, and signatures of principals and notary. Arr. chron. by date recorded. Indexed alph. by surname of grantor. Hdw. 1878-June 1908; typed July 1908-June 1910; hdw. July 1910--. Aver. 500 pp. 18 x 12 x 3. Clk. va.

## IV. CIRCUIT COURT

Introduction. By the judiciary act of 1844 provision was made for a circuit court judge, elected by the people, who shall hold terms of the circuit court in each county. (1) The circuit court had original jurisdiction in criminal cases and civil cases involving more than \$150, and appellate

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1. L. 1843-49, p. 3, sec. 1.

jurisdiction from justice of the peace courts. In addition the circuit court conducted probate and county business. (2)

In 1845, when the judiciary was revised, the administrative and probate powers given in 1844 to the circuit courts were delegated to district courts, later called county courts. (3) An enactment of 1845 provided that all the counties then existing should form one judicial district, and that one circuit judge, elected by the House of Representatives, should have jurisdiction over criminal and civil cases. (4)

It was at this stage of development of the circuit court that Benton County was created. The enactment creating the county was passed December 23, 1847. (5)

When the Oregon Territory was created by an act of Congress in 1848, circuit courts were abolished and in their place Territorial district courts were established. (6) An enactment approved August 14, 1848, provided that the Oregon Territory should be divided into three judicial districts and that a district court be held in each of the said districts by one of the justices of the Supreme Court. (7) An enactment of February 2, 1853 placed Benton County in the second judicial district with Clackamas, Marion, Yamhill, and Linn Counties, (8) and again that same year, December 22, the judicial districts were revised with Marion, Linn, Lane, Benton, and Polk Counties forming the first judicial district. (9)

When Oregon was admitted to statehood, the Constitution revived the circuit court, (10) and Benton, Umpqua, Coos, Curry, and Lane Counties constituted the second judicial district. (11) Under this judicial setup Benton County remained part of the second judicial district until 1941, when the State Legislature created the twenty-first judicial district, composed of Linn and Benton Counties. (12)

The Constitution provided that the circuit court hold its sessions at least twice each year in the counties organized for judicial purposes. Since the Supreme Court of Oregon had already been constitutionally created, one of its justices was empowered to preside as judge of the circuit court. (13) The Constitution also directed the Legislature to provide for the

2. L. 1843-49, p. 99, sec. 3.
3. L. 1845, p. 33, sec. 1.
4. L. 1843-49, p. 3, sec. 1.
5. Ibid., p. 50, sec. 1.
6. L. 1850, p. 41, sec. 9.
7. Ibid.
8. L. 1852-53, p. 51, sec. 4.
9. L. 1853-54, p. 63, sec. 2.
10. Const. original art. VII, secs. 1, 9.
11. Const. art. XVIII, sec. 11.
12. 1941 S. L. ch. 47, sec. 1.
13. Const. art. VII, sec. 8.

selection of Supreme Court Judges and circuit court judges separately whenever the white population of the State should exceed 200,000. (14) The distinction was first made in 1878, when a measure was adopted to elect in 1880 a circuit judge for each judicial district then existing. (15)

Qualifications. A circuit court judge is required to be a citizen of the United States, a qualified elector under the State Constitution, and a resident of the State for 3 years prior to election. He is further required to be admitted to practice law before the Supreme Court of the State of Oregon. (16)

Tenure. The Constitution, in establishing the circuit court, provided that the judges be elected for terms of 2, 4, and 6 years. (17) The Supreme Court ruled that under this provision, the full term of the circuit court judge is 6 years. (18) In 1910 the Constitution was amended so as to establish a term of 6 years for all judges. (19)

Compensation. The salaries of circuit court judges are scaled according to the population of the district in which they preside. For districts of 30,000 or more, the salary is \$6,000 a year; for those between 15,000 and 30,000, it is \$5,500; for those of less than 15,000, \$5,000 a year, payable by the State in monthly installments. (20) The circuit court judge of the twenty-first judicial district receives a salary of \$6,000 a year. (21)

Organization. In addition to the circuit judge, the various court officers in the twenty-first judicial district include court reporters and bailiffs. The law provides for a court crier. (22) However, in Benton County a court crier has never been officially appointed. The sheriff, acting as crier, announces the opening of court.

The court reporter, whose office was created in 1889, is appointed by the circuit judge, who is empowered to name one or more reporters to serve

14. Const. art. VII, sec. 10.
15. L. 1878, p. 32, sec. 6; 1927 S. L. ch. 125, sec. 1; 1940 O. C. L. A. sec. 93-242.
16. L. 1878, p. 32, sec. 9; L. 1893, p. 149, sec. 1; 1940 O. C. L. A. secs. 93-701, 93-702.
17. Const. original art. VII, sec. 3.
18. State ex rel. Wm. Shaw v. Joel Ware (1886), 113 Or. 380, 389; 10 Pac. 885.
19. Const. art. VII, sec. 1, as amended 1910.
20. 1913 S. L. ch. 44, sec. 11; 1919 S. L. ch. 67, sec. 1; 1921 S. L. ch. 166, sec. 1; 1929 S. L. ch. 194, sec. 1; 1940 O. C. L. A. sec. 93-248.
21. 1913 S. L. ch. 44, sec. 11; 1919 S. L. ch. 67, sec. 1; 1921 S. L. ch. 166, sec. 1; 1929 S. L. ch. 194, sec. 1; 1940 O. C. L. A. sec. 93-248; Oregon Blue Book, p. 70.
22. L. 1862, Deady, sec. 866; L. 1891, p. 131; 1940 O. C. L. A. sec. 93-271.

in the district. (23) The term of the court reporter was limited by the Legislature in 1889 to 4 years, but in 1915 the Legislature provided for an indefinite term. (24) The court reporter receives \$10 a day for his services. He is paid by the county for transcribing criminal trials and by the litigants in civil action. (25)

Bailiffs are appointed at the discretion of the circuit judge, who fixes their salaries. The bailiffs receive compensation for the time of actual attendance upon the court, and they are paid by the county treasurer upon court order directed to the county clerk. (26)

Clerk. The county clerk is ex officio clerk of the circuit court. He keeps the seal of the court and uses it as required by law. He attends all terms of the circuit court and assists by administering oaths and receiving the verdict of the jury. He keeps a journal of court proceedings, records orders and decrees as directed by the court, and files all court papers. (27)

The records and files of the circuit court are kept by the county clerk's office in the custody of the clerk, who is responsible for them. They are never taken out of the office by anyone except the judge of the court, a court attorney, or a person who has been permitted to remove a record under a ruling prescribed by the court and entered in its journal. (28)

Sessions. The Constitution provided that the circuit court hold its sessions at least twice a year in each county organized for judicial purposes. (29) The regular terms in Benton County begin on the first Monday in January, first Monday in March, first Monday in June, and the first Monday in October, of each year. (30) In addition to the specified sessions of the circuit court, the Constitution provides that further sessions be held at times prescribed by the judge as necessity arises. (31) An enactment of 1862 corroborates this Constitutional provision. (32) Hence, a circuit judge calls for a session in court by issuing a general order. The order may be made and entered in the journal during term time, or for the trial of a particular case or for the transaction of certain business specified in the order, it may be filed during vacation. Although during

23. L. 1889, p. 142, sec. 1; 1915 S. L. ch. 260, sec. 1; 1940 O. C. L. A. sec. 93-272.
24. 1915 S. L. ch. 260, sec. 1; 1940 O. C. L. A. sec. 93-272.
25. L. 1889, p. 143, sec. 3; 1921 S. L. ch. 278, sec. 1; 1923 S. L. ch. 32, sec. 1; 1925 S. L. ch. 96, sec. 1; 1927 S. L. ch. 176, sec. 2; 1933 S. L. ch. 378, sec. 1; 1939 S. L. ch. 74, sec. 1; 1940 O. C. L. A. sec. 93-274.
26. L. 1891, p. 131; 1940 O. C. L. A. sec. 93-271.
27. L. 1862, Deady, p. 235, sec. 959; 1940 O. C. L. A. sec. 93-927.
28. L. 1862, Deady, sec. 568; 1940 O. C. L. A. sec. 10-1010.
29. Const. original art. VII, sec. 8.
30. 1941 S. L. ch. 471, sec. 3.
31. Const. original art. VII, sec. 8.
32. L. 1862, Deady, sec. 864; 1940 O. C. L. A. sec. 13-201.

regular term any legal and lawful filed business may be heard when presented, out of term court hears only that business specified in the order.

Jurisdiction. The Constitution provided that all judiciary power, authority, and jurisdiction not given by the Constitution or bylaws consistent therewith, exclusively to some other court, should belong to the circuit court; and furthermore, that the circuit court should have appellate jurisdiction and supervisory control over county courts and all other inferior courts, officers, and tribunals. (33)

In civil matters the circuit court has original jurisdiction, which may be concurrent in some instances with some other court. (34) In cases which originate in the justice courts, where a counter claim exceeds the jurisdictional limit set for such courts, the cases are transferred to the circuit court. (35) In 1864 the circuit court was granted appellate jurisdiction from a justice court in civil cases not involving less than \$20 exclusive of costs, except when the judgment in the justice court had been given by confession or for want of answer. (36) Amendments of 1868 and 1899 permitted appeals from a justice court in civil action under the same condition, stating that the amount in controversy be not less than \$10 or for the recovery of personal property of the value of not less than this amount. (37)

The law of 1899 further provided that in criminal cases as in civil actions in which the litigants have demanded a jury trial, no appeal may be taken from a judgment entered by the jury, unless, in a criminal case, the judgment is a fine of not less than \$20, and in a civil case involving personal property, the value of which is not less than \$20. (38) The amount prescribed was changed to \$30 in 1925. (39)

In criminal actions, the circuit court has appellate jurisdiction upon a judgment of conviction in the justice court, except when the accused enters a plea of guilty. (40) Original jurisdiction is granted in all criminal cases for which the code provides imprisonment in the penitentiary, in other words, in all felonies. (41)

In 1927 legislation was enacted providing that in all judicial districts comprising only one county of less than 100,000 population and more than 30,000, all judicial jurisdiction, power, and authority of the county

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33. Const. original art. VII, sec. 9.

34. Ibid.

35. 1919 S. L. ch. 293, sec. 1; 1925 S. L. ch. 282, sec. 1; 1931 S. L. ch. 253, sec. 1; 1940 O. C. L. A. sec. 27-104.

36. L. 1864, Deady, p. 595.

37. L. 1868, p. 174, sec. 64; L. 1899, p. 116, sec. 39.

38. L. 1899, p. 116, sec. 39.

39. 1925 S. L. ch. 97, sec. 1; 1940 O. C. L. A. sec. 28-401.

40. L. 1864, Deady, p. 602; 1940 O. C. L. A. sec. 28-701.

41. Const. original art. VII, sec. 9.

judge and county court, as distinguished from that exercised in county business, be vested in and exercised by the circuit court. (42) This does not apply to Benton County.

Additional powers of the circuit judge are as follows: To compel the attendance of witnesses; (43) to administer oaths; (44) to inflict a fine or imprisonment or both for contempt of court; (45) and to issue writs of habeas corpus. (46) He may also perform the marriage ceremony. (47)

Federal statutes regulate naturalization proceedings and vest the power of naturalization in all Federal courts and in all State courts of record in which the amount in controversy in law and equity actions is unlimited. (48) In Oregon the circuit court has this power.

Records. With the adoption of the Oregon Constitution in 1859, it was provided that the circuit court be a court of record. (49) Various enactments by the Legislature since 1859 have specified by name the records to be kept, namely: Judgment rolls, register, execution docket, judgment docket, journal, record of attachments, jury record, and fee book. The fact that several of these records begin prior to 1859 is explained by the law of 1859 providing that all unfinished business and all records of the Territorial district court should be turned over to the circuit court. (50)

The judgment rolls consist of the complaint, summons, proof of service, and a copy of the entry of judgment. (51) The final record or copy of these original papers is omitted but may be compiled by order of the court. (52) The register shows the title of every action, suit, or proceeding of the court. (53) The satisfaction or performance of judgment or decree as issued by the court is recorded in an execution docket. (54)

- 42. 1927 S. L. ch. 282, sec. 1; 1935 S. L. ch. 240, sec. 1; 1940 O. C. L. A. sec. 13-209.
- 43. L. 1862, Deady, sec. 884; 1940 O. C. L. A. sec. 13-601.
- 44. L. 1862, Deady, sec. 884; 1940 O. C. L. A. sec. 13-601.
- 45. L. 1862, Deady, sec. 641; 1923 S. L. ch. 165, sec. 2; 1940 O. C. L. A. sec. 11-502.
- 46. L. 1862, Deady, sec. 638; L. 1882, p. 31, sec. 1; 1940 O. C. L. A. sec. 11-442.
- 47. L. 1862, Deady, p. 783, sec. 4; 1911 S. L. ch. 214, sec. 1; 1913 S. L. ch. 282, sec. 1; 1940 O. C. L. A. sec. 63-104.
- 48. 34 U. S. Stat. 596; 36 U. S. Stat. 1167.
- 49. Const. original art. VII, sec. 1.
- 50. L. 1859, p. 17, secs. 2, 3.
- 51. L. 1862, Deady, sec. 269; 1940 O. C. L. A. sec. 6-901.
- 52. L. 1862, Deady, secs. 270, 565; 1940 O. C. L. A. secs. 6-902, 10-1007.
- 53. L. 1862, Deady, secs. 559, 560; 1940 O. C. L. A. secs. 10-1001, 10-1002.
- 54. L. 1862, Deady, secs. 559, 563; 1940 O. C. L. A. secs. 10-1001, 10-1005.

The judgment docket contains judgments and decrees of the court. (55) Proceedings are recorded in the journal. (56) A record of writs of attachment upon real and personal property is kept. (57) The law requires the clerk to keep a record of all persons attending the court as grand or trial jurors. (58) The fee book is a record of fees earned and collected by the clerk. (59)

In Benton County naturalization records consist of declarations of intention to become citizens, citizenship petitions, and certificates of citizenship as prescribed by Federal statute. (60)

#### Civil and Criminal

##### Case Files

165. INDEX TO CIRCUIT COURT RECORDS, 1849--. 2 vols.  
Index to (Circuit Court files), entry 166; Circuit Court Register, entry 168; Circuit Court Journal, entry 172, showing case number, date filed, names of plaintiff, defendant and attorneys, date case closed, dates of filing subsequent papers, and judgment. Arr. chron. by date of action. Typed. 400 pp. 14 x 17 x 3. Clk. va.

166. (CIRCUIT COURT FILES), 1863--. 288 file boxes (labeled by contained case nos.).  
Original papers filed in circuit court cases: complaints, summonses, demurrers, answers, replies, proofs, depositions, motions, cost bills, stipulations, orders, and decrees, grand jury reports, showing date of instrument, case number, names of plaintiff, defendant and attorneys, disposition of case, and date filed. Arr. numer. by case no. For index see entry 165. Hdw. and typed. 11 x 5 x 14. 46 boxes, 1851-Feb. 1884, clk. bsmnt. va.; 242 boxes, Mar. 1884--, clk. va.

167. EXHIBITS - CIRCUIT COURT, not dated. 1 file box.  
Original documents offered in evidence in circuit court cases, in sealed envelopes. Arr. numer. by case no. Indexed in front of file box alph. by name of case. Hdw. and typed. 11 x 5 x 14. Clk. bsmnt. va.

##### Registers and Dockets

168. CIRCUIT COURT REGISTER, 1864--. 11 vols. (dated).  
Register of circuit court cases, showing title and number of case, names of plaintiff, defendant, attorneys and judge, date of case, notes on filing,

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- 55. L. 1862, Deady, secs. 559, 562; 1940 O. C. L. A. secs. 10-1001, 10-1004.
  - 56. L. 1862, Deady, secs. 559, 561; 1940 O. C. L. A. secs. 10-1001, 10-1003.
  - 57. L. 1862, Deady, sec. 149; L. 1899, p. 232; 1940 O. C. L. A. sec. 7-208.
  - 58. L. 1862, Deady, secs. 559, 566; 1940 O. C. L. A. secs. 10-1001, 10-1008.
  - 59. L. 1862, Deady, secs. 559, 564; 1940 O. C. L. A. secs. 10-1001, 10-1006.
  - 60. 36 U. S. Stat. 1167; Lord's Oregon Laws (1910), pp. 39-42.

return of process, amount of fee, and judgment. Arr. chron. by date of case. For index see entry 165. Hdw. 1864-1911; typed 1912--. Aver. 820 pp. 13 x 14 x 4 $\frac{1}{2}$ . 3 vols., 1864-Mar. 1912, clk. bsmt. va.; 8 vols., Apr. 1912--, clk. va.

169. EXECUTION DOCKET, 1852--. 3 vols. (1-3). Record of execution of court orders, showing title and number of case, names of plaintiff, defendant and attorneys, amount of judgment, interest and costs, description of property levied on, dates of execution writ and return, disposition of case, and volume and page where recorded in judgment docket. Arr. chron. by date of case. Indexed alph. by surname of defendant. Hdw. Aver. 275 pp. 16 $\frac{1}{2}$  x 11 x 2 $\frac{1}{2}$ . Clk. va.

170. BAR DOCKET, CIRCUIT COURT, 1859-1911. 6 vols. (3 vols. unlabeled; 1-3). Bar docket of cases, showing number and nature of case, names of plaintiff, defendant and attorneys, date set for trial, and notice of clerk and judge. Arr. chron. by date set for trial. No index. Hdw. Aver. 315 pp. 15 $\frac{1}{2}$  x 10 x 1 $\frac{1}{2}$ . Clk. bsmt. va.

171. JUDGMENT DOCKET, CIRCUIT COURT, 1859--. 7 vols. (A-G). Record of judgments, showing names of debtor and creditor, date, number, and amount of judgment, dates docketed and appealed, decision on appeal, and date satisfied. Arr. chron. by date of judgment. No index. Hdw. Aver. 525 pp. 17 x 11 $\frac{1}{2}$  x 3 $\frac{1}{2}$ . 2 vols., 1859-Nov. 1895, clk. bsmt. va.; 5 vols., Dec. 1895--, clk. va.

#### Journal

172. CIRCUIT COURT JOURNAL, 1849--. 29 vols. (1-29). Record of court orders: decrees, judgments, arrangements, sentences, dismissals, and grand jury reports, showing names of plaintiff, defendant and attorneys, term of court, character and date of case, case number, and date of issue. Arr. chron. by date of case. For index see entry 165. Hdw. 1849-1902; typed 1903--. Aver. 600 pp. 18 x 12 x 3. 9 vols., 1849-95, clk. bsmt. va.; 20 vols., 1896--, clk. va.

#### Judgments and Attachments

173. (ASSIGNMENT FOR BENEFIT OF CREDITORS), 1854-60, 1893--. In Miscellaneous Records, entry 111. Assignments, showing date of instrument, names and addresses of assignor and assignee, amounts of assets and liabilities, and date recorded.

174. (CERTIFICATES OF ATTACHMENT IN CIRCUIT COURT), 1920-31. In (Miscellaneous Files), entry 110. Duplicates of certificates of attachment served by sheriff, showing date of attachment, issuance of writ, amount claimed, description of property levied on, names of persons involved, court order, and signature of sheriff.

Jury and Witnesses

175. GRAND JURY AND CIRCUIT COURT, 1920--. 4 file boxes (1 un-labeled; 1-3).

Original minutes of drawing jury panels, grand and petit venires, grand jury subpoenas, civil and criminal subpoenas, showing date drawn, name and address of juror, for which jury drawn, and date of subpoena. Arr. chron. by date drawn. No index. Typed. 11 x 5 x 14. 1 file box, 1920-22, clk. bsm. va.; 3 file boxes, 1923--, clk. va.

176. (SUBPENAS), 1879-1900. In (Clerk's Miscellaneous Files), entry 109.

Subpenas issued by circuit court to insure appearances before the grand jury, showing date, name of person subpenaed, court session, nature of case, and time of required attendance.

177. JURORS' ATTENDANCE, 1860-93. 2 vols.

Record of jurors' attendance, showing title of case, date of court term, names and addresses of jurors, dates of attendance, mileage, and amount of fees due. Also contains: Witnesses' Attendance, 1860-88, entry 190. Arr. chron. by date of court term. No index. Hdw. Aver. 300 pp. 14 x 9 x 1 $\frac{1}{2}$ . Clk. bsm. va.

178. WITNESSES' ATTENDANCE, 1889-93. 1 vol. 1860-88 in Jurors' Attendance, entry 177.

Record of witnesses' attendance, showing title of case, dates of court term, name and address of witness, days attendance, mileage, and amount of fees due. Arr. chron. by date of court term. No index. Hdw. 400 pp. (23 pp. used) 14 x 9 x 1 $\frac{1}{2}$ . Clk. bsm. va.

179. RECORD OF WITNESSES' CLAIMS, 1888--. 2 vols. 1858-70 in Fee Book, Circuit Court, entry 183; 1864-88 also in Record of Jurors Claims, entry 181.

Record of claims for witnesses' fees, showing title of case, date of court term, name of witness, term of service, mileage, and amount of claim. Arr. chron. by term of court. No index. Hdw. Aver. 300 pp. 16 x 10 x 1 $\frac{1}{2}$ . 1 vol., 1888-93, clk. bsm. va.; 1 vol., 1894--, clk. va.

180. CLAIMS AND WARRANTS - CIRCUIT COURT, 1933--. 1 vol.

Record of claims and warrants for jurors and witnesses, showing date, number and amount of claim or warrant, name of claimant, and date canceled. Arr. numer. by warrant no. No index. Hdw. 400 pp. (27 pp. used) 17 x 19 x 2. Clk. va.

181. RECORD OF JURORS' CLAIMS, 1864--. 3 vols. Title varies: Jury Book, Circuit Court, 1864-88; Circuit Court Jurors' Attendance, 1889-93.

Record of jurors' claims, showing title of case, dates of court term, name of juror, days served, and amount of claim. Also contains: Record of Witnesses' Claims, 1864-88, entry 179. Arr. chron. by date of court term. No index. Hdw. Aver. 280 pp. 15 x 10 x 1 $\frac{1}{2}$ . 2 vols., 1864-93, clk. bsm. va.; 1 vol., 1894--, clk. va.

182. CIRCUIT COURT CLAIMS, 1925--. 1 file box.  
 Original statements of claims for bailiffs, witnesses, attorneys and court reporters, showing date and number of case and amount of claim. Arr. chron. by date of case. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

Fees

183. FEE BOOK - CIRCUIT COURT, 1858-1902. 8 vols. (3 vols. unlabeled; 1-5). Title varies slightly. 1903-- in Record of Fees Received, entry 104.

Record of fees paid in circuit court cases, showing names of plaintiff, defendant and attorneys, date filed, nature of each paper in case, date and amount of fee, and date collected. Also contains: Record of Fees Received, 1858-1902, entry 104; Record of Witnesses' Claims, 1858-70, entry 179; Sheriff's Record of Fees Received, 1858-70, entry 227. Arr. chron. by date of case. Indexed alph. by surname of plaintiff. Hdw. Aver. 395 pp. 16 x 10 x 2. Clk. bsm. va.

Naturalization

184. DECLARATION OF INTENTION, CITIZENSHIP, 1851-1900. 1 file box.  
 Original papers of declaration of intention, left for recording and uncalled for, showing date issued, court of origin, name of applicant, previous allegiance, and attestation, and signature of clerk of court. Arr. alph. by surname of applicant. Indexed alph. by surname of applicant. Hdw. on pr. fm. Condition poor. 11 x 5 x 14. Clk. va.

185. DECLARATION OF INTENTION, 1889--. 5 vols.  
 Record of declarations of intention to become American citizen and renunciation of former allegiance, showing names of declarant and witnesses, and date of declaration. Arr. chron. by date of declaration. Indexed alph. by surname of declarant. Hdw. on pr. fm. Aver. 160 pp. 12 x 9 x 1 $\frac{1}{2}$ . 3 vols., 1889-1918, clk. bsm. va.; 2 vols., 1919--, clk. va.

186. NATURALIZATION SERVICE - PETITION AND RECORD, 1889--. 4 vols.  
 Record of petitions for naturalization, showing date of application, name, residence, occupation, physical description, and date and place of birth of applicant, family history, date and method of immigration, time of residence in United States, affidavits of petitioner and witnesses, copy of first papers, and oath of allegiance. Arr. chron. by date of petition. Indexed alph. by surname of petitioner. Hdw. on pr. fm. Aver. 135 pp. 16 x 11 $\frac{1}{4}$  x 1 3/4. 1 vol., 1889-June 1918, clk. bsm. va.; 3 vols., July 1918--, clk. va.

187. (CITIZENSHIP CERTIFICATES), 1893--. In Miscellaneous Records, entry 111.  
 Recorded copies of citizenship certificates, showing date and number of certificate, name of holder, name and address of court of origin, and date recorded.

188. CERTIFICATES OF CITIZENSHIP, 1902-6. 1 vol.  
 Original affidavits of applicants for citizenship, showing date of application, name of applicant, date of declaration of intention, birthplace, date and place of entry into United States, residence in Oregon, oath of allegiance, affidavits of witnesses, and findings and decree of court. Arr. chron. by date of application. No index. Hdw. on pr. fm. 320 pp. 18 x 12 x 1 $\frac{1}{2}$ . Clk. va.

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 V. COUNTY COURT (JUDICIAL)

Introduction. In a preceding essay, "County Court (Administrative)," it was shown that the county court in Oregon is at present so constituted as to fulfill two wholly separate functions, the one administrative, the other judicial. Thus, the administrative duties of the court are performed by the court functioning as a body and composed of two commissioners and the county judge, who serves as the court's chairman; while the judicial function is performed by a single member of the body, the county judge, who has sole authority to handle the probate business of the county. As indicated in the earlier essay, several historical stages in the development of the county court are evident. A review of these stages establishes the fact that in the early pioneer society of Oregon, judicial powers were not only centralized in a few officials but were also combined with administrative powers.

Upon its creation in 1843 by the Provisional Legislative Assembly, the Supreme Court was given jurisdiction over probate matters. (1) In 1845 a bill was passed establishing district courts having probate jurisdiction. (2) In December 1845 a legislative enactment changed the names of all districts to counties. (3) In 1846, when justices of the peace composed the county court, the law prescribed that in each county, at the first meeting of the county court, the justices of the peace should select one of their number as presiding judge (4) and the presiding judge should be the probate judge of the county. (5) In a measure of 1849 provisions were made for the election of three probate judges to serve as a probate court (6) and to transact county business. (7) In 1851 county business was completely divorced from judicial matters with the creation of a board of three county commissioners to handle administrative affairs (8) and a single county judge

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1. Ar. p. 1.
  2. Ibid., p. 105.
  3. L. 1843-49, p. 35, sec. 1.
  4. Ibid., p. 47, sec. 1.
  5. Ibid., sec. 2.
  6. L. 1850 (2d Sess.), p. 211, sec. 1.
  7. Ibid., pp. 215, 217, secs. 3, 4, 20-27.
  8. L. 1850, p. 79, sec. 16.

to conduct probate business. (9) The Congressional act creating the Oregon Territory provided that probate courts should be regulated by law. (10) The Territorial Legislature, accordingly, established county probate courts to be conducted by probate judges elected in each county. (11) In 1859 the State Constitution again combined the judicial and administrative functions by creating the county court consisting of the county judge and two commissioners. (12)

The enactment in 1847, creating Benton County, authorized the Governor to appoint the necessary county officials to serve until their successors could be elected and qualified. (13) The first record of a county court is of the election of three justices of the peace in 1848. (14)

The county judge of Benton County is vested with probate powers and with such judicial jurisdiction as was provided by the Oregon Constitution (15) and substantially sustained by the subsequent statute of 1862. (16)

Manner of Selection. The county judge is elected by the people of his county and serves for a term of 6 years. (17)

Qualifications, Oath, and Bond. The county judge is required to be a citizen of the United States, a qualified elector under the State Constitution, and a resident of the county for 1 year immediately preceding his election. (18) He is not required to give bond but must take an oath of office. (19)

Compensation. The compensation of the county judge in Benton County is \$1,800 per year. (20)

Jurisdiction. Originally the county court had jurisdiction over criminal matters not penalized by death or imprisonment in the penitentiary and entertained civil actions not involving more than the sum of \$500. (21) In 1937 legislation was enacted relieving the county court of all civil jurisdiction. (22)

9. L. 1852-53, p. 11, sec. 1.
10. 9 U. S. Stat. ch. 177, sec. 9; L. 1853-54, p. 31, sec. 9.
11. L. 1853-54, pp. 310-315, secs. 1-31.
12. Const. original art. VII, sec. 12.
13. L. 1843-49, p. 50, sec. 5.
14. Avery to Prim.
15. Const. original art. VII, sec. 12.
16. L. 1862, Deady, sec. 867; 1940 O. C. L. A. sec. 93-301.
17. Const. art. VII, sec. 11.
18. L. 1864, Deady, p. 825, sec. 18; 1940 O. C. L. A. sec. 87-203.
19. Const. art. XV, sec. 3.
20. 1941 S. L. ch. 28, sec. 1.
21. Const. original art. VII, sec. 12.
22. 1937 S. L. ch. 278, sec. 1; 1940 O. C. L. A. secs. 93-307, 93-308.

The criminal jurisdiction of the county court apparently was never exercised. Since the qualifications for office do not require that the county judge be a member of the bar and laymen are frequently elected to the office, there has been a tendency throughout the history of the State to relieve the county court of judicial functions. (23)

The probate duties of the county court are as follows: To take proof of wills; to grant and revoke letters testamentary, letters of administration, and letters of guardianship; to direct and control the conduct and settle the accounts of executors, administrators, and guardians; to direct the payment of debts and legacies, and the distribution of estates of intestates; to order the sale and disposal of the real and personal property of deceased persons; to order the rental, sale, or other disposal of the real and personal property of minors; to take care and custody of the person and estate of a lunatic or habitual drunkard and to appoint and remove guardians therefor; to direct and control the conduct of such guardians, and settle their accounts; and to direct the admeasurement of dower. (24)

When notified in writing of a case of insanity, the county judge causes the person so charged to be brought before him and, after examination by one or more competent physicians appointed by the court, the judge declares the person insane or not insane. If the examining physician or physicians certify the person insane, and the county judge is of the same opinion, he may order the patient committed to the Oregon State Hospital. (25)

In 1907 the county court, in counties of less than 200,000 population, was given original jurisdiction over delinquent and dependent children (26) and provision was made for special sessions restricted to juvenile matters only. (27)

The county judge has authority to solemnize marriage. (28)

Records. The county clerk is ex officio clerk of the county court and, as such, keeps all records of the court. (29) The law provides that

23. Sixth Annual Meeting of the Oregon State Bar, Program and Committee Reports, 1940, p. 21.
24. L. 1862, Deady, sec. 869; 1940 O. C. L. A. sec. 13-501.
25. 1913 S. L. ch. 342, sec. 3; 1923 S. L. ch. 127, sec. 1; 1925 S. L. ch. 221, sec. 1; 1940 O. C. L. A. sec. 127-206.
26. 1907 S. L. ch. 34, sec. 2; 1915 S. L. ch. 174, sec. 1; 1919 S. L. ch. 296, sec. 1; 1920 S. L. ch. 2, sec. 1; 1935 S. L. ch. 132, sec. 1; 1937 S. L. ch. 316, sec. 1; 1940 O. C. L. A. sec. 93-501.
27. 1907 S. L. ch. 34, sec. 3; 1913 S. L. ch. 249, sec. 1; 1915 S. L. ch. 147, sec. 2; 1933 S. L. ch. 139, sec. 1; 1940 O. C. L. A. sec. 93-601.
28. L. 1862, Deady, p. 783, sec. 4; 1911 S. L. ch. 214, sec. 1; 1913 S. L. ch. 282, sec. 1; 1940 O. C. L. A. sec. 63-104.
29. L. 1862, Deady, p. 235, sec. 959; L. 1864, Deady, sec. 959; 1940 O. C. L. A. sec. 93-927.

the order of business shall be docketed as follows: Probate business first and county business second, with a separate set of records for each classification. (30)

In Benton County the records of civil cases are an index to county court records, original papers filed in civil cases, a register, a journal, a docket, an execution docket, a judgment docket, and a record of fees. (31)

The county court has exclusive jurisdiction over probate matters and keeps a separate record of probate business. (32) The records, as kept in Benton County, are: An index to probate records; original papers filed in probate cases; a probate journal; a register; original wills and a record thereof; estate and inheritance tax records; records of appointment of administrators, executors, guardians, and admeasurers of dower; probate bonds; and a record of fees.

The records of the juvenile court include a file of case papers, a register, and a juvenile record or journal. (33)

The records of cases of mental deficiency include a file of original papers pertaining to insanity cases, and an insanity record. (34)

#### Civil Business

##### Case Files

189. INDEX - COUNTY COURT, 1859--. 1 vol.  
Index to County Court (Papers), entry 190, and Journal, County Court - Civil Business, entry 192, showing title and number of case, date of trial, names of plaintiff and defendant, and volume and page where recorded. Arr. alph. by surnames of plaintiff and defendant. Hdw. on pr. fm. 200 pp. 14 x 5 $\frac{1}{2}$  x 1 $\frac{1}{2}$ . Clk. va.

190. COUNTY COURT (Papers), 1859--. 20 file boxes (labeled by contained case nos.).  
Original papers filed in civil cases in county court: complaints, summonses, warrants, affidavits, answers, writs, and decrees of judgments, showing case number, names of plaintiff, defendant and attorneys, title of case, date filed, date of trial, and decree. Arr. numer. by case no. For index, see entry 189. Hdw. and typed on pr. fm. 11 x 5 x 14. Clk. va.

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- 30. L. 1862, Deady, sec. 876; 1937 S. L. ch. 278, sec. 2; 1940 O. C. L. A. sec. 93-207.
  - 31. L. 1862, Deady, sec. 559; 1940 O. C. L. A. sec. 10-1001.
  - 32. L. 1862, Deady, secs. 1047, 1048; 1919 S. L. ch. 57, sec. 1; 1931 S. L. ch. 163, sec. 1; 1940 O. C. L. A. sec. 19-102.
  - 33. 1907 S. L. ch. 34, sec. 3; 1913 S. L. ch. 249, sec. 1; 1915 S. L. ch. 147, sec. 2; 1933 S. L. ch. 139, sec. 1; 1940 O. C. L. A. sec. 93-601.
  - 34. 1913 S. L. ch. 342, sec. 4; 1940 O. C. L. A. sec. 127-207.

Proceedings

191. REGISTER OF COUNTY COURT, 1864--. 2 vols. (dated). Register of cases filed in county court, showing title of case, date filed, names of plaintiff, defendant and attorneys, date of hearing, court order, and judgment. Arr. chron. by date filed. Indexed alph. by title of case. Hdw. Aver. 485 pp.  $11\frac{1}{2}$  x 10 x  $2\frac{1}{2}$ . Clk. va.

Journals and Locketts

192. JOURNAL COUNTY COURT - CIVIL BUSINESS, 1859--. 3 vols. (1-3). Record of proceedings of county court in civil cases: citizenship petitions, change of names, habeas corpus writs and commitments, showing names of judge, plaintiff, defendant and attorneys, date of trial, memorandum of subsequent proceedings, and fees charged. Arr. chron. by date of trial. For index, see entry 189. Hdw. 1859-July 1902; typed Aug. 1902--. Aver. 630 pp. 17 x 12 x  $2\frac{1}{2}$ . Clk. va.

193. COUNTY COURT DOCKET, 1861-84. 2 vols. Record of cases coming before county court, showing date filed, nature of case, names of plaintiff, defendant and attorneys, record of court action, and disposal of case. Arr. chron. by date filed. No index. Hdw. Aver. 300 pp. 16 x 10 x 2. Clk. va.

194. EXECUTION DOCKET, 1861--. 1 vol. Record of executions issued on judgments, showing date filed, names of plaintiff and defendant, date and amount of judgment, and record of satisfaction. Arr. chron. by date filed. Indexed alph. by surname of defendant. Hdw. 360 pp. 14 x 9 x 1. Clk. va.

Judgments

195. JUDGMENT DOCKET - COUNTY COURT, 1855--. 3 vols. (A, A, B). Record of judgments, showing dates of action, filed and docketed, names of plaintiff and defendant, amount of judgment, and dates of appeal, decision on appeal, and satisfaction. Arr. chron. by date filed. Indexed alph. by surname of defendant. Hdw. Aver. 400 pp.  $16\frac{1}{2}$  x  $10\frac{1}{2}$  x  $2\frac{1}{2}$ . 2 vols., 1855-June 1883, clk. bsmt. va.; 1 vol., July 1883--, clk. va.

196. GARNISHMENT, 1927--. 1 file box. Copies of court proceedings to collect judgments on money due defendant, copy of court order of execution, writ of attachment, notice of garnishment, returns of garnishment, order to pay money to court, and receipt for money showing date and amount of judgment, date paper issued, names of plaintiff and defendant, and date of satisfaction. Arr. chron. by date paper issued. No index. Typed on pr. fm. 11 x 5 x 14. Clk. va.

Fees

197. FEE BOOK - COUNTY COURT, 1859-1903. 3 vols. (1-3). 1904-- in Record of Fees Received, entry 104. Record of fees collected in county court cases, showing court term, names of plaintiff, defendant, judge and clerk or deputy, and date filed. Arr.

chron. by date filed. No index. Hdw. Aver. 300 pp. 18 x 12 x 2. Clk. bsm. va.

### Probate Business

#### Case Files

198. INDEX TO PROBATE COURT RECORDS, 1850--. 1 vol. Index to Probate Records, entries 199-212, 214, showing case numbers, name of estate or person concerned and volume, page and file box where recorded. Arr. alph. by surname of principal or estate title. Hdw. 600 pp. 14 x 8 x 3. Clk. va.

199. (PROBATE COURT FILES), 1852--. 32 file drawers, 1 file box (labeled by contained case nos.).

Original papers filed in probate cases: bills, petitions, reports of guardians and administrators, and court orders, showing date and number of case, names of principals, petitioners, guardians, executors and administrators, and disposition of case. Arr. numer. by case no. For index, see entry 198. Hdw. and typed. Drawers 11 x 16 x 24; file box 11 x 5 x 14. 4 drawers, 1852-Nov. 1889, and file box, 1900-1908, clk. bsm. va.; 28 drawers, Dec. 1889-99, 1909--, clk. va.

#### Journals

200. JOURNAL PROBATE, 1850--. 24 vols. (A, B, 1-22). 1850-66 also in County Court Journal, entry 1.

Record of business transacted: petitions, affidavits, bonds, appointment of administrators, executors, guardians and appraisers, court orders, and settlements of estates, showing date of paper, number and nature of case, names of persons concerned, and title of estate. Arr. chron. by date of case. For index, see entry 198. Hdw. 1850-July 21, 1902; typed July 23, 1902--. Aver. 620 pp. 17 $\frac{1}{2}$  x 12 $\frac{1}{2}$  x 2 $\frac{1}{2}$ . 12 vols., 1850-Sept. 7, 1909, clk. bsm. va.; 12 vols., Sept. 13, 1909--, clk. va.

201. PROBATE REGISTER, 1864-92, 1896--. 4 vols. (1 vol. unlabeled; 1, 2, 3).

Register of probate cases, showing dates of filing proceedings, petitions, affidavits, bonds, orders and findings of court; names of decedent, administrators, guardians and appraisers, inventory and value of estate, and final accounting. Arr. chron. by date filed. Indexed alph. by name of deceased; also separate index, entry 198. Hdw. 1864-1902; hdw. on pr. fm. 1903--. Aver. 520 pp. 16 x 12 x 3. 1 vol., 1864-92, clk. bsm. va.; 3 vols., 1896--, clk. va.

#### Wills

202. WILL RECORD, 1852--. 7 vols. (A-G).

Record copies of wills showing date filed, names of decedent, beneficiaries and witnesses, value of estate, and provisions. Arr. chron. by date filed. Indexed alph. by surname of decedent; also separate index, entry 198. Hdw. 1852-1902, typed 1903--. Aver. 506 pp. 16 x 11 x 2 $\frac{1}{2}$ . 2 vols., 1852-June 1880, clk. bsm. va.; 5 vols., July 1880--, clk. va.

Estates

203. RECORD OF ESTATES, 1852-85, 1907-30. 3 vols.  
Record of estate settlements, showing estimated and appraised value of estate, dates of making and filing approval of inventory and appraisement, cost of settlement, amount paid to heirs, name and residence of deceased, date of death, names, residence and relationship of heirs, and name and address of executor. Arr. chron. by date filed. For index, see entry 198. Hdw. 1852-85, hdw. on pr. fm. 1903-30. Aver. 413 pp. 16 x 12 $\frac{1}{3}$  x 2 $\frac{1}{2}$ . 2 vols., 1852-85, clk. bsm. va.; 1 vol., 1907-30, clk. va.

204. ADMEASUREMENT OF DOWER, 1865-84. 1 vol. Discontinued.  
Record of assignments to widows of dower shares, showing title of estate, date of order for appraisal and appointment of commission, name of widow, date of appraisal report, amount of dower share, and date approved. Arr. chron. by date of appointment order. Indexed alph. by name of widow; also separate index, entry 198. Hdw. 550 pp. 14 x 19 x 2. Clk. bsm. va.

Inheritance Tax

205. INHERITANCE TAX RECORD, 1918--. 1 vol.  
Duplicate of treasurer's receipt for inheritance tax, showing date of receipt, name, number, description and value of estate, names of heir, legatee and devisee, amount of tax, rate and tax for lineal, collateral, and unrelated heirs, and total tax. Arr. chron. by date of receipt. For index, see entry 198. Hdw. on pr. fm. 300 pp. (30 pp. used) 16 x 12 x 1 $\frac{1}{2}$ . Clk. va.

Administration

206. GUARDIANSHIP, ADMINISTRATION, TESTAMENTARY (Letters), 1850--.  
5 vols. (A-E). Title varies slightly.  
Record copies of letters testamentary, showing date issued and recorded, title of estate, names of minor, administrator and guardian, and date appointed. Arr. chron. by date appointed. Indexed alph. by surname of minor; also separate index, entry 198. Hdw. 1850-1901; typed and hdw. on pr. fm. 1902--. Aver. 460 pp. 15 $\frac{1}{3}$  x 7 $\frac{1}{3}$  x 1 $\frac{1}{3}$ . 2 vols., 1850-1901, clk. bsm. va.; 3 vols., 1902--, clk. va.

207. BONDS OF ADMINISTRATORS, EXECUTORS, AND GUARDIANS, 1852--.  
7 vols. (3 unlabeled; D-G).  
Record copies of bonds of administrators, executors and guardians, showing date filed, names of appointee and sureties, amount and term of bond, and title of estate. Arr. chron. by date filed. Indexed alph. by name of appointee or estate; also separate index, entry 198. Hdw. 1852-July 20, 1902; typed July 21, 1902--. Aver. 435 pp. 14 $\frac{1}{3}$  x 10 x 2. 3 vols., 1852-May 1899, clk. bsm. va.; 4 vols., June 1899--, clk. va.

208. APPOINTMENT OF EXECUTORS AND ADMINISTRATORS, 1864-66. 1 vol.  
Record of executors and administrators appointed, showing name of estate, name of executor or administrator, date appointed, and amount of bond

furnished. Arr. chron. by date appointed. Indexed alph. by name of estate; also separate index, entry 198. Hdw. 564 pp. 13 x 9 x 2. Clk. bsm. va.

209. GUARDIANSHIP OF INFANTS, INSANE PERSONS AND DRUNKARDS, 1864-74.  
1 vol.

Record of appointments of guardians for minors, incompetents or insane persons, who have inherited estates, showing date of appointment, names of ward and guardian, amount and conditions of bond, and date filed. Arr. chron. by date appointed. Indexed alph. by surname of heir; also separate index, entry 198. Hdw. 620 pp. 8 x 14 x 2. Clk. bsm. va.

Fees

210. PROBATE (Fee Book), 1859-85. 1 vol. 1886-- in Record of Fees Received, entry 104.

Record of fees received for recording and notarization in settlement of estates, showing date paper filed, name of decedent, and amount of fees received. Arr. chron. by date filed. Indexed alph. by surname of decedent; also separate index, entry 198. Hdw. 400 pp. 14 x 18 x 2. Clk. bsm. va.

Juvenile

211. JUVENILE COURT (Files), 1928--. 4 file boxes (labeled by contained case nos.).

Original papers pertaining to delinquent children and dependent mothers; petitions of dependent mothers for pensions, appointment of guardians, citations, summary of evidence, and court orders, showing case number, date of paper, names of delinquent child, petitioner, relative, guardian and attorneys, and date filed. Arr. numer. by case no. For index, see entries 198, 212. Hdw. on pr. fm. 11 x 5 x 14. Clk. va.

212. REGISTER OF JUVENILE COURT, 1928--. 2 vols. (2, 3).

Register of cases filed in juvenile court pertaining to delinquent children and dependent mothers, showing case number, date filed, names of parties in case and attorneys, dates of petitions, orders, hearing and commitment, and judge's memoranda. This register is used as an index to Juvenile Court (Files), entry 211. Arr. chron. by date filed. Indexed alph. by surname of delinquent child or dependent mother. Hdw. on pr. fm. Aver. 200 looseleaf pp. 16 x 12 x 2. Clk. va.

213. JUVENILE RECORD, 1907--. 2 vols.

Record of proceedings of court in juvenile cases, dependent mothers' and widows' pensions, showing case number, date of court term, date of hearing, names of parties involved, summary of evidence, commitment, court orders, and date of order. Arr. chron. by date of hearing. Indexed alph. by surname of delinquent child, dependent mother, or widow. Typed. Aver. 400 pp. 18 x 12 x 3. Clk. va.

Insane

214. INSANE AND PAUPERS, 1866--. 2 file boxes.

Original complaints, petitions, and related papers pertaining to insane cases, showing date and nature of paper, names of patient, petitioner or

Examiner, warrant for apprehension, physician's report, order for commitment or refusal, and date filed. Arr. under alph. tabs by years, and under alph. by surname of patient. For index, see entry 198. Hdw. and typed on pr. fm. Aver. 11 x 5 x 22. 1 box, 1866-1927, clk. bsmt. va.; 1 box, 1928--, clk. va.

215. INSANE RECORD, 1870--, 4 vols. (1-4). Record of hearings of insane cases, showing date of petition, names of patient and petitioner, date of hearing, physician's report, order and date of commitment, and name of institution to which committed. Arr. chron. by date of hearing. Indexed alph. by surname of patient. Hdw. 1870-1904; typed 1905--. Aver. 520 pp. 17 x 11 x 2 $\frac{1}{2}$ . 1 vol., 1870-May 3, 1904, clk. bsmt. va.; 3 vols., May 6, 1904--, clk. va.

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### VI. JUSTICE OF THE PEACE

Introduction. Under the Provisional Government of Oregon, justices of the peace were elected to hold court in the various districts, or counties, (1) and for a time exercised the powers of county commissioners. (2) During the territorial period the justice of the peace courts assumed their present status of courts of petit jurisdiction. In 1850 provision was made for the election of one or more justices of the peace by the voters of each election precinct. (3) The State Legislature provided that the county court should establish justice of the peace districts within the county (4) with one justice of the peace elected by and for each of the districts. (5)

Following the creation of Benton County in 1847, the county was divided into three justice of the peace districts and a justice of the peace was elected for each district. (6) The county court later increased the number of justice of the peace districts, (7) but with improved road conditions since 1930 the number of justices of the peace has been reduced to three; namely Corvallis, Philomath, and Monroe. (8)

1. L. 1845, p. 51, sec. 2.
2. See County Court (Administrative), p. E-2.
3. L. 1850, p. 164, sec. 1.
4. L. 1864, Deady, p. 827, sec. 27; L. 1891, p. 97, sec. 1; 1907 S. L. ch. 230, sec. 1; 1913 S. L. ch. 355, sec. 2; 1940 O. C. L. A. sec. 27-201.
5. L. 1864, Deady, p. 828, sec. 34; L. 1891, p. 97, sec. 8; 1940 O. C. L. A. sec. 27-208.
6. Avery to Prim.
7. Journal, County Court, vol. B, p. 115, in County Court Journal.
8. County Court Journal, vol. 10, pp. 81, 140, 483; vol. 11, pp. 302, 452, 572; vol. 12, pp. 166, 519; vol. 15, p. 299; vol. 16, p. 73; Oregon Blue Book, p. 84.

Manner of Selection. Justices of the peace are elected by the qualified voters of the district. (9) Vacancies were filled by appointment by the county court until 1937, when the law provided that permanent vacancies should be filled by appointment by the Governor. (10)

Qualifications, Oath, and Bond. The justice of the peace is required by law to be a citizen of the United States, a qualified elector under the Constitution, and a resident for at least 6 months in the precinct in which he is elected. (11) Before assuming the duties of his office, the justice must file with the county clerk an oath of office. The official bond for the justice of the peace is \$1,000 except that in any district in which the county seat, or any part thereof, is situated, the amount is fixed by the county court between \$1,000 and \$10,000. (12)

Compensation. Regulated by statute, the justice's compensation consists of fees collected by him for certain classes of services. (13) The law further requires that on or before the 5th day of each month, the justice of the peace submit to the county treasurer an itemized statement, duly attested before a notary public, of all fees collected for services during the previous month. The fees over and above \$200, the amount allowed as compensation, are then forwarded, along with the itemized statement, to the county treasurer and credited to the general fund of the county. (14) In Benton County the justices of the peace of Monroe and Philomath districts are entitled to retain fees collected by them as the statutes provide. The justice of the peace in district No. 9, Corvallis, receives a salary of \$1,200 per year, paid from the county fund in the same manner as other county officers. He is prohibited from receiving any fees for his services except when performing the marriage ceremony. (15)

Tenure. The term of office is fixed by law at 2 years, (16) but since a Supreme Court ruling in 1913 that a justice of the peace is a judge, the term of office has been 6 years, as provided for judges by the Constitution. (17)

9. L. 1864, Deady, pp. 828, 829, secs. 34, 40; L. 1891, p. 97, sec. 8; 1940 O. C. L. A. secs. 27-208, 27-209.
10. L. 1864, Deady, p. 828, sec. 31; 1917 S. L. ch. 239, sec. 1; 1937 S. L. ch. 335, sec. 1; 1940 O. C. L. A. sec. 27-206.
11. L. 1852-53, p. 27; L. 1864, Deady, p. 828, sec. 33; 1940 O. C. L. A. sec. 27-207.
12. L. 1864, Deady, p. 827, sec. 28; 1931 S. L. chs. 21, 42, sec. 1; 1940 O. C. L. A. secs. 27-202, 27-203.
13. L. 1864, Deady, p. 736, sec. 6; 1935 S. L. ch. 309, sec. 1; 1940 O. C. L. A. sec. 27-210.
14. 1925 S. L. ch. 283, sec. 2; 1940 O. C. L. A. sec. 27-213.
15. 1929 S. L. ch. 364, sec. 1; 1933 S. L. ch. 28, sec. 1; 1940 O. C. L. A. sec. 27-224.
16. L. 1853-54, p. 283; L. 1864, Deady, p. 828, sec. 34; 1940 O. C. L. A. sec. 27-208.
17. Webster v. Boyer, 81 Or. 485, 159 Pac. 166; 32 A. G. 333; Const. art. VII, sec. 1.

Jurisdiction. The civil and criminal jurisdiction of the justice courts in Oregon has been limited throughout the history of the office. Originally the Provisional Government granted civil jurisdiction to the justice of the peace only in cases wherein the amount in controversy did not exceed \$50; (18) and later \$150. (19)

The Constitution in 1859 authorized the Legislature to invest justices of the peace with limited jurisdiction. The limitation was not defined but indicated only by the provision that justice courts are not courts of record. (20) Their judgments, therefore, are not safe and enduring evidence and their jurisdiction does not extend to any case involving the title to real property. (21) Since the justice of the peace is not required to have legal training, he is given no jurisdiction over suits in equity. (22)

The civil jurisdiction of the justice of the peace was increased to \$250 by an act of the Legislature in 1862. It is concurrent with the circuit court jurisdiction and applies in particular to civil actions for the recovery of money or for the recovery of personal property when its value and damage for the retention do not exceed \$250; likewise, for the recovery of any penalty or forfeiture, whether given by statute or arising out of contract, not exceeding \$250. (23) The justice of the peace may give judgment without action upon the confession of the defendant in any case within his jurisdiction. (24) The justice of the peace has exclusive jurisdiction over cases of forcible entry and detainer (25) and over animals unlawfully running at large. (26) He causes such animals to be turned over to the sheriff until disposal is made of them. (27) He also has exclusive jurisdiction in cases of tampering with water headgates. (28)

Criminal jurisdiction of justice courts is, in most cases, concurrent with the circuit court and extends only to crimes and misdemeanors punishable by fine or imprisonment in the county jail. (29) An enactment of 1891 provides that the punishment prescribed shall not exceed 3 months' imprisonment or a fine of \$100. (30) According to the interpretation of the Supreme

18. Ar. p. 30, art. 7.
19. L. 1843-49, p. 99, sec. 10.
20. Const. original art. VII, sec. 1; Duffy v. Mix, 24 Or. 265, 33 Pac. 807.
21. L. 1862, Deady, sec. 882; 1940 O. C. L. A. sec. 27-105.
22. L. 1864, Deady, p. 828, sec. 33; 1940 O. C. L. A. sec. 27-207; McMahan v. Whelan, 44 Or. 402, 75 Pac. 715.
23. L. 1862, Deady, sec. 881; 1940 O. C. L. A. sec. 27-103.
24. L. 1862, Deady, sec. 247; 1940 O. C. L. A. sec. 6-401.
25. 1909 S. L. ch. 185, sec. 14; 1940 O. C. L. A. sec. 8-313; Thompson v. Wolf (1877), 6 Or. 308.
26. 1927 S. L. ch. 286, sec. 3; 1940 O. C. L. A. sec. 32-1424.
27. 1913 S. L. ch. 328, sec. 2; 1939 S. L. ch. 322, sec. 2; 1940 O. C. L. A. sec. 32-1402.
28. 1909 S. L. ch. 216, sec. 44; 1940 O. C. L. A. sec. 116-308.
29. L. 1864, Deady, p. 583, sec. 2; 1940 O. C. L. A. sec. 28-102.
30. L. 1891, p. 138, sec. 2; 1940 O. C. L. A. sec. 28-103.

Court of Oregon treating the powers of the justice of the peace in cases of misdemeanors, no jurisdiction is given over prosecutions which provide a maximum legal fine of more than \$100. (31)

The procedure followed by the justices of the peace in carrying out criminal action has remained uniform throughout the history of the State. A criminal action is commenced by the filing of a complaint under the oath of a complainant, who is thereafter known as a private prosecutor; and no judgment, either of conviction or acquittal, can be entered unless the person injured appears or is subpoenaed to attend the trial as a witness. (32) Upon the filing of the complaint, the justice issues a warrant for the arrest of the defendant named. (33)

No jurisdiction is granted in actions for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction, or breach-of-promise to marry. (34)

A small claims department was established by law in every justice district in 1917. It is conducted by the justice of the peace with jurisdiction, though not exclusive, over cases for recovery of money not to exceed \$20. (35)

As a judicial officer, the justice of the peace has authority to perform the marriage ceremony. (36)

Appeals. Requirements and procedure for making appeals from the judgment of the justice of the peace courts have been prescribed by statute. During the period from 1899 to 1925 the appeal of any person having a judgment entered against him in a civil action, other than a judgment by confession or want of answer, was brought before the circuit court when the amount in controversy was not less than \$10. (37) Since 1925 the amount in controversy required for the appeal has been increased to not less than \$30. (38)

An appeal from the civil judgment (39) or from a judgment of conviction in a criminal action (40) in a justice court may be taken in open court at the time the judgment is rendered or during a period dating 30 days from

31. 1917 S. L. ch. 162, sec. 1; 1940 O. C. L. A. sec. 28-104; Nicklas v. Rathburn (1914), 69 Or. 483, 139 Pac. 567.
32. L. 1864, Deady, p. 598, sec. 79; 1940 O. C. L. A. sec. 28-602.
33. L. 1864, Deady, p. 598, sec. 81; 1940 O. C. L. A. sec. 28-604.
34. L. 1862, Deady, sec. 882; 1940 O. C. L. A. sec. 27-105.
35. 1917 S. L. ch. 328, sec. 1; 1940 O. C. L. A. sec. 28-1001.
36. L. 1862, Deady, p. 783, sec. 4; 1911 S. L. ch. 214, sec. 1; 1913 S. L. ch. 282, sec. 1; 1940 O. C. L. A. sec. 63-104.
37. L. 1899, p. 116, sec. 39.
38. 1925 S. L. ch. 97, sec. 1; 1940 O. C. L. A. sec. 28-401.
39. L. 1899, p. 116, sec. 40; 1940 O. C. L. A. sec. 28-402.
40. L. 1864, Deady, sec. 107; 1913 S. L. ch. 267, sec. 1; 1940 O. C. L. A. sec. 28-703.

entry of judgment. The original notice of appeal, with the endorsement of the respondent, is filed with the justice, together with a statement giving surety and covering the costs of the appeal. However, an appeal taken in open court at the time the judgment is rendered is the only notice required, the justice recording in his docket the fact that such notice has been given. (41) A bond is filed, signed by one or more persons who stand as sureties to vouch for the appellant's payment of all costs and disbursements awarded against him. The bond does not prevent further proceedings on the judgment unless particular provision is made that the appellant or his sureties will satisfy the further judgment of an appellate court. (42) All sureties signing the undertaking must give proof of their assets and qualify before the justice. (43)

Records. Records which the justice of the peace is required to keep in his docket, although too numerous to be listed in the most minute detail, have bearing on every aspect of the legal business of the court. He records the title of every action commenced in his court, naming the parties to the action and the date commenced; he likewise records the date of making and filing any pleadings, whether or not made orally, and a statement of the substance of the pleadings. (44)

The justice's docket is also required to show memoranda of all orders relating to the admission of bail; any order allowing a provisional remedy, the date of its issuance, and of the return of the summons or process; the time of the appearance of either party or parties to the action, or their failure to appear; the name of an applicant seeking postponement of trial, and the length of time postponement requested. (45)

The law further instructs the justice to record any demand for jury, by whom the demand is made, the order for the jury, the time appointed for trial, the return of the order for jury, the names of the jurors and those of all witnesses, the verdict of the jury, the date when the verdict was returned, a statement of the jury's disagreement when unable to arrive at a verdict, and finally, mention of the jury's consequent discharge. (46)

A separate docket is kept for the small claims department in Philomath district (47) but these cases are docketed with other civil cases in Corvallis and Monroe districts.

41. L. 1853-54, p. 322; L. 1899, p. 116, sec. 41; 1940 O. C. L. A. sec. 28-403.
42. L. 1853-54, p. 324; L. 1899, p. 117, sec. 42; 1940 O. C. L. A. sec. 28-404.
43. L. 1853-54, p. 323; L. 1899, p. 117, sec. 45; 1940 O. C. L. A. sec. 28-407.
44. L. 1864, Deady, p. 584, sec. 4; 1940 O. C. L. A. sec. 28-201.
45. L. 1864, Deady, p. 584, sec. 5; 1940 O. C. L. A. sec. 28-202.
46. L. 1864, Deady, p. 584, sec. 5; 1940 O. C. L. A. sec. 28-202.
47. 1917 S. L. ch. 328, sec. 14; 1940 O. C. L. A. sec. 28-1014.

## Corvallis

## 216. OFFICE FILES, 1916--. 8 file drawers.

Original papers of justice court cases: complaints, warrants, subpoenas and court orders, showing date of paper, nature of complaint, names of plaintiff and defendant, statement of costs, and date and number of case. Arr. chron. by date of case. Indexed alph. by name of case. Hdw. and typed on pr. fm. 12 x 16 x 20. J. p. off., Corvallis State Bank Bldg., Corvallis, Ore.

## 217. GENERAL DOCKET, 1874-80, 1898-1932. 3 vols.

Record of proceedings in civil and criminal cases, showing date papers filed, names of plaintiff, defendant, prosecutor, attorneys, witnesses and jurors, issuance and return of processes, date and nature of case, minutes of hearing, judgment, statement of costs, and signature of justice. Arr. chron. by date of case. No index. Hdw. 1874-80, 1898-1926; typed 1927-32. Aver. 300 loose-leaf pp. 14 x 9 x 1. 1 vol., 1874-80, clk. bsmt. va.; 2 vols., 1898-1932, j. p. off., Corvallis State Bank Bldg., Corvallis, Ore.

## 218. CIVIL DOCKET, 1917--. 5 vols. (dated).

Record of proceedings in civil cases, showing date papers filed, names of plaintiff, defendant, attorneys, witnesses and jurors, issuance and return of processes, date and nature of case, minutes of hearing, judgment, statement of costs, and signature of justice. Arr. chron. by date of case. No index. Typed. Aver. 400 loose-leaf pp. 10 x 12 x 4. J. p. off., Corvallis State Bank Bldg., Corvallis, Ore.

## 219. CRIMINAL DOCKET, 1917--. 6 vols.

Record of proceedings in criminal cases, showing date papers filed, names of plaintiff, defendant, prosecutor, attorneys, witnesses and jurors, date and nature of case, minutes of hearing, judgment, statement of costs, and signature of justice. Arr. chron. by date of case. No index. Typed. Aver. 400 loose-leaf pp. 10 x 12 x 4. J. p. off., Corvallis State Bank Bldg., Corvallis, Ore.

## Monroe

## 220. COURT FILES, 1928--. 1 file box.

Original papers of justice court cases: complaints, warrants, subpoenas and court orders, showing date of paper, nature of complaint, names of plaintiff, defendant and attorneys, and date of case. Arr. chron. by date of case. No index. Hdw. and typed on pr. fm. 10 x 12 x 2. Residence of M. O. Mack, j. p., Monroe, Ore.

## 221. CIVIL DOCKET, 1928--. 1 vol.

Record of civil cases, showing date papers filed, names of plaintiff, defendant, attorneys, witnesses, and jurors, issuance and return of processes, date and nature of case, minutes of hearing, judgment, and signature of justice. Arr. chron. by date filed. No index. Hdw. 300 pp. 12 x 9 x 2. Residence of M. O. Mack, j. p., Monroe, Ore.

Justice of the Peace - Philomath  
Sheriff

(222-225)

## 222. CRIMINAL DOCKET, 1928--. 1 vol.

Record of criminal cases, showing date papers filed, names of plaintiff, defendant, prosecutor, attorneys, witnesses, and jurors, issuance and return of processes, date and nature of case, minutes of hearing, judgment, and signature of justice. Arr. chron. by date filed. No index. Hdw. 300 pp. 12 x 9 x 2. Residence of M. O. Mack, j. p., Monroe, Ore.

## Philomath

## 223. (FILES), 1931--. 8 pigeonholes.

Original papers of justice court cases: complaints, summonses, motions, demurrers, affidavits, judgments and executions, showing date of paper, nature of complaint, names of plaintiff and defendant, statement of costs, date filed, and number of case. Arr. alph. by name of case. No index. Typed on pr. fm. 5 x 16 x 10. Residence of R. Fisher, j. p., Philomath, Ore.

## 224. (DOCKET - SMALL CLAIMS COURT), 1934--. 1 vol.

Record of small claims, showing names of persons concerned, date and nature of case, court action, judgment rendered, and final disposition of case. Arr. chron. by date of case. Typed. 100 pp. 11 x 8 x  $\frac{1}{2}$ . Residence of R. Fisher, j. p., Philomath, Ore.

## 225. (DOCKET - CIVIL AND CRIMINAL), 1931--. 2 vols.

Record of civil and criminal cases, showing date papers filed, names of plaintiff, defendant, attorneys, witnesses, and jurors, issuance and return of process, date and nature of case, minutes of hearing, judgment, and signature of justice. Arr. chron. by date filed. Indexed alph. by surnames of plaintiff and defendant. Typed. Aver. 400 loose-leaf pp. 12 x 9 x 2. Residence of R. Fisher, j. p., Philomath, Ore.

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## VII. SHERIFF

Introduction. A "high sheriff" was chosen in 1841 by the inhabitants of the Willamette Valley, (1) and again in 1843 a sheriff was among the Provisional officers elected. (2) However, there was actually no organized government in Oregon until after 1844, and there is no record to indicate that any strict definition of the duties of the sheriff was made at these early meetings of the Provisional Government, except insofar as the legislators relied upon the laws of the Iowa Territory as revised by the committee on revision of laws and used as a guide for the creation of certain offices. (3)

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1. Ar. p. 6.
  2. Ar. pp. 14, 15.
  3. Ibid., p. 19.

In 1845, when the territory was divided into administrative districts, the Provisional Legislature decreed that there should be a separate sheriff for each district. (4) In the same year, all existing districts were redesignated counties, and legislation provided that a sheriff be elected for each of the counties. (5)

The Congressional Act of 1849, by which the Territorial status of Oregon was created, provided for a sheriff in each county. (6) With the admission of Oregon to statehood in 1859, the Constitution named the sheriff as the ministerial officer of the circuit and county courts, (7) and the statutes of 1862 described the office as that of chief executive officer and conservator of peace of the county. (8)

The first sheriff of Benton County was elected in 1848, following the creation of the county. (9)

Manner of Selection. The office of sheriff has always been elective. The Constitution provided for the election of a sheriff in each county. (10) However, when a vacancy occurs in the office of sheriff, the county court appoints a qualified person to fill the vacancy pending the next general election. (11)

Qualifications, Oath, and Bond. The sheriff is required by law to be a citizen of the United States, a qualified elector under the State Constitution, and a resident of the county for 1 year immediately preceding his election. (12) He is further required to file an oath of office with the county clerk, and provide a bond of \$10,000, which may be increased to \$15,000 when in the opinion of the county court the sum named is insufficient. (13) In his capacity as ex officio tax collector, he files a bond of such amount as the county court may direct. (14)

Compensation. Originally, the sheriff's compensation consisted of fees received for the various services rendered. (15) An enactment of 1893 provided that the sheriff be paid an annual salary. (16) The present sheriff of Benton County receives a salary of \$2,400 a year. (17)

4. Ar. pp. 110, 111.
5. L. 1843-49, p. 35, sec. 1; L. 1845, p. 23, sec. 1.
6. 9 U. S. Stat. 323.
7. Const. original art. VI, sec. 16.
8. L. 1862, Deady, sec. 968; 1940 O. C. L. A. sec. 93-933.
9. Avery to Prim.
10. Const. original art. VII, sec. 16.
11. L. 1864, Deady, p. 823, sec. 10; 1940 O. C. L. A. sec. 87-108. For manner of removal see p. E-4.
12. L. 1864, Deady, p. 823, sec. 8; 1940 O. C. L. A. sec. 87-102.
13. L. 1864, Deady, p. 824, sec. 11; 1940 O. C. L. A. sec. 87-104.
14. 1907 S. L. ch. 267, sec. 13; 1913 S. L. ch. 184, sec. 14; 1915 S. L. ch. 123, sec. 1; 1940 O. C. L. A. sec. 110-803.
15. L. 1850, p. 148, sec. 8.
16. L. 1893, pp. 165, 166, sec. 4.
17. 1941 S. L. ch. 28, sec. 1.

Tenure. The term of office of the sheriff was fixed by the Constitution at 2 years. (18) The law remained uniform in this respect until November 1920, when the term of office was increased to 4 years. (19)

Deputies. The sheriff of Benton County has duly appointed deputies serving under his direction. The deputies are appointed for an indefinite period upon written order of the sheriff, a certified copy which is filed with the county clerk. (20) The sheriff is also authorized to appoint jailers (21) and jail matrons. (22) The salaries of the deputies are fixed by the county court. (23)

All railroad conductors and engineers are empowered to act as sheriffs of the county through which the train is passing during the time they are actually on duty. (24)

Ex Officio Duties. The sheriff of Benton County is ex officio tax collector. (25)

Powers and Duties. Although the functions of the sheriff were not defined in detail during the early period of the Provisional Government, by 1847 statutes were enacted covering the numerous phases of the sheriff's duties. These involve law enforcement, (26) service of writs and summonses, (27) and election duties. (28) During this early period he served as census enumerator (29) and personally executed the death sentence. (30) Among the early law enforcement duties of the sheriff was the enforcement of the prohibition of sale of intoxicating liquor to Indians. (31)

The statute of 1862 provided a broad outline of the sheriff's functions. (32) It is his duty to arrest and commit to jail persons breaking or attempting to break the peace, to defend the county against riot or other disturbance, to execute processes and orders of judicial officers, to execute warrants issued by other public officials, and to attend the sessions of the courts held within the county.

18. Const. original art. VII, sec. 16.
19. Ibid., art. VI, sec. 6, as amended in 1920.
20. L. 1862, Deady, sec. 962; 1927 S. L. ch. 213, sec. 1; 1940 O. C. L. A. sec. 93-930; 1941 S. L. ch. 28, sec. 1.
21. L. 1862, Deady, sec. 995; 1940 O. C. L. A. sec. 93-932.
22. 1907 S. L. ch. 187, sec. 4; 1940 O. C. L. A. sec. 86-714.
23. L. 1895, p. 83, sec. 11; 1940 O. C. L. A. sec. 87-1052.
24. 1907 S. L. ch. 206, sec. 1; 1940 O. C. L. A. sec. 113-1001.
25. L. 1853, pp. 394-397; 1913 S. L. ch. 184, sec. 13; 1915 S. L. ch. 123, sec. 2; 1940 O. C. L. A. sec. 110-802. See Tax Collector, p. E-109.
26. L. 1843-49, p. 167, sec. 2.
27. Ibid., p. 125, ch. 111, sec. 25.
28. Ibid., p. 23, sec. 1.
29. Ibid., p. 52, sec. 1.
30. L. 1850, p. 88, sec. 37.
31. L. 1843-49, p. 167, sec. 2.
32. L. 1862, Deady, sec. 968; 1940 O. C. L. A. sec. 93-933.

Sheriff

(Next entry 226, p. E-82)

Separate enactments amended from time to time have prescribed the specific duties of the sheriff. As ministerial officer of the circuit and county courts, he serves summonses in civil actions, (33) subpoenas witnesses, (34) serves processes, (35) executes forcible entry and detainer orders, (36) executes judgments in civil actions and conducts foreclosure sales, (37) and serves writs of attachment. (38) He also issues deeds in the sale of foreclosed property (39) and executes liens on boats and equipment. (40) The service of warrants of arrest is a further duty of the sheriff. (41)

The sheriff is responsible for conveying prisoners to the institution to which they have been committed by the courts. (42) He also executes writs of habeas corpus. (43) He is responsible for providing food and other necessary care of jurors during the deliberation of a case. (44)

As a law enforcement officer, the sheriff is empowered by statute to make arrests, (45) to disperse rioters and persons unlawfully assembled, (46) to enforce nuisance abatement orders, (47) to enforce the highway regulations, (48) to enforce the State aeronautical laws, (49) to enforce the gambling laws, (50) and to take charge of estray animals. (51) The

- 33. L. 1862, Deady, sec. 53; 1929 S. L. ch. 22, sec. 1; 1940 O. C. L. A. sec. 1-604.
- 34. L. 1862, Deady, sec. 783; 1940 O. C. L. A. sec. 3-205.
- 35. L. 1862, Deady, sec. 965; 1940 O. C. L. A. sec. 93-935.
- 36. 1909 S. L. ch. 185, sec. 16; 1940 O. C. L. A. sec. 8-316.
- 37. L. 1862, Deady, sec. 280; 1909 S. L. ch. 181; 1940 O. C. L. A. sec. 6-1501.
- 38. L. 1862, Deady, sec. 145; 1940 O. C. L. A. sec. 7-204.
- 39. L. 1862, Deady, sec. 414; 1917 S. L. ch. 352, sec. 3; 1940 O. C. L. A. sec. 9-507.
- 40. L. 1853, Deady, p. 768, sec. 21; 1940 O. C. L. A. sec. 67-805.
- 41. L. 1864, Deady, sec. 108; 1940 O. C. L. A. sec. 26-817.
- 42. L. 1862, Deady, sec. 968; L. 1864, Deady, sec. 194; 1940 O. C. L. A. secs. 26-1237, 93-933.
- 43. L. 1862, Deady, sec. 631; 1940 O. C. L. A. sec. 11-435.
- 44. L. 1862, Deady, sec. 201; 1940 O. C. L. A. sec. 5-311.
- 45. L. 1862, Deady, sec. 968; 1940 O. C. L. A. sec. 93-933.
- 46. L. 1850, p. 89, sec. 42; L. 1853-54, p. 204, sec. 1; L. 1862, Deady, sec. 968; 1921 S. L. ch. 207, sec. 84; 1940 O. C. L. A. sec. 23-806.
- 47. L. 1862, Deady, secs. 330, 331; 1940 O. C. L. A. secs. 8-401, 8-402.
- 48. 1921 S. L. ch. 371, sec. 2; 1925 S. L. ch. 165, sec. 1; 1927 S. L. ch. 217, sec. 1; 1929 S. L. ch. 186, sec. 1; 1931 S. L. ch. 360, sec. 87; 1940 O. C. L. A. sec. 115-396.
- 49. 1923 S. L. ch. 202, sec. 1; 1935 Sp. S. L. ch. 48, sec. 9; 1940 O. C. L. A. sec. 45-602.
- 50. L. 1876, p. 41, sec. 7; 1937 S. L. ch. 492, sec. 3; 1940 O. C. L. A. secs. 323-930, 323-941.
- 51. 1913 S. L. ch. 328, sec. 1; 1939 S. L. ch. 322, sec. 2; 1940 O. C. L. A. sec. 32-1402.

power of posse comitatus authorizes him to call together and to arm the male inhabitants of the county, and, for the purpose of assisting in overcoming civil disorder, to command any armed military company in the county except the National Guard. (52)

The development of the science of criminal detection on a Nation-wide scale has made the sheriff an important unit in this work. He is required to keep in his office equipment for taking fingerprints and photographs of all persons convicted of a crime for which the sentence is imprisonment in the penitentiary. (53) Photographs and fingerprints of such convicted persons are forwarded to the headquarters of the State Police in Salem, Oregon, which has been designated as the Central Bureau for Criminal Identification. (54)

As custodian of the county jail, the sheriff is responsible for the care of jail prisoners, (55) including Federal prisoners lodged in the county jail. (56)

The sheriff has certain licensing powers. He issues permits to carry concealed weapons. (57) As agent for the Secretary of State, he issues temporary licenses for automobiles and trucks. (58) Since 1929 he has distributed meat peddlers' tags to vendors of meat and poultry, acting since 1937 as agent for the State Department of Agriculture. (59)

The sheriff has certain duties in connection with elections. He is required to secure the use of and to provide furniture for polling places, and to deliver supplies to the judges of elections in the various precincts. (60) He is also required to execute the orders of election judges in enforcing order at polling places. (61)

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- 52. 1921 S. L. ch. 207, sec. 34; 1940 O. C. L. A. sec. 23-806.
  - 53. 1917 S. L. ch. 286, sec. 1; 1940 O. C. L. A. sec. 86-751.
  - 54. 1917 S. L. ch. 286, sec. 2; 1929 S. L. ch. 376, sec. 1; 1933 S. L. ch. 52, sec. 1; 1940 O. C. L. A. sec. 86-752.
  - 55. L. 1853, p. 394; L. 1862, Deady, p. 395; 1907 S. L. ch. 41, sec. 1; 1940 O. C. L. A. sec. 86-717.
  - 56. L. 1862, Deady, secs. 987, 988; 1917 S. L. ch. 38, sec. 1; 1940 O. C. L. A. secs. 93-949, 93-950.
  - 57. 1925 S. L. ch. 260, sec. 8; 1940 O. C. L. A. sec. 25-118; 1941 S. L. ch. 330, sec. 1.
  - 58. 1921 S. L. ch. 371, sec. 10; 1929 S. L. ch. 231, sec. 1; 1931 S. L. ch. 241, sec. 1; 1933 S. L. ch. 368, sec. 1; 1940 O. C. L. A. sec. 115-113.
  - 59. 1929 S. L. ch. 462, sec. 5; 1937 S. L. ch. 219, sec. 4; 1939 S. L. ch. 75, sec. 4; 1940 O. C. L. A. sec. 32-905.
  - 60. L. 1891, p. 26, sec. 56; 1935 S. L. ch. 40, sec. 1; 1940 O. C. L. A. sec. 81-1701.
  - 61. L. 1891, p. 13, sec. 19; 1940 O. C. L. A. sec. 81-1613.

The county is not responsible for the acts of the sheriff. (62) Any person claiming loss or injury as a result of the sheriff's acts is entitled to bring suit on the sheriff's bond. (63) If a prisoner, lawfully held to answer for payment of money to a private party or a fine or penalty to the State be allowed by the sheriff to go at large without a court order, and escapes, then the person aggrieved or the State may recover damages from the sheriff upon the sheriff's bond in civil action. (64) Statutory limitations established for suit against the sheriff are 3 years in case of a general claim for damages, (65) and 1 year in case of damage from an escape. (66)

Records. Only a few records of the sheriff's office are made mandatory by law. Any officer to whom any process, order, or paper is delivered shall execute or serve it according to command or direction, and must make a written return of the execution or service thereof. (67)

The sheriff keeps a record of fees received as required by law. (68) He is required to keep and deliver to his successor, a record of prisoners in the county jail (69) and to make and keep fingerprints and photographs of all persons convicted of felonies. (70) He keeps applications for permits to carry firearms (71) and a record of meat peddlers' tags. (72)

#### Court Orders and Services

##### 226. SHERIFF'S GENERAL DOCKET AND FEE BOOK, 1887-91, 1896-97.

1 vol. Discontinued.

Record of services and fees in civil cases from circuit and justice courts, showing names of plaintiff and defendant, nature of case, return of process, name of person paying fee, date filed, date of service, and statement of costs. Arr. chron. by date of return. No index. Hdw. 237 pp. 16 x 12 x 2. Clk. bsm. va.

- 62. L. 1862, Deady, sec. 969; 1940 O. C. L. A. sec. 93-941.
- 63. L. 1862, Deady, sec. 338; 1940 O. C. L. A. sec. 8-502.
- 64. L. 1862, Deady, sec. 970; 1940 O. C. L. A. sec. 93-946.
- 65. L. 1862, Deady, sec. 7; 1940 O. C. L. A. sec. 1-205.
- 66. L. 1862, Deady, sec. 9; 1940 O. C. L. A. sec. 1-207.
- 67. L. 1862, Deady, sec. 965; 1940 O. C. L. A. sec. 93-935.
- 68. L. 1901, p. 396, sec. 7; 1940 O. C. L. A. sec. 87-914.
- 69. L. 1862, Deady, sec. 984; 1915 S. L. ch. 268, sec. 16; 1919 S. L. ch. 264, sec. 135; 1940 O. C. L. A. secs. 93-943, 99-1023.
- 70. 1917 S. L. ch. 286, sec. 2; 1929 S. L. ch. 376; sec. 1; 1933 S. L. ch. 52, sec. 1; 1940 O. C. L. A. sec. 86-752.
- 71. 1925 S. L. ch. 260, sec. 8; 1940 O. C. L. A. sec. 25-118.
- 72. 1929 S. L. ch. 462, sec. 5; 1937 S. L. ch. 219, sec. 4; 1939 S. L. ch. 75, sec. 4; 1940 O. C. L. A. sec. 32-905.

227. SHERIFF'S RECORD OF FEES RECEIVED, 1907--. 3 vols. (1-3).

1858-70 in Fee Book - Circuit Court, entry 183.

Record of fees received, showing case number, date filed, names of plaintiff and defendant, issuance and return of process, amount of fee received, and treasurer's signature in receipt of fees. Arr. chron. by date filed. No index. Hdw. Aver. 300 pp. 11 x 12 x 2. Shf. off.

228. SHERIFF'S REPORT ON LIQUOR FUNDS, Nov. 4, 1931-Dec. 31, 1932.  
1 file box.

Copies of sheriff's sworn statements attached to vouchers for payment by treasurer for expenses incurred in securing evidence against liquor law violators, showing date of statement, name of violator, details of expenditure, date evidence was secured, and signature of sheriff. Arr. chron. by date of statement. No index. Hdw. and typed. 11 x 5 x 14. Clk. va.

#### Prisoners

229. JAIL REGISTER, 1886--. 1 vol.

Record of prisoners, showing identification number, name, age, date of birth and physical description of prisoner, nature of offense, sentence, date committed, authority for commitment, and dates received and discharged. Arr. chron. by date received. No index. Hdw. on pr. fm. 380 pp. 17 x 12 x 2. Shf. off.

230. FINGER PRINT FILE, 1926--. 1 file drawer.

Original fingerprints and criminal record, showing identification number, name, age and physical description of prisoner, date arrested, nature of charge, disposition of case, date received, classification of fingerprints, and signature of prisoner. Arr. by classification and numer. by code no. and symbols. For index, see entry 231. Typed on pr. fm. 10 x 12 x 20. Shf. off.

231. INDEX TO FINGER PRINT FILE, 1926--. 1 file drawer.

Index to Finger Print File, entry 230, showing name and identification number of prisoner, fingerprint classification numbers and symbols, date arrested, charge, and disposition of case. Arr. alph. by surname of prisoner. Typed on pr. fm. 3 x 5 x 16. Shf. off.

#### Licenses

232. (APPLICATION FOR PERMITS TO CARRY CONCEALED FIREARMS), 1925--.

In (Miscellaneous Files), entry 110.

Original applications for permits to carry concealed firearms, showing date filed, name, address and physical description of applicant, names and addresses of two character witnesses, and description of firearm.

233. PEDDLERS' TAGS, POULTRY TAGS, 1931--. 1 vol.

Record of sale of peddlers' tags and tags required for shipping of poultry, showing tag numbers, date sold, name of purchaser, and fee collected. Arr. chron. by date sold. No index. Hdw. 150 pp. 16 x 12 x 1. Shf. off.

234. SHERIFF'S RECORD OF SALE OF (Meat) TAGS, 1929--. 1 vol.  
 Record of sale of tags for shipment of slaughtered livestock, showing date issued, tag number, name and address of purchaser, and fee. Arr. chron. by date issued. No index. Hdw. 200 pp. 16 x 12 x 1 $\frac{1}{2}$ . Shf. off.

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 VIII. CONSTABLE

Introduction. Although a constable was among the first officers of the Provisional Government of Oregon, (1) he remained as a shadowy figure until 1850, when the law provided for the election of a constable in each of the justice of the peace districts. (2) A law of 1852 definitely defines the constable as a ministerial officer of the justice court. (3)

The first constables mentioned in Benton County were elected in 1854, one for each of the justice of the peace districts. (4) At present there are three justice of the peace districts and only two constables, one in the Corvallis district, and one in the Monroe district. (5) The law provides that after an action is started in a justice court, the plaintiff may cause a summons to be served on the defendant, and the sheriff or his deputy, or constable, or a marshal of any incorporated city or town is required to serve the summons. (6) Hence the sheriff performs the constable's duties in Philomath district.

Manner of Selection. The office of the constable has always been elective. (7) If the office falls vacant the county court appoints a successor to serve until the next general election. (8)

Qualifications, Oath, and Bond. The constable is required by law to have the same qualifications as a justice of the peace: (9) That is, to be a citizen of the United States, a qualified elector under the State Constitution, and a resident for at least 6 months in the precinct in which he is elected. (10) Before assuming the duties of his office the constable must

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1. Bancroft, History of Oregon, I, 292; ar. p. 5.
  2. L. 1850, p. 164, sec. 1.
  3. L. 1852-53, p. 29, sec. 7.
  4. Probate Court, vol. A, p. 176, in County Court Journal.
  5. Oregon Blue Book, p. 85.
  6. L. 1899, p. 110, sec. 3; 1940 O. C. L. A. sec. 28-303.
  7. L. 1843-49, p. 101, sec. 2; L. 1864, Deady, p. 828, sec. 35; 1931 S. L. ch. 159, sec. 1; 1940 O. C. L. A. sec. 27-217. For manner of removal, see p. E-4.
  8. L. 1864, Deady, p. 829, sec. 39; 1929 S. L. ch. 422, sec. 1; 1940 O. C. L. A. sec. 27-221.
  9. L. 1864, Deady, p. 829, sec. 39; 1929 S. L. ch. 422, sec. 1; 1940 O. C. L. A. sec. 27-221.
  10. L. 1864, Deady, p. 828, sec. 33; 1940 O. C. L. A. sec. 27-207.

file with the county clerk his certificate of election, with his oath of office endorsed thereon, together with a bond of \$1,000. (11)

Compensation. The constable receives compensation in the form of fees collected for serving papers and performing other official duties. All such fees are fixed by law. (12) In addition to statutory fees, the constable receives an allowance covering mileage, at present 10 cents a mile, for traveling from and to the outside limits of municipalities; but if the constable's office is not within the city limits, he is allowed a like sum for mileage beginning from his official headquarters. (13)

Tenure. The term of office is 2 years. (14)

Powers and Duties. The chief function of the constable consists in the execution of the various processes issued by the justice court of which he is the ministerial officer. (15)

The constable as a peace officer may make arrests without a warrant when a felony has been committed in his presence, when the person arrested has committed a felony although not in the constable's presence, or when a felony in fact has been committed and the constable has reasonable cause for believing the person arrested has committed it. (16) He has power to execute search warrants, (17) and in so doing may break open any door or window, may use all necessary force, and may deputize persons to assist him. (18)

It is the duty of the constable to inform against and diligently prosecute any person violating the gambling act. (19) If the constable observes a minor smoking a cigarette, it is his duty to inquire from whom the cigarettes were obtained, to take the minor before a justice of the peace or circuit judge, and to notify the district attorney. If the constable fails to do this, he is liable for a misdemeanor. (20) He, furthermore, is empowered to make arrests for violations of the aeronautical code and to bring the offender before a committing magistrate. (21)

Among the other duties of the constable as a peace officer are the

11. L. 1864, Deady, p. 829, secs. 36, 37; 1929 S. L. ch. 303, sec. 1; 1940 O. C. L. A. secs. 27-218, 27-219.
12. L. 1864, p. 737, sec. 7; 1940 O. C. L. A. sec. 27-222.
13. 1915 S. L. ch. 179, sec. 1; 1940 O. C. L. A. sec. 27-256.
14. L. 1864, Deady, p. 828, sec. 35; L. 1891, p. 97, sec. 9; 1931 S. L. ch. 159, sec. 1; 1940 O. C. L. A. sec. 27-217.
15. L. 1852-53, p. 29, sec. 7; L. 1899, p. 110, sec. 3; 1940 O. C. L. A. sec. 28-603.
16. L. 1864, Deady, sec. 370; 1940 O. C. L. A. sec. 26-1532.
17. L. 1864, Deady, sec. 470; 1940 O. C. L. A. sec. 26-1701.
18. L. 1864, Deady, sec. 475; 1940 O. C. L. A. sec. 26-1705.
19. L. 1876, p. 41, sec. 7; 1940 O. C. L. A. sec. 23-930.
20. 1917 S. L. ch. 244, sec. 6; 1940 O. C. L. A. sec. 23-1024.
21. 1923 S. L. ch. 202, sec. 20; 1940 O. C. L. A. sec. 45-602.

He is also required to take an oath of office and to furnish a bond of \$3,000. (6)

Compensation. Since 1864 the coroner has been paid on the basis of a fee of \$5 for each inquest he conducts. (7)

Tenure. Under the original act of 1847, a coroner was appointed to serve until the next annual election. (8) The Constitution in 1859 provided that the coroner serve for 2 years. (9) However, in 1920 the Constitution was amended by initiative petition of the people, and the term of office of the coroner along with that of other county officers was increased to 4 years. (10)

Powers and Duties. The powers and duties of the coroner are as follows: To make a factual report to the district attorney when a person suffers sudden death under circumstances which afford reasonable grounds to suspect the death was caused by criminal means, or when a person commits suicide, or when someone has been killed, or has been dangerously wounded by the hand of another; to order and conduct, when deemed necessary by the district attorney, an autopsy, or inquest, or both; (11) and to summon a jury of six persons when an inquest is ordered. (12) During the holding of an inquest the coroner is regarded as serving in the capacity of a magistrate for the purpose of subpoenaing witnesses and compelling them to attend inquests. (13) The expense of the inquest is paid by the county upon bills rendered and certified by the coroner and approved by the district attorney. (14)

The coroner is given the right of entry into any room, dwelling house, or other enclosure in which a death has occurred under suspicious circumstances. He also has the right to close or lock any dwelling house or enclosure and may, at his discretion, appoint a custodian for such premises for a period not exceeding 5 days. The custodian has the authority of a deputy sheriff and takes an oath of office administered by the coroner.

6. L. 1864, Deady, p. 824, sec. 12; 1940 O. C. L. A. sec. 87-105.
7. L. 1864, Deady, p. 736, sec. 5; L. 1901, p. 135, sec. 1; 1917 S. L. ch. 160, sec. 1; 1940 O. C. L. A. sec. 87-956.
8. L. 1843-49, p. 23, sec. 1.
9. Const. art. VI, sec. 6.
10. *Ibid.*, as amended 1920.
11. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294, sec. 1; 1935 S. L. ch. 138, sec. 1; 1935 S. L. ch. 105, sec. 1; 1940 O. C. L. A. sec. 93-965.
12. L. 1864, Deady, sec. 453; 1940 O. C. L. A. sec. 26-2501.
13. L. 1864, Deady, sec. 456; 1940 O. C. L. A. sec. 26-2504; Cox v. Royal Tribe, 42 Or. 371, 71 Pac. 73.
14. L. 1862, Deady, sec. 996; 1923 S. L. ch. 294, sec. 1; 1925 S. L. ch. 138, sec. 1; 1935 S. L. ch. 105, sec. 1; 1940 O. C. L. A. sec. 93-965.

The expense of the custodian is paid by the county upon bills verified by the coroner in the same manner as other bills are paid. (15)

The coroner has power to forbid the entrance of any person except peace officers and the district attorney into any specified, roped-off, or defined area bearing any marks, imprints, or other evidence of the manner of killing, wounding, or suicide, of a human being. (16)

The coroner may also grant or withhold permission to remove a body from a place where death has occurred. (17)

Persons having the supervision of any institution for the care of the sick, indigent, insane, or helpless are required to report every death occurring in the institution to the county coroner. (18)

It is the further duty of the coroner to bury at the expense of the county, the bodies of all transients or paupers not claimed at the inquest by friends or relatives. (19) If the deceased person has any money or other property, the coroner makes an inventory of these possessions, deducting burial expenses not exceeding \$125. (20) After the burial expenses have been paid, the coroner delivers the remaining property of the deceased person to the county treasurer, (21) who places the money to the credit of the county. (22)

The coroner is required to furnish to the county court a written statement, verified by his own oath, of the expense of any inquest or burial held by him. (23) If the coroner's jury finds a crime has been committed, the coroner must forthwith deliver the testimony and verdict to a magistrate of the county who is authorized to issue a warrant of arrest on information. If the jury does not find that a crime was committed, the coroner must deliver all testimony and verdicts to the clerk of the county court for filing. (24)

If the coroner is unable, for any reason, to perform the duties of his office, a justice of the peace must act as coroner instead. (25) The coroner, unless it is otherwise expressly provided by law, executes the process

15. 1923 S. L. ch. 294, sec. 5; 1940 O. C. L. A. sec. 93-966.
16. 1923 S. L. ch. 294, sec. 7; 1940 O. C. L. A. sec. 93-968.
17. 1923 S. L. ch. 294, sec. 8; 1940 O. C. L. A. sec. 93-969.
18. 1923 S. L. ch. 294, sec. 6; 1940 O. C. L. A. sec. 93-967.
19. L. 1864, Deady, sec. 462; 1940 O. C. L. A. sec. 26-2510.
20. L. 1864, Deady, sec. 464; 1923 S. L. ch. 294, sec. 3; 1940 O. C. L. A. sec. 26-2512.
21. L. 1864, Deady, sec. 465; 1923 S. L. ch. 294, sec. 4; 1940 O. C. L. A. sec. 26-2513.
22. L. 1864, Deady, sec. 466; 1940 O. C. L. A. sec. 26-2514.
23. L. 1864, Deady, sec. 463; 1940 O. C. L. A. sec. 26-2511.
24. L. 1864, Deady, sec. 459; 1940 O. C. L. A. sec. 26-2507.
25. L. 1864, Deady, sec. 469; 1940 O. C. L. A. sec. 26-2517.

**Coroner**  
**District Attorney**

in any action, suit, or proceedings when the sheriff, who ordinarily would so function, is a party to such suit, action, or proceedings. (26)

Records. The law does not specify any records to be kept by the coroner. Inquest reports are filed with the county clerk. (27) In Benton County the coroner keeps duplicates of these reports.

**235. CORONER'S REPORTS, 1923--. 1 file box.**

Duplicates of coroner's reports filed with clerk, showing date of inquest, names of jurymen and witnesses, physician's report on cause of death, transcript of testimony, verdict, certification of reporter, and bill of costs. Arr. chron. by date of inquest. No index. Typed. 11 x 5 x 14. Cor. off., 5th and Jackson Sts., Corvallis, Ore.

For original reports to county clerk, 1859--, see entry 105.

**X. DISTRICT ATTORNEY**

Introduction. The office of district attorney, described by the Constitution as that of the prosecuting attorney and the law officer of the State and counties, (1) had its origin in the early office of circuit attorney, created by the Provisional Legislature in December 1844. (2) Previously, the circuit courts had been empowered to appoint any person to prosecute in criminal cases, and failing to find any person willing to serve as prosecutor, the court could examine the witnesses for the prosecution and give the law in charge to the jury. (3)

In 1848, upon the creation of the Territorial Government, a prosecuting attorney, designated as the Territorial Attorney, was appointed by the President of the United States, acting under the advice of the United States Senate. (4) Legislation of 1849 divided the Territory into three judicial districts, (5) providing that the first and second judicial districts constitute one district for prosecuting attorney, that the third judicial district constitute the second district for prosecuting attorney, and that a prosecuting attorney for each district be elected by a joint vote of both houses of the Territorial Legislature. (6)

26. L. 1862, Deady, sec. 997; 1940 O. C. L. A. sec. 93-971.
27. L. 1864, Deady, sec. 459; 1940 O. C. L. A. sec. 26-2507.
1. Const. original art. VI, sec. 17.
2. L. 1843-49, p. 71, sec. 1.
3. Ibid., p. 100, sec. 7.
4. L. 1850, p. 42, sec. 10.
5. Ibid., pp. 158, 159, secs. 2-5.
6. Ibid., p. 218, secs. 1-3.

Thus, the office of the early prosecutor in Oregon was the predecessor of the State office of Attorney General, and, at the level of county government, it was the forerunner of the present elective office of district attorney. However, the specific title of district attorney does not appear on the statutes until 1863, when provision was made for the election of district attorneys designated as such. (7)

The dual function of the district attorney was expressed by the framers of the Oregon Constitution in the provision for the election, by districts comprised of one or more counties, of prosecuting attorneys to be the law officers of the State and of the counties within their respective districts. (8) In 1913 provision was made for the election of a district attorney for each county. (9)

An enactment of 1850, by the Provisional Legislature, gave the Governor power to name the judicial districts by proclamation. (10) The first reference to Benton County appears in the laws of 1851 as being the second judicial district, (11) and therefore, in the first district for prosecuting attorney.

Manner of Selection. The district attorney is elected by the qualified voters of each county at the general election. (12) In the event of a vacancy occurring in the office of district attorney, the Governor must appoint some qualified person to fill the unexpired term. (13) If for any reason the district attorney be disqualified from prosecuting a certain case, the court may appoint some qualified person to act as prosecutor. (14)

Qualifications, Oath, and Bond. The district attorney is required to be a qualified attorney, licensed to practice law before the Supreme Court of the State of Oregon. (15) A bond is not required of him, but he must file an oath of office with the Secretary of State. (16)

7. L. 1864, Deady, p. 821, sec. 1; L. 1899, p. 184, sec. 1; 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44, sec. 1; 1940 O. C. L. A. sec. 93-901.
8. Const. original art. VII, sec. 17.
9. 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44, sec. 1; 1940 O. C. L. A. sec. 93-901.
10. L. 1850, p. 46, sec. 21.
11. L. 1851-52, p. 67, sec. 1.
12. 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44, sec. 1; 1940 O. C. L. A. sec. 93-901.
13. L. 1864, Deady, p. 821, sec. 3; 1940 O. C. L. A. sec. 93-921.
14. L. 1862, Deady, sec. 953; L. 1901, p. 97, sec. 1; 1905 S. L. ch. 122, sec. 1; 1921 S. L. ch. 11, sec. 1; 1940 O. C. L. A. sec. 93-912.
15. L. 1893, p. 149, sec. 1; 1940 O. C. L. A. sec. 93-702.
16. L. 1864, Deady, p. 821, sec. 2; 1931 S. L. ch. 13, sec. 1; 1940 O. C. L. A. sec. 93-920.

Tenure. In the original creation of the office of district or prosecuting attorney, the term of office was set at 2 years. (17) An enactment by the Legislature in 1889 changed the term of office to 4 years. (18)

Compensation. With the development of the office of district attorney as a law officer representing both State and county, there have been numerous basic changes in the manner of compensation. Until 1853, as a Territorial officer, the prosecuting attorney was paid fees and a salary by the Territorial Government. (19) With the creation of an office of prosecuting attorney for each judicial district, it was provided that the county in which each service was performed should compensate the prosecutor, payment being made by fees, the amount based upon the character of the service and whether a prosecution resulted in conviction or acquittal. (20) In 1864 the State again paid the prosecuting attorney an annual salary, (21) with later provisions for payment of additional fees. (22) In 1899 a fixed salary in full compensation paid by the State was provided, (23) and this practice was continued when a district attorney was provided for each county. (24) The district attorney of Benton County receives a salary of \$2,100 a year. (25)

When the district attorney appears in a divorce action, a special fee of \$5 is collected by the county clerk. These fees are forwarded by the county clerk to the State Treasurer and placed to the credit of the general fund of the State and are to be used for the purpose of paying a portion of the monthly salaries of the various district attorneys of the State. Whenever the total of fees so collected becomes so reduced as to be insufficient to pay the monthly salary of at least one district attorney, then the remainder of the monthly salaries of the several district attorneys is paid from the regular biennial appropriations for the payment of salaries of district attorneys. (26)

Manner of Removal. The district attorney may be removed from office in the same manner as other county elective officials. (27) He may also

17. L. 1850, p. 218, sec. 1.
18. L. 1899, p. 184, sec. 1; 1913 S. L. ch. 343, sec. 1; 1923 S. L. ch. 44, sec. 1; 1940 O. C. L. A. sec. 93-901.
19. L. 1850, p. 42, sec. 10.
20. L. 1852-53, pp. 43, 44, secs. 8-12.
21. L. 1864, Deady, p. 822, sec. 4.
22. L. 1878, p. 97, secs. 1041, 1042.
23. L. 1899, p. 184, sec. 1.
24. 1913 S. L. ch. 343, sec. 2; 1921 S. L. ch. 272, sec. 1; 1923 S. L. ch. 249, sec. 1; 1925 S. L. ch. 162, sec. 1; 1929 S. L. ch. 382, sec. 1; 1940 O. C. L. A. sec. 93-913.
25. 1941 S. L. ch. 338, sec. 1.
26. 1913 S. L. ch. 343, sec. 2; 1921 S. L. ch. 272, sec. 1; 1923 S. L. ch. 249, sec. 1; 1925 S. L. ch. 162, sec. 1; 1929 S. L. ch. 382, sec. 1; 1933 S. L. ch. 443, sec. 1; 1940 O. C. L. A. sec. 93-913; 1941 S. L. ch. 338, sec. 1.
27. See County Court (Administrative), p. E-4.

be removed for sufficient cause by the Governor upon joint resolution of the Legislature in which two-thirds of the members elected to each house shall concur. (28)

Deputies. The district attorney is empowered to appoint necessary deputies who are paid by the county. (29)

Powers and Duties. The district attorney, although elected by the voters of each county, is the legal representative of both county and State. Accordingly, he attends all terms of the courts in the county having jurisdiction over public offenses, and, as agent of the State charged with the enforcement of its laws, he conducts all criminal proceedings. (30) In collaboration with the grand jury, he institutes criminal proceedings before magistrates for the arrest of persons who have committed criminal offenses. (31) He may examine bail as to its sufficiency, (32) and may appear before the magistrate setting bail. (33) He cannot prosecute a person in the circuit court until an indictment has been found by the grand jury and filed with the clerk of the court in which the person is to be tried. However, if any person appearing before the circuit court waive indictment, the district attorney may start proceedings, by filing information in the court charging the person with the crime or misdemeanor. (34)

The district attorney prepares information for the State Parole Board as to facts relating to the crime and person convicted. (35) He may also be called upon by the Governor, upon receipt by that official of application for extradition of a fugitive, to advise concerning the application and to assist in executing the extradition warrant. (36)

As the legal representative of the State, the district attorney serves as attorney for State officers and bodies, prosecuting in behalf of various agencies, such as the State Board of Health, (37) and acting as legal advisor to the various State offices. In all divorce proceedings, the district attorney is served with a copy of the complaint, and, in the defendant's absence, appears at the trial in behalf of the State. (38)

- 28. Const. original art. VII, sec. 20.
- 29. 1913 S. L. ch. 343, secs. 4, 6; 1940 O. C. L. A. secs. 93-915, 93-916.
- 30. L. 1862, Deady, sec. 943; 1940 O. C. L. A. sec. 93-904.
- 31. L. 1862, Deady, sec. 944; 1940 O. C. L. A. sec. 93-905.
- 32. L. 1864, Deady, sec. 271; 1940 O. C. L. A. sec. 26-1619.
- 33. L. 1864, Deady, sec. 277; 1940 O. C. L. A. sec. 26-1625.
- 34. Const. original art. VII, sec. 18.
- 35. 1911 S. L. ch. 127, sec. 6; 1917 S. L. ch. 302, sec. 1; 1939 S. L. ch. 266, sec. 6; 1940 O. C. L. A. sec. 26-2306.
- 36. L. 1864, Deady, sec. 492; 1935 S. L. ch. 77, sec. 4; 1940 O. C. L. A. sec. 26-2604.
- 37. L. 1862, Deady, sec. 945; 1915 S. L. ch. 268, sec. 22; 1919 S. L. ch. 264, sec. 148; 1940 O. C. L. A. secs. 93-906, 99-1101.
- 38. L. 1862, Deady, sec. 946; 1911 S. L. ch. 86, sec. 1; 1927 S. L. ch. 18, sec. 1; 1940 O. C. L. A. sec. 93-908.

The district attorney also acts as legal advisor to all county and State officials on affairs of the county, and serves as prosecuting attorney in suits in behalf of, and defense attorney in suits against, the county. (39) He represents various county agencies, such as the school district boundary board, in condemnation proceedings. (40) However, it is also his duty in behalf of the State to prosecute county and municipal officials for failure to comply with State laws, such as State protective regulations against horticultural pests. (41)

Under the prohibition laws of 1915, the district attorney was authorized to issue permits to certain persons to purchase or import alcohol. (42) Upon repeal of the National Prohibition Amendment in 1933, the measure of 1915 was rendered void. (43)

Previous to 1929, it was the duty of the district attorney to file with the Secretary of State, an annual report relating the kind and amount of his official business and containing data concerning convictions or other disposition of cases prosecuted. (44) Prior to legislation of 1927 he had also been required to file biennially an account with the county treasurer. (45)

Records. The district attorney is required to keep a register of all his official business. (46) In Benton County he also keeps a file of case papers.

236. (MEMORANDUM FILES), 1926--. 2 file drawers. Memorandum of cases copied from clerk's files, showing date, number, title, and brief outline of case, names of plaintiff, defendant, witnesses, and attorneys, and volume and page or file where recorded. Arr. chron. by date filed. Indexed alph. by title of case. Hdw. and typed on pr. fm. 11 x 13 x 22. D. a. off., Rennie Bldg., Corvallis, Ore.

237. DISTRICT ATTORNEY'S DOCKET, 1922--. 4 vols. Record of district attorney's cases, showing origin and nature of case, names of plaintiff and defendant, date filed, and disposition of case. Arr. chron. by date of case. No index. Typed on pr. fm. Aver. 150 pp. 8 $\frac{1}{2}$  x 5 $\frac{1}{2}$  x 2. D. a. off., Rennie Bldg., Corvallis, Ore.

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- 39. L. 1889, p. 185, sec. 4; L. 1903, p. 179, sec. 1; 1940 O. C. L. A. sec. 93-907.
  - 40. 1905 S. L. ch. 61, sec. 1; 1917 S. L. ch. 26, sec. 1; 1940 O. C. L. A. sec. 111-405.
  - 41. 1931 S. L. ch. 232, sec. 21; 1939 S. L. ch. 25, sec. 2; 1940 O. C. L. A. sec. 35-306.
  - 42. 1915 S. L. ch. 141, sec. 61; 1917 S. L. ch. 40, sec. 2; 1921 S. L. ch. 405, sec. 2; 1930 O. C. Ann. sec. 15-109; 1933 S. L. ch. 1.
  - 43. 1933 S. L. ch. 1.
  - 44. L. 1864, Deady, p. 386, sec. 952; 1920 O. L. secs. 1021, 1023; 1929 S. L. ch. 50.
  - 45. L. 1864, Deady, p. 385, sec. 948; 1920 O. L. sec. 1026; 1927 S. L. ch. 85.
  - 46. L. 1862, Deady, sec. 951; 1940 O. C. L. A. sec. 93-911.

## XI. BUDGET COMMITTEE

Introduction. The State Legislature in 1921 enacted what is known as the "local budget law." (1) This act makes it unlawful for any municipal corporation in the State, with certain exemptions, to levy any tax upon property unless a budget committee first has prepared an estimate of the total amount of money proposed to be spent during the next fiscal year. It is further required that such estimates be published and opportunity presented for its full and complete discussion. (2)

The law applies to the county and also to any city, town, school district, or any other public or quasi-public corporation with the exception of school districts of the third class, irrigation districts, drainage districts, road districts, and district-improvement companies. (3)

Manner of Selection. The budget committee is composed of the levying board together with an equal number of qualified electors and freeholders whom the levying board appoints. (4) The levying board consists of the county court or the managing board of any city, town, port, or other municipal corporations, included in the act. (5)

Qualifications. The appointees to the budget committee are required to be qualified voters and freeholders of the municipal corporation in which they are appointed, provided however, that they may not be officers, agents, or employees of any municipal corporation. (6)

Tenure. The budget committee is appointed for 1 year. (7)

Compensation. The budget committee serves without compensation. (8)

Powers. The budget committee has power to demand and receive from any officer, employee, or department of the municipal corporation, any information which it deems necessary to properly prepare the budget and may compel the attendance of any such officer or employee at its meetings. (9)

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1. 1921 S. L. ch. 118, sec. 1; 1940 O. C. L. A. sec. 110-1201.
  2. 1921 S. L. ch. 118, sec. 3; 1940 O. C. L. A. sec. 110-1203.
  3. 1921 S. L. ch. 118, sec. 2; 1921 Sp. S. L. ch. 20, sec. 2; 1923 S. L. ch. 209, sec. 1; 1925 S. L. ch. 197, sec. 1; 1927 S. L. ch. 409, sec. 1; 1940 O. C. L. A. sec. 110-1202.
  4. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
  5. 1921 S. L. ch. 118, sec. 2; 1921 Sp. S. L. ch. 20, sec. 2; 1923 S. L. ch. 209, sec. 1; 1925 S. L. ch. 197, sec. 1; 1927 S. L. ch. 409, sec. 1; 1940 O. C. L. A. sec. 110-1202.
  6. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
  7. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
  8. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.
  9. 1921 S. L. ch. 118, sec. 14; 1940 O. C. L. A. sec. 110-1214.