

BY AUTHORITY.

AN ACT to establish Courts, and prescribe their powers and duties.—Concluded.

§ 196. It shall be the duty of the justice, before whom any conviction may be had under this article, if there be no appeal, to make out and certify and, within fifteen days after the date of the judgment, deliver to the treasurer of the county a statement of the case, the amount of the fine, and the name of the sheriff or constable charged with the collection thereof; and the county treasurer shall charge the sheriff or constable with the amount of such fine, and unless the same be paid into the county treasury within sixty days after the date of the judgment, the said justice shall render judgment against such officer for the amount due and twenty per cent. thereon—making, however, proper deductions for insolvencies, on which judgment execution shall be issued as other executions are, and the proceeds paid into the county treasury.

§ 197. Any justice of the peace, sheriff, constable, or other officer, who shall wilfully neglect or refuse to perform any duty enjoined on him by this article, shall be deemed guilty of a misdemeanor in office, and shall, moreover, pay the sum of fifty dollars; and any person who shall, when summoned to aid in arresting or securing an offender, refuse to give such assistance, shall pay five dollars.

§ 198. Fines and penalties incurred under the provisions of this article, in cases not otherwise provided, may be recovered before any justice by action of debt.

§ 199. When a trial, under the provisions of this article, shall be continued by the justice, it shall not be necessary for the justice to summon any witness who may be present at the continuance, but such justice shall verbally notify such witnesses, as either party may require, to attend before him to testify in the cause on the day set for trial, which verbal notice shall be as valid as a summons.

§ 200. Previous to the commencement of any trial before a justice of the peace, the defendant, or his agent, may make oath that it is the belief of such deponent, that the defendant cannot have an impartial trial before such justice; whereupon, it shall be the duty of the justice immediately to transmit all the papers and documents belonging to the suit, to the nearest justice of the peace, who shall proceed as if the said suit had been instituted before him: Provided, There shall be but one change of venue.

ARTICLE XIII.

Proceedings to prevent the commission of offences.

§ 201. Whenever, by affidavit, it shall be rendered probable to any justice of the peace, of the proper county, that any person has threatened to commit any considerable offence against the person or property of another, such justice shall issue his warrant as directed in the 14th article, to bring such accused person forthwith before him.

§ 202. Witnesses may be subpoenaed and examined as in other cases. The examination of the accused may also be taken, but not under oath.

§ 203. If the justice becomes satisfied, by such investigation, that there is sufficient reason to apprehend the commission of the offence stated in the complaint, he shall require him to enter into a recognizance, with sufficient surety, conditioned according to the form appended to the 14th article.

§ 204. When any person is committed to jail for not entering into recognizance, as required by any law of this territory, the amount of bail required shall be specified in the mittimus. Any justice of the peace may discharge the prisoner upon his giving the bail required.

§ 205. The sheriff, in all such cases, upon the application of the prisoner for that purpose, shall take him before some justice of the peace of the county, that he may enter into the required recognizance.

§ 206. A transcript of the proceedings of any justice, as provided for in this and succeeding article, together with the recognizance (if one be taken) shall, by such justice, be filed in the office of the clerk of the county court of the proper county, on or before the first day of the ensuing term of said court. For a failure to do so, he shall be liable to indictment, and may be fined in any sum not exceeding two hundred and fifty dollars.

§ 207. The county court, at the term to which the proceedings of the justice shall be returned as above required, shall proceed to investigate the matter by hearing testimony, and may release the prisoner, discharge the recognizance, or require a new one for a time not exceeding one year.

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ARTICLE XIV.

Preliminary proceedings when offences have been committed.

§ 208. Whenever, by affidavit, it shall be rendered probable to a justice of the peace that an indictable offence has been committed within the county, he shall, by his warrant, directed to the sheriff or constable of the proper county, or to any private person therein named, forthwith cause the accused person to be brought before him.

§ 209. The officer having the warrant, or any other person engaged in the pursuit, shall be thereby authorized to arrest the accused anywhere within this territory, and bring him forthwith before the magistrate who issued the warrant, or (if he cannot attend the examination,) before some other justice of the same county.

§ 210. Such officer shall have the same powers, in making the arrest in any other county, as in his own, and may retain the prisoner in custody, and lodge him for the night in jail, in any county through which he may have to pass, on his return to his own county.

§ 211. When the affidavit shall state that property has been stolen or embezzled, and that affiant suspects such property is concealed in any particular house or place, the justice, if he think there is sufficient ground for such suspicion, shall issue his warrant to search for such property. But such warrant shall not authorize the officer to make the search in the night time, unless positive proof has been given to the justice that the property is concealed in such house or place.

§ 212. If the property be found, the officer shall bring the person having it in possession, forthwith before the justice who issued the warrant.

§ 213. Upon satisfactory proof of ownership, the justice shall direct any stolen property to be given up to the claimant thereof.

§ 214. When, in any case, it shall be sufficiently shown that the prisoner has been in possession of counterfeit money or bank notes, or has stolen property capable of being concealed about his person, the justice, before whom he is brought, may direct the officer having him in custody to search the person of the accused.

§ 215. The prisoner shall be allowed to make his own statement, but not under oath; after which the witnesses, on both sides, shall be sworn and examined.

§ 216. The magistrate may direct any portion of this statement or testimony to be reduced to writing, and signed by the person making the same, which shall be returned with the other proceedings as directed in the 106th section.

§ 217. The magistrate may direct any of the witnesses to be removed from court, during the examination of the prisoner, or of any other witness.

§ 218. If there appears sufficient grounds of suspicion of the prisoner's guilt, the magistrate shall (in bailable cases) require him to enter into recognizance, with sufficient surety, conditioned as prescribed in the form appended to this article.

§ 219. Any of the witnesses may be bound by recognizance to appear and testify in the proper court, and in case of homicide they may be required to find sureties in such recognizance.

§ 220. If the witness be an infant, or a married woman, some other person shall enter into the recognizance for their appearance as aforesaid.

§ 221. If the offence be not bailable by a justice of the peace, and there are probable grounds to suspect guilt, the prisoner shall at once be committed. But he may be afterwards bailed by a judge of the supreme court.

FORM OF RECOGNIZANCE.

Be it remembered, That on this — day of —, A. D., 18—, before me personally came M. N. and J. P. and acknowledged themselves to owe to Oregon territory — dollars each. The condition of this recognizance is such,

that if the said M. N. shall personally appear at the county court of said county, on the first day of the next term thereof, and abide the judgment of said court, and not depart without the leave of the same, and in the mean time shall keep the peace towards A. B. of said county, and in particular shall not commit, (here state the crime threatened as sworn to in the affidavit,) then this recognizance to be void, otherwise of force. M. N. & J. P. Taken and acknowledged before me this — day of —, A. D. 18—. F. P., Justice.

COUNTY COURTS.

ARTICLE I.

§ 1. The several county courts shall be composed of three judges in each county, one of whom shall be appointed at each regular session of the house of representatives, to hold their offices for three years, and until their successors are duly elected and qualified. And the house of representatives shall, upon the first election held to fill the offices of judges of the county courts, class the persons elected, so as to make the tenure of the office of the first class to expire at the end of three years; of the second class at the end of two years, and of the third class at the end of one year; those elected for three years to be presidents of their respective courts; and the judges so elected shall be commissioned accordingly. And if the said judges, or either of them, after accepting their appointment, shall neglect or refuse to do his or their duty in office, he or they so offending, shall, on conviction, by indictment before the county court of the proper county, be fined in any sum not exceeding two hundred dollars.

§ 2. The county courts shall hold two regular sessions annually, and may hold a called term at any time to try a criminal, and extra sessions in case the business of the county requires the same; notice from any two of the judges to the third, shall be considered a sufficient call for such extra session, due notice thereof being given; no extra session shall exceed three days.

§ 3. The county courts shall be held at the county seat of each county, so soon as the same shall be established, and suitable building prepared; and until said county seats are established as aforesaid, the courts shall, from time to time, fix the place of holding their sessions, of which one month's notice shall be given; the regular sessions to be held at the times following, to wit:

In the county of Tualaty on the last Mondays of April and July.

In the county of Champoeg on the second Mondays of May and August.

In the county of Clatsop on the second Mondays of April and July.

In the county of Yam Hill on the first Mondays of May and August.

In the county of Clackamas on the third Mondays of May and August.

In the county of Vancouver on the third Mondays of April and July.

In the county of Lewis on the last Mondays of May and August.

In the county of Polk on the second Wednesdays of May and August.

§ 4. The county courts shall be considered bodies corporate and politic, by and under the name and style of "The county court of — county," (naming the county,) and as such, by and under such name and style, may sue and be sued, plead and be impleaded, defend and be defended, answer and be answered unto, in any court either in law or equity, and do and transact all business on behalf of their respective counties that may be assigned them from time to time by law. And in all cases where their respective counties may have been injured, or may hereafter be injured, in their goods, chattels, lands, tenements, rights, credits, effects, or contracts, such courts shall and may, by and under their corporate name and style, without setting out their individual names, bring any suit or suits, action or actions, either in

law or equity, which may be best calculated to obtain redress for any such injury, in the same way and manner that private individuals might or could do; and may, in like way and manner, by and under their corporate name and style, be sued by any person or persons having any manner of claims against such county.

§ 5. The county courts shall have exclusive original jurisdiction of all matters in chancery, properly arising within their respective counties, in which a plain, adequate, and complete remedy cannot be had at law.

§ 6. The county courts shall have original jurisdiction and power over all criminal cases, except the trial of indictments for crimes or misdemeanors, the punishment of which is corporeal, or by fine exceeding one hundred dollars.

§ 7. The county courts shall have original jurisdiction in all cases of law and equity, not cognizable before justices of the peace; and in all cases of forcible entry and detainer, and unlawful detainer, shall have concurrent jurisdiction with justices of the peace.

§ 8. The judges of the county courts shall each receive, as a full compensation for his services, the sum of two dollars for every day's attendance on the court, to be paid out of the county treasury.

§ 9. The county court shall, at the first term thereof in each year, levy a county tax for county purposes according to law, not to exceed, in any one year, the territorial levy, and cause the clerk to make out a duplicate for collection accordingly; and said court shall be held free of costs, as a court of appeals from the assessor's books.

§ 10. The said court shall, at the term in each year aforesaid, make a fair and accurate statement of the receipts and expenditures of the preceding year, and have the same set up at the court house door, and at two other public places in the proper county, and publish the same in some newspaper in the county, if there be any.

§ 11. It shall be the duty of the clerks of the county courts to keep fair books wherein shall be kept the accounts of the county; to attest all orders issued by the court for the payment of money, and enter the same in numerical order in a book to be kept for that purpose, and shall copy into their said books the reports of the county treasurer, or the receipts and disbursements of their respective counties.

§ 12. The county courts shall annually allow their clerks such compensation, not exceeding three dollars per day, as they may deem reasonable, while in session. The court may also allow the clerk and sheriff such amount as is actually then due for extra services, by their filing a bill of items, which shall be regulated by the act concerning costs and fees.

§ 13. It shall be the duty of the county court of each county, to provide all books and stationery necessary for the clerk of the court, the probate judge, and the treasurer.

§ 14. The county court of each county shall audit and settle all demands against the county without fee or tax; and for all demands established against the county, shall draw upon the county treasurer, in the name of the person to whom said demand is payable, which draft or order shall be signed by the presiding officer of the court, and attested by the clerk, and when so signed and attested, shall be sufficient voucher to said treasurer to pay the same.

ARTICLE II.

Of practice in civil cases in county courts.

§ 15. All writs issued by any court in this territory, shall run in the name of Oregon territory, and bear test in the name of the name of the presiding judge, and shall be sealed with the seal of the said court, signed by the clerk thereof, and made returnable to the first day of the next term, after the date of such writs.

§ 16. It shall be the duty of the sheriff to serve all process of summons, or capias, when it shall be practicable, ten days before the return day thereof, and to make return of such process to the clerk who issued the same, by or on the return day, with an endorsement of his service, the time of serving it, and the amount of his fee: Provided, That when such process shall have been directed to a foreign county, the officer executing the same, may make return thereof by mail, and the clerk may charge the postage and tax the amount in his fee bill.

§ 17. If it shall not be in the power of each [SEE FOURTH PAGE.]