

**BY AUTHORITY.**

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

§ 128. Arrests of judgment, and new trials, when moved for by the defendant, may be allowed by the court. In such cases the same rules as are pursued in civil cases shall be followed as nearly as practicable.

§ 129. No judgment shall be arrested, revised, or in any way affected, in consequence of any defect in the indictment, which might have been amended, or to which a plea in abatement would have lain upon the trial.

§ 130. A copy of the indictment, together with a minute of the acquittal or conviction, and the judgment or sentence of the court thereon, the whole duly certified by the clerk of the proper court under his seal of office, shall be evidence, in all courts, and places, of such conviction or acquittal.

§ 131. Where, in case of conviction upon indictment, a pecuniary fine constitutes any portion of the sentence, the court may direct the defendant to stand committed until the fine is paid, or the fine may be collected by execution as in civil cases.

§ 132. Where any latitude is left as to the amount of punishment for any offence, the jury who try the offender shall in all cases fix the amount of punishment; and where, from inadvertence, a point material to the prosecution or defence of a cause has been omitted to be proved, the court may direct witnesses to be called to prove that point, at any time before the jury retire to consider their verdict.

§ 133. The court may allow the jury to separate for the purpose of obtaining sleep and refreshment, having first charged them to hold no conversation relative to the pending trial.

§ 134. Offenders who are found guilty shall be liable for all the costs of the trial, including the fees of the witnesses on the part of the prosecution. And where the prosecution fails, the costs, including the fees of the defendant's witnesses, shall be paid by the county. The witnesses in these cases shall prove their attendance, and obtain from the clerk of the court a certificate thereof, and the amount of compensation due them, which shall be allowed by the court.

**CRIMINAL COURT.**

§ 1. A court to be styled the "Criminal Court," shall be held at Oregon City, on the second Mondays of June and September annually, for the trial of indictments, found in the county courts, for crimes and misdemeanors, the punishment of which is corporeal, or by fine exceeding one hundred dollars.

§ 2. The judge of the supreme court shall be ex-officio judge of the criminal court; and shall receive the sum of two hundred dollars annually, to be paid in quarterly payments, as a full compensation for his services.

§ 3. It shall be the duty of the clerk of the criminal court forthwith after the filing of indictments in his office, as required in the 83d section of the law on county courts, to issue his writs thereon directed to the marshal of the territory.

§ 4. Call sessions may be held at any time for the trial of criminals in confinement; at least ten days previous notice thereof shall be given by the judge to the prosecuting attorney, and to the criminal or criminals to be tried at such session.

**SUPREME COURT.**

§ 1. The supreme court, in addition to the powers conferred by the articles of compact, shall have power to direct the form of writs and process, and of directing inferior courts in all things relative to their duties.

§ 2. The sessions of the supreme court shall be held at Oregon City, until otherwise directed.

**CERTIFICATE.**

I, JOHN E. LONG, Secretary of Oregon Territory, do hereby certify that the foregoing "Act to establish courts, and prescribe their powers and duties," is an accurately printed copy from the original, truly and correctly revised by me, and now on file in my office.

J. E. LONG, Secretary.

**COSTS AND FEES.**

An act concerning costs and fees.  
§ 1. Hereafter the fees for recording any deed, mortgage, or other instrument required to be recorded, shall be paid at the time of presentment for record, if required by the recorder; and all fees shall be paid by the party requiring the services, on the same being rendered, and the bill of particulars presented, if required; and for all services required to be performed by law, and not here-

in enumerated, the officer performing the same shall be allowed such reasonable fees as the supreme or county courts may tax therefor.

§ 2. That in all civil cases at law, unless otherwise provided, the party in whose favor judgment is given shall recover costs, and the supreme court, county courts, and justices courts respectively, may give or refuse costs at their discretion upon all motions.

§ 3. In all prosecutions in the name of Oregon territory, or of an individual, for the breach of any law of this territory, where judgment is rendered against the defendant, such defendant shall be liable for costs.

§ 4. When any prosecution, instituted in the name of the territory of Oregon, or of individuals, for breaking any laws of this territory, shall fail, the court shall determine, from the circumstances of the case, whether the prosecutor, the county, or the territory, shall pay the costs; and where the defendant shall prove insolvent, escape, or be unable to pay the fees when convicted, the fees shall be paid out of the territorial treasury.

§ 5. In all cases where an officer in the execution of his office, shall be required to write or set up an advertisement, such officer shall be allowed therefor (if not otherwise provided) twenty-five cents each; and if any advertisement is required to be published in a newspaper, the money therefor shall be paid by the party, and taxed in the bill of costs.

§ 6. Every officer, whose fees are herein ascertained, limited, and appointed, shall publish and set up in his office fair tables of his fees, according to this act, within six months after the passage thereof, in some conspicuous part, for the inspection of all persons who have business in such office, upon pain of forfeiting, for each day the same shall be missing through such officer's neglect, a sum not exceeding two dollars, which may be recovered by action of debt in the name of any person, before any justice of the peace of the proper county.

§ 7. If any officer shall wilfully or corruptly take greater fees than are expressed and limited by this act, for any service to be done by him in his office, or if any person shall charge or demand, or take any of the fees herein ascertained, where the business for which such fees are chargeable shall not have been actually done and performed, such officer, for every such offence, shall, on conviction thereof before any justice of the peace of the proper county, forfeit and pay a sum not exceeding fifty dollars: Provided, That nothing in this act shall be so construed as to prevent clerks from taxing in the bill of costs, to be recovered by the successful party, the fee for making up records.

§ 8. It shall be lawful for any person to refuse payment of fees to any officer, who shall not have made out and presented a bill of the particulars, signed by him, and on payment, such officer shall, if required, give a receipt therefor.

§ 9. The travelling fees to a witness, together with the fees for one day's attendance, shall, in all civil cases, be paid to him, if required, before he shall be liable for any penalty for non-attendance; and after he shall have attended two days, the fees for one day's attendance shall be paid to him, if required, on or before the succeeding day, and so from day to day, for as many days as he may be required to attend.

§ 10. In cases where there is a confession of judgment at the first term, or where the cause is settled by the parties before or during the first term, the whole fees to the clerk, after the return of the writ, shall not exceed one dollar and fifty cents, and the whole fees to the sheriff, after the return of the writ, shall not exceed fifty cents.

§ 11. Every citizen of this territory shall have free access to all public records, without being taxed any fee therefor.

§ 12. The expense incurred in providing well bound books for the use of the county and probate courts, shall be paid out of the county treasury; and for the use of the supreme court, out of the territorial treasury.

§ 13. The county courts may, if necessary, make an order to command any number of constables, not to exceed three, to attend said courts, to be entitled to the same fees as sheriffs for like services.

§ 14. The fees and compensation to the several officers and other persons hereinafter mentioned, shall be as follows, and no more,

**CLERKS' FEES IN CIVIL CASES.**  
For issuing and sealing every writ, not composing more than 300 words, . . . 62½

For each additional folio of 100 words, . . .	12½
Docketing a case first time, . . .	18½
Docketing a case thereafter, . . .	12½
Entering suit without process, . . .	31½
Filing every paper in any one suit, each, . . .	6½
Entering an appearance, to be charged but once against each party to a suit, . . .	12½
Issuing bail piece when required, . . .	25
Entering special bail, . . .	25
Swearing and empanelling a jury, . . .	50
All entries relative to the trial not herein specially provided for, . . .	25
Administering an oath or affirmation to each witness on trial, . . .	6½
Recording a verdict, . . .	18½
Entering every judgment, . . .	50
Recording a special verdict, for every sheet of 100 words, . . .	12½
Attending on striking a special jury, and delivering copies, . . .	50
Entering satisfaction on the record, . . .	12½
Entering issue joined, . . .	12½
Issuing writ of execution, . . .	25
Taxing costs, . . .	37½
Entering execution, . . .	12½
Entering surrender, . . .	12½
Copy of a rule of reference, . . .	31½
Signing the final record in each case, . . .	12½
A commission to take depositions, . . .	37½
All the motions in one suit, . . .	18½
All the rules in any one suit, . . .	18½
Each continuance, . . .	6½
The venire facias, . . .	37½
Entering every motion distinct from an action, not to include the ordinary motions in a suit, . . .	12½
Making a complete record in each cause, for every 100 words, . . .	12½
Every certificate, . . .	25
The seal when required, . . .	12½
Every subpoena for one or more witnesses, . . .	18½
A search of the records, if a copy be not required, (suits and officers of the court excepted,) . . .	12½
Filing the record upon an appeal, writ of error, <i>supersedas</i> , <i>certiorari</i> , or <i>habeas corpus</i> , . . .	18½
Taking security upon writ of error, <i>supersedas</i> , or appeal, . . .	18½
Entering a writ of <i>habeas corpus</i> , writ of error, or <i>certiorari</i> , and for the return thereof, . . .	50
For assessment of damages on any reference made to him, . . .	37½
A subpoena in chancery, . . .	50
Filing each bill, answer, replication, or other pleading in chancery, . . .	6½
An order to advertise, . . .	37½
Copy of a paper not herein otherwise provided for, for every 100 words, . . .	12½
Taking a recognizance, . . .	25
Entering transcript of justice's judgment, . . .	25
Entering an appeal from justice or justices, . . .	37½
Administering each oath, other than on the trial of a cause, . . .	12½
Certificate for jurors or constables' pay, to be paid by the county, each, . . .	12½
Filing all election returns at each general election, to be paid by the county, . . .	1 00
Calling recognizance and entering forfeiture, . . .	18½
Respite or discharging forfeited recognizance and motion thereto, . . .	12½
Entering discharge by proclamation, . . .	12½
Filing petition and order thereon, . . .	25
Issuing & recording marriage license, . . .	1 50

**CLERK'S FEES IN CRIMINAL CASES.**

Issuing process, . . .	75
Entering defendant's appearance, . . .	12½
Entering a plea, . . .	12½
Discharge of bail, . . .	25
For entering each suit, civil and criminal, on the court calendar, . . .	12½
For other services, the same fees as in civil cases, but no fee shall be exacted for issuing certificates of pay to grand jurors, petit jurors, or witnesses.	

**FEES OF PROSECUTING ATTORNEY.**

For each conviction in criminal cases, 10 00	10 00
For every indictment, . . .	2 00
Arguing the matter when the defendant shall submit, . . .	2 00
Every trial, arguing a demurrer, or in opposition in arrest of judgment, or for a new trial, . . .	2 00
Which fees shall be collected, and paid as other costs.	

**JURORS' FEES.**  
Each person, serving as grand juror, shall receive of the clerk of the court, a certificate of his attendance on the court, and such cer-

tificate shall exempt the holder from as many days of service on roads or other public duties, as he may have been in attendance on the court; and grand jurors shall receive no further compensation.

Petit jurors shall be entitled to one dollar for each verdict rendered, and ten cents a mile for every mile he has necessarily to travel in obeying the summons of the sheriff.

**WITNESSES FEES.**

For each witness for every day's attendance, . . .	1 00
Attendance before a justice of the peace, for half day, . . .	50
For traveling each mile, coming only from his or her place of residence to the place of trial, . . .	8

**RECORDERS' FEES.**

For recording each land claim, of 200 words, with the certificate, . . .	1 00
For each additional 100 words, . . .	12½
For recording each certificate of marriage, . . .	1 00
For all other writing for every one hundred words, . . .	12½
For every official certificate, when requested, . . .	25
For filing each paper, . . .	12½

**MARSHAL'S FEES.**  
The marshal of Oregon territory shall receive the same fees for his services as are allowed to sheriffs for the performance of like duties.

**SECRETARY'S FEES.**

For issuing each commission, . . .	50
For each certificate with the seal of the territory, . . .	50
For all official writing for every one hundred words, . . .	12½
For filing each paper, . . .	12½

**SHERIFF'S FEES.**

For the service of any writ and the return thereof, (subpoenas excepted,) for one defendant, . . .	1 00
Each additional defendant, . . .	50
Every commitment to prison, . . .	50
Discharging a person from prison, . . .	25
Attending with a person before a judge or court when required, . . .	25
Attending on a witness brought before a court, on a writ of <i>habeas corpus</i> , or <i>satisfaciendum</i> , . . .	50
Serving a writ of possession, . . .	1 00
Serving a writ with the aid of the <i>posse comitatus</i> , . . .	2 50
The copy of any writ or process necessary to complete a record, for every one hundred words, . . .	12½
Serving and returning a subpoena, for each person named therein and actually summoned, . . .	18½
Summoning a grand jury in the district court, to be paid from the county treasury, . . .	3 00
Summoning a petit jury in the district court, to be paid from the county treasury, . . .	1 50
Making out a list of a struck or special jury, and delivering the same, . . .	25
Summoning and returning a special jury, to be paid by the party putting off or losing the cause, and traveling fees, . . .	1 00
Traveling fees upon all writs, precepts, and subpoenas, not herein otherwise provided for (and not to extend to jurors) to be computed from the place of service to the place of return, per mile, . . .	8
Selling of land upon execution, and mileage, . . .	1 50

Collecting and paying into the territorial or county treasury any fine or forfeiture, the same per centage as allowed in civil cases. But the per centage on all executions shall be taken only for the sum received and paid over.

Making and executing a deed for land sold or set off on execution, to be paid by the purchaser or creditor, . . .	1 00
Serving any person with an order of court, and mileage, and making return, . . .	12½
Bringing up a person on a writ of <i>habeas corpus</i> in civil cases, and mileage, . . .	25
Summoning a jury in cases of forcible entry and detainer, . . .	2 00
Serving a writ of restitution with the power of the county, . . .	2 00
Serving a writ without the power of the county, . . .	1 50
Serving an execution for partition of real estate, or assigning dower, and mileage, . . .	2 00