

Historical Sketch of the Oregon Supreme Court

The history of the supreme court of Oregon is an interesting one. In 1841, the few settlers here saw the necessity of some form of government. They were here under a treaty of joint occupation with Great Britain, and there was no semblance of law. Dr. McLaughlin, as the chief factor of the Hudson Bay company, was the autocrat of all except the few hardy Americans who were not disposed to acknowledge British authority.

Ewing Young, who was reckoned as one of the richest men in the territory of Americans, had died, leaving no relatives here, and some means had to be devised to care for his estate. So a meeting was held and Dr. I. L. Babcock was elected supreme judge. He appointed an administrator of Young's estate, and so far as history tell us, that is all he did, under that tenure of office.

In 1843 the provisional government was inaugurated, and from that time on there was law and order in the community, and justice was fairly and impartially administered. A. E. Wilson was elected supreme judge and served until 1845. But as to what he did there is but little in the archives to show. In 1845 Nathaniel Ford was elected by the legislature, but declined to serve, and Hon. Peter H. Burnett was elected to the place. Judge Burnett served until 1847.

J. Quinn Thornton succeeded him, and his first term of court was held in June, 1849. He was judge for about one year, and was succeeded by Hon. Columbia Lancaster, who held one term of court, in the year 1849. Before the arrival of the territorial officers, the provisional legislature elected Hon. A. L. Lovejoy, but there is no record of any action by him.

There were also numerous circuit judges so called, in various places. Among them are O. Reasel, Robert Moore, J. W. Nesmith and Daniel Waldo, and some of their records would seem as if they were holding supreme court. For instance in an old book, yellow with age, it is said, "The second term of supreme court of Oregon territory held at Tualita Plaine, 3rd Tuesday in April, 1844, O. Russell presiding, assisted by R. Moor, justice of the peace." The next record was that a circuit court held in Clackamas county on the first day of October, 1844. Honorable Ira L. Babcock, judge. This is signed I. L. Babcock, judge pro-tem. Another one seems to be held at the Oregon Institute for Champoick county on the 8th day of October, 1844. Honorable I. L. Babcock, judge. Another was held on the 15th day of October, 1844, by the same judge in Yamhill. The records are all very incomplete, both as to what was transacted and who was transacting the business.

Judge Burnett came to Oregon in 1843 from Missouri. He was a good lawyer and evidently was satisfactory to the people. He left Oregon in about 1848 and went to California, where in 1850 he was elected the first governor of the state. When Oregon was formed into a territory by congress, Judge Burnett was appointed one of the justices of the supreme court by the president but he never qualified, being in California at the time. He took a prominent part in the formation of the state government of California and

in the stirring times had there, and wherever he was placed, acquitted himself well. His nephew, Honorable George H. Burnett, is now and long has been one of the circuit judges for this district.

J. Quinn Thornton was well known to all the early settlers of the territory and state. He resigned about 1847 or a little later and went to Washington, where he took quite a

er the formation of the territorial government, was held at Oregon City on the 30th day of August, 1849, by William P. Bryant, chief justice, and O. C. Pratt, associate justice. Bryant was here but a short time and went east. Pratt remained for a few years then went to California where he was long known as one of the able lawyers of San Francisco.



Attorney-General A. M. Crawford, Head of the State Legal Department.

prominent part in the formation of the territorial government. He was not a great lawyer but seems to have done in the early days his work well.

Judge Lancaster, who succeeded Thornton, resided on Lewis river in the territory which was afterward the territory of Washington, and when Washington was afterward formed into a territory was the first delegate to congress from that territory. He was a lawyer of the old school and imagined that all the law found outside of Blackstone and Bacon's Institutes was hardly worth the knowing. He lived to a ripe old age, respected by all his neighbors in the community where he lived.

In March, 1849, the officials appointed under the territorial act arrived, and government under the laws of the United States was inaugurated. The provisional government had served a useful purpose, but its members gladly surrendered their authority. The glad time for which they had so long waited had come, and they were under the protection of the Stars and Stripes. They had done their work well, and will always be held in grateful remembrance.

The first term of the supreme court of the territory of Oregon, af-

ter the formation of the territorial government, was held at Oregon City on the 30th day of August, 1849, by William P. Bryant, chief justice, and O. C. Pratt, associate justice.

Bryant as chief justice but was in the territory but a short time. O. B. McFadden and Wm. Strong served on the supreme bench for a short time but both were Washington territory men and when that territory was formed remained in it.

In 1853 George H. Williams was appointed chief justice of the supreme court of Oregon territory and continued in that position until the admission of the state. His history since 1853 is written in large characters both in the state and in the nation. He has served the people as chief justice for six years, a member of the constitutional convention, as United States senator, attorney general of the United States, a member of the Alabama claims commission and lastly as mayor of Portland. All his earlier associates on the bench have passed on. He has lived to see this country grow from a sparsely settled community, shut out from the world, distant from the centers of the population, when the only means of communication with the eastern states was by a trip around the Horn of across the dreary plains, to the splendid, highly favored commonwealth which we now enjoy. In all this development he has borne an active, creditable part. In the many honorable and important positions he has held he has acquitted himself well. And today above all other men in our state he stands

"Like some tall cliff that lifts its awful form, Towers in the air and midway leaves the storm; Though round his breast the rolling clouds are spread, Eternal sunshine settles on his head."

May he long live to enjoy the benediction of a grateful people.

Others who sat on the territorial bench were Cyrus Olney, M. P. Deady and R. P. Boise.

Judge Deady sat on the bench from about 1854 until the formation of the state government and was elected circuit judge in the first district under the state government but being appointed United States district judge never served under the state. He filled the office of district judge for over 30 years and took a prominent part in the judicial history of the state.

R. P. Boise was appointed in 1857, sat on the territorial bench until the admission of the state, was elected the first circuit judge of the third district, served until 1870, was again elected in 1876. On the formation of the separate supreme court, he

was appointed one of the judges of that court. In 1880 he was re-elected as circuit judge. In 1886 was re-elected for another term of six years. In 1899 was again re-elected to his old position as circuit judge and served until 1904. Judge Boise was a most remarkable man and no history of Oregon is complete without large mention of his name.

Judge Olney retired from the bench in 1857 and went to Astoria where he died some ten years afterward, honored and respected by his neighbors.

The supreme court of the state was organized in 1859 and the first term of the supreme court was held, the record says "In the village of Salem" on the 5th day of December, 1859. Honorable A. E. Waite, chief justice, R. P. Boise, Riley E. Stratton and Paine P. Prim, associate justices. These judges held a term of the supreme court once a year and the remainder of the time they were engaged in doing circuit duty in their respective circuits. When one of the cases they tried in the court below came on trial in the supreme court, they stepped off the bench and their associates heard the case and passed on it. This method continued until the formation of separate supreme court in 1878.

Judge Waite, who was the first chief justice of the supreme court of the state, was a pioneer of 1847, a lawyer of the old school, learned, courteous, polite and dignified. He filled well his position in life and his name is remembered with great respect wherever he was known.

Judge Stratton was an able lawyer an upright judge and a good citizen. He died in his early manhood when the future seemed bright with promise.

Judge Prim was continuously on the bench from 1859 until 1880, and was ready, prompt, and always had the respect of the members of the bar, and his opinions while never long, are marked by a clear statement and show a strong mind. He was a pioneer of 1851, and lived in Jackson county until 1897, when he removed to San Francisco, where he died some years since.

Others who occupied seats on the supreme bench after its first organization up to the time of the formation of separate court were Alonzo A. Skinner, Joseph G. Wilson, William W. Page, Erasmus D. Shattuck, William W. Upton, L. F. Mosher, John Kelsay, Andrew J. Thayer, James F. Watson, E. Whitten, Lewis L. McArthur, B. F. Bonham and John Burnett.

W. W. Page was a prominent Portland lawyer, and well known as a sound Virginia Democrat, whose father was a personal friend of Thomas Jefferson. He was a man of fine presence. His son, Rollin K. Page, is manager of the General Electric Company, of Portland.

Erasmus D. Shattuck is another name which the citizens of the state learned to love and honor. He was a member of the supreme bench for ten years, and occupied an honored place on the circuit bench in Multnomah county for 22 years, retiring at last on account of the infirmities of old age, in 1898. Judge Shattuck was greatly beloved, a ripe scholar, a good lawyer, and an upright judge.

W. W. Upton was on the bench for six years, from 1868 to 1874. He was a learned lawyer, prompt in his work, courteous to the bar, and was well regarded by the bar, and his associates on the bench. After his retirement from the bench he resumed his practice in Portland, until 1877 when he was appointed second comptroller on the treasury of the United States, when he removed to Washington, D. C., where he died in 1896.

B. F. Bonham is well remembered by all the residents of Salem. He came here in 1853, and until his death was a resident here. He filled many important places in public life, and there as in private life he exemplified the value of right living, and a high standard of citizenship. He served on the bench from 1870 to 1876.

Judge Wilson served for many years as clerk of the supreme court and in 1862 was appointed judge of the fifth judicial district consisting of the counties east of the Cascade mountains. He served in this position until 1868. In 1872 was elected a member of congress but died before taking his seat. He was a good lawyer, of an active mind, congenial, jovial and his death was very greatly regretted by a large circle of acquaintances.

Judge Skinner was an old pioneer from Lane county and took a prominent part in the early settlement of

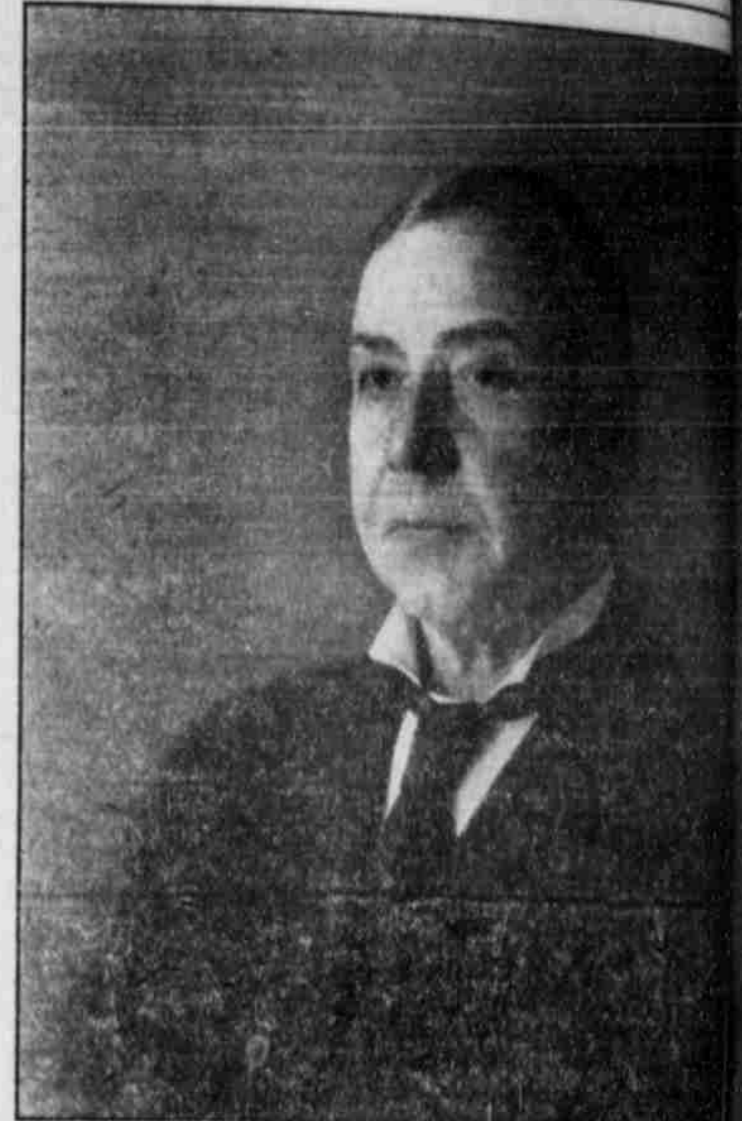
the state. He was not on the bench long and died many years ago at Eugene.

John Kelsay, of Corvallis, was one of the pioneers of that town. He was colonel in the Indian war, and a member of the constitutional convention. He was somewhat uncouth in manner and speech, full of life, loving a joke, with a marvelous fund of anecdotes, always well liked by his comrades and the people with whom he came in contact.

A. J. Thayer, also of Corvallis, was on the bench and at the bar for many years. One of the able men of the state, well liked by his comrades and

Judge Whitten served in the district by appointment, for a short time and was present at one term of the supreme court afterwards went into the territory of Washington and was before the establishment of the separate court have named on. They earned a brave lot of money and their full share in building state and their memory will be cherished by those who know them.

The separate supreme court formed in 1878. The judges



Wm. Kaiser, a Well-Known Salem Lawyer.

thoroughly in earnest in whatever he undertook. He died many years ago.

Judge L. F. Mosher lived at Roseburg, was an Indian war veteran, a good lawyer and filled many important positions very creditably.

James F. Watson served on the supreme bench for a short time, resigned to take the position of United States district attorney, where he served for eight years. From the time of his appointment as United States attorney he lived in Portland and after the expiration of his office entered actively in the practice of law. He died some four or five years ago.

Judge McArthur was elected justice of the supreme court in 1868 and continuously held the place until the organization of separate supreme court. He was a learned lawyer, wrote a graceful opinion, very popular in his community and a useful man. He also served a term as United States district attorney. He died in Portland, where he was engaged in the practice of law, several years ago.

John Burnett also of Corvallis, was an old pioneer active and useful, a good lawyer and an earnest advocate. He is also dead.

appointed by Governor... consisted of James K. McArthur, Boise and Paine P. Prim... article 7 of the constitution provides that "The judges of the shortest term to serve shall have such term to serve as holding by appointment... chief justice." Under the organization of the separate court, Judge Kelly a few years ago, held the position of United States attorney he lived in Portland and after the expiration of his office entered actively in the practice of law. He died some four or five years ago.

Judge Kelly came to Oregon in 1851 and for forty years was one of the prominent figures in the territory and development. He was a member of the constitutional convention, state senator, colonel in the Indian wars of '55 and '56, and United States senator. He was a faithful and earnest in the discharge of his duties and but few on the supreme bench have left a better record than he. He died in Jackson county, several years ago.

In 1880 the first judges elected to the supreme bench were William Lord, Edward B. Watson and Daniel B. Waldo.

Judge Lord continued on the bench for fourteen years, retired in 1894 to assume the office of governor and his opinions in the supreme court



Salem Cigar Factory

The Brands That Advertise the City Far and Wide Are the Famous

TASHMOO, LA CORONA, BON TON AND OTHER BRANDS

LOYAL SALEMITES Will Call For the Salem Brands Wherever They

A. HUCKESTEIN, Proprietor Commercial Street, Salem, Oregon

RAY E. HALL, Pres. and Treas. W. G. MORTON, Sales Department WEERT SCHMACKER, Engineer Civil Mech., Electr.

H-S Engine Works

Salem, Oregon Phone: Main 278

Manufacturers of Stationery and Marine Gasoline Engines, Spraying Outfits, Etc.

We Claim for our Power Sprayer Outfit:

1. Extreme Light Weight
2. Reliability and Durability
3. Simplicity of Construction
4. Only 7 Working Parts
5. Pressure Constant at Will of Operator

Same Engine Can Be Used for all farm purposes, such as Pumping Water, Sawn Wood, Grinding Feed, Etc.

Factory on State Street at Old Engine House