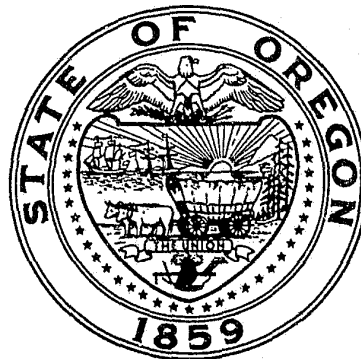


# Judicial Conference State of Oregon 1975-1976

MICROFICHE

40702



Office of the State Court Administrator

Ex Officio

Executive Secretary to the Conference

Supreme Court Building  
Salem, Oregon 97310



NCJRS

MAY 8 1977

1975-1976 Report

# Judicial Conference Of the State of Oregon

ACQUISITIONS

The reports on the following pages review the significant activities of the Judicial Conference of Oregon during 1975 and 1976, present its major recommendations for legislation affecting the courts and incorporate documentary information about the Conference and the Courts.

The Judicial Conference herewith presents this report, pursuant to the statutes creating the Conference and ORS 1.840 which imposes the following requirement:

"The conference shall report annually to the Governor with respect to such matters, including recommendations for legislation, as it may wish to bring to the attention of the Governor or of the legislature."

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## Oregon State Courts in Brief

Oregon's state court system consists of circuit courts and district courts at the trial court level; the specialized Tax Court, which is also a trial court; and two appellate jurisdictions, the Court of Appeals and the Supreme Court.

The support staff of the Supreme Court for the statewide courts and for studies and supervision affecting the trial courts is directed by the State Court Administrator. His responsibilities include appellate case record processing, staff assistance to the Chief Justice on assignment of judges and other supervisory matters, liaison with numerous state agencies, and service as executive secretary to the Oregon Judicial Conference.

In Oregon judicial structure the Circuit Court is the court of general jurisdiction upon which the system is based. Oregon is divided into 20 judicial districts within which the 68 Circuit Court judges hold court in every county. State law determines the number of judges to be elected in each district, generally based on population and the volume of litigation experienced. The 1975 Legislature raised the number of circuit judgeships to 70, two of which were not to take effect until 1977, one in Douglas County January 3 and the other in the Yamhill-Polk Counties district April 1.

Multnomah County comprises the 4th Judicial District which has 18 circuit judges. There are seven circuit judges in Lane County; five in Marion; four each in Clackamas, Washington, Jackson-Josephine and Benton-Linn. With the 1977 addition of a third judge for Douglas and for Yamhill-Polk Counties, those districts join two others with three judges each: the Clatsop-Columbia-Tillamook district and that embracing Deschutes, Jefferson, Gilliam, Grant, Crook and Wheeler Counties.

Oregon's District Courts, with limited jurisdiction as to types of cases tried, are organized county by county except in 12 of the less populous counties which continue to be served countywide by Justice of the Peace courts. The District Courts handle traffic violations and infractions, small claims, civil cases involving not more than \$3,000 and criminal cases involving crimes punishable by fines not exceeding \$3,000 and imprisonment not exceeding one year.

Of the 48 District Court judges, 12 are elected in Multnomah County; five in Lane; three each in Marion and Washington; two each in Clackamas, Coos, Douglas, Jackson, Josephine and Klamath; one each in Benton, Clatsop, Columbia, Curry, Deschutes, Hood River, Lincoln, Linn, Polk, Umatilla, Union-Wallowa, Wasco and Yamhill.

Among the many challenges facing the judiciary of Oregon, none surpasses in scope the challenge of fast-growing, and in some cases congested, court dockets. Courts at all levels have been preoccupied with the rising tide of civil litigation and criminal prosecutions, increasing faster than the population and outdistancing so far the adoption of new court efficiencies and the establishment of new judge-ships.

The serious growth problem has continued through the 1970s. In many of its aspects it was acute in 1976; in some areas there were indications of a leveling off. The Judicial Conference of Oregon, the Supreme Court and the State Court Administrator have exerted continuing efforts to promote innovations and improvements that help compensate for the caseload growth. Docket management has been improved. Court records are being automated. The assignment of pro tem judges has been systematized and reviewed for economy and effectiveness. More and more courts have employed

professional court administrators. The scheduling of courtrooms for maximum use has been improved. Statewide statistical and information services have been brought to bear on the problem. Judicial and court staff education is expanding.

All these and many other efforts seek to preserve Oregon's enviable record among the states for bringing cases to trial promptly and disposing of them promptly while at the same time sustaining high standards in the quality of justice dispensed.

This is only a brief sketch of the caseload problems that threaten the Oregon courts with backlog and delayed justice. Precise delineation of how the state's trial courts and appellate courts are affected may be found in the text, charts and statistics of the State Court Administrator's 1976 Annual Report Relating to Judicial Administration. Excerpts in brief form appear below, merely to help call attention to the dimensions of the problem in relation to the work of the Judicial Conference.

## Statistical Highlights

### SUPREME COURT

- Direct appeals filed in the Oregon Supreme Court in 1976 were 13% more than in 1975, from 449 to 506 cases.
- Petitions for review by the Supreme Court of cases from the Oregon Court of Appeals increased 50% from 301 to 567 petitions. The Supreme Court granted 43 of these petitions.
- At the end of 1976 the Supreme Court's backlog of pending cases had increased 17%, from 298 to 349 cases.
- During the year the Supreme Court closed 18% more cases by opinion than it did the previous year, an increase of 50 cases, from 283 to 328.

### COURT OF APPEALS

- The Court of Appeals caseload has grown at an average rate of 22% per year from 1970, its first full year of service, to 1975. In 1976 the caseload grew 20%, increasing from 1,539 to 1,847 cases.
- The court increased the number of cases closed by opinion by 49%, from 877 to 1,303, and increased total terminations by 37%.
- The Court of Appeals' pending caseload increased 9% over the one-year period, 61 cases, from 669 to 730.

- In 1976 the Court of Appeals heard oral arguments in 1,220 cases, an increase of 54% over the 790 cases heard in 1975.

### CIRCUIT COURTS

- The circuit courts sustained a 3% increase in total cases filed in 1976. This small 1976 increase follows a much larger 13% increase between 1974 and 1975.
- In 1976 the increase in circuit court filings is attributable to a 13% increase in dissolution proceedings. The courts recorded net decreases in civil and criminal cases filed.
- The circuit courts conducted more trials in civil cases in 1976 and fewer trials in criminal cases. The net result was an increase in cases tried for the year.

### DISTRICT COURTS

- The district courts sustained a 20% increase in cases filed in 1976. This large increase is almost all attributable to increased traffic offense prosecutions. These offenses increased 31% in 1976.
- The termination of cases in the district courts increased 18% during the year.

The Judicial Conference of Oregon is required by statute to include recommendations for legislation in its annual report to the Governor on the state of the courts.

Several of the continuing studies carried on by the standing committees of the Judicial Conference have produced bills for consideration by the 1977 Legislature. In addition, the Conference has taken stands on many legislative proposals from outside sources that affect the courts. Recommendations on judicial budgets and certain other administrative matters emanate from the Supreme Court and the State Court Administrator.

The Conference Legislative Committee will continue to review new legislative proposals affecting the judiciary as well as make known the following Judicial Conference positions already adopted by the outset of the 1977 session:

## *Bills Introduced By Judicial Conference*

**Civil Procedure** — HB 2316 would establish a Council on Civil Procedure and Practice to promulgate new rules for civil procedure and submit them to Legislature. Council would consist of a Supreme Court judge, Court of Appeals judge, six Circuit Court judges, two District Court judges and 11 trial attorneys. Judges would be selected by their respective courts or associations and the attorneys by the Oregon State Bar Board of Governors.

**Judges' Salaries** — The Judicial Conference supports the Oregon State Bar position that judicial salaries should be considered for increases along with salaries of other elected state officials.

**Judges' Retirement** — HB 2137 would convert two existing retirement plans to a uniform retirement system for all state judges

eligible, at the level of 50 percent of their final salary. Under the present formula some judges are entitled to 50 percent and some 45 percent of average salary over final five years of service, depending on when they came under the judges' retirement system. The added annual costs would be assumed by the State General Fund.

**Judges' Defense** — SB 223 would clarify state law that a judge sued in his official capacity shall have legal defense supplied either by the Attorney General or private counsel, and paid for by the state.

**Court Facilities** — SB 227 would create a state Court Facilities Accreditation Council, appointed by Governor, to recommend minimum standards for court facilities and to inspect and rate existing court facilities every three years. Council would consist of an architect, a trial lawyer, judge, news media representative, someone from a government authority responsible for maintaining court facilities, and a public representative.

**Juror Fees** — HB 2138 would increase juror fees from \$10 to \$20 per day and witness fees from \$5 to \$10. Support of the Conference is contingent on the cost of such fees being reimbursed by the state.

**Court Reporters** — SB 224 would raise minimum salary of court reporters from \$7,200 to \$15,000 per year. SB 226 would remove the mandatory language of state law that the court reporter shall also act as judge's secretary.

**Senior Judges** — SB 225 would make all senior judges members of the Judicial Conference and eligible for reimbursement of expenses of attending Conference annual meeting. Senior judges are those who have retired after at least 12 years' service in the state judiciary and who continue to serve on the bench from time to time.

## Conference Positions On Other Bills

**Merit Selection of Judges** — Support SJR 6, a State Bar bill that would submit to the voters a constitutional amendment under which vacancies on the Supreme Court, Court of Appeals and Tax Court would be filled by appointment of the Governor from a list of candidates submitted by a Judicial Nominating Commission. The name of any judge so appointed and wishing to succeed himself for a six-year term would go on next ballot, unopposed, with the voters voting "yes" or "no" on whether to retain the judge. Nominating Commission would consist of the Chief Justice, as chairman, three attorneys elected by Oregon State Bar and three members appointed by the Governor.

**Public Defender** — Support HB 2314 introduced at the request of the Oregon State Bar, which would establish a public defender system statewide, by counties or districts, under state government financing.

**State Funding of Court Costs** — Support in principle the proposals by Governor and by Interim Intergovernmental Committee (SB 20) for reimbursement to counties of certain trial court costs. The judiciary prefers that District Courts and Circuit Courts receive equal treatment of state funding. At present only the salaries and expenses of circuit and district judges are paid by the state.

**Mental Health Commitment** — Approve the concept of a Mental Health Commitment-Release Board exercising supervision over mental disease defendants now predominantly supervised by circuit courts and the repeal of present provisions exempting state and local mental health agencies from certain services which courts may order. HB 2382 is from Corrections Task Force.

**Criminal Justice Council** — Support formation of a Criminal Justice Council to coordinate and evaluate the criminal justice system, under the minority report (SB 521) requiring each branch of government to appoint its own members to the Council. The Council would replace Law Enforcement Council in this bill from Task Force on Corrections.

**Sentencing Procedures** — Support authority for judges to designate a period of confinement, to be served before parole, of up to half the maximum statutory sentence for the offense, subject to subsequent Parole Board modification by unanimous board action. On other Corrections Task Force sentencing proposals: Oppose HB 2381 for mandated pre-sentence reports on all convicted felons and short-form appeal of sentences to Court of Appeals; oppose both majority and minority bills from Corrections Task Force that would require minimum sentences for crimes committed while armed with a firearm. Take no position on HB 2011, from Interim Judiciary Committee, subjecting those convicted of murder under certain conditions to mandatory life sentence with no parole hearing available to them for at least 15 years.

**Probate Jurisdiction** — (HB 2265) Support the Oregon State Bar bill that would transfer to circuit courts the probate jurisdiction still exercised by the last six of Oregon County Courts with such jurisdiction, those of Malheur, Harney, Wheeler, Gilliam, Grant and Sherman Counties.

**Pre-Trial Diversion** — Oppose proposed pre-trial diversion procedures which would allow certain non-serious offenders to be diverted, before plea or trial, to a work training program under supervision and then require a return of the case to the trial docket should the defendant fail to complete the program. However, the committee recommended that in the event the Legislature does wish to adopt a

diversion proposal, the diversion should be permitted only after a guilty plea is entered. Diversion bills are proposed by both the Interim Judiciary Committee (HB 2017) and the Corrections Task Force.

**Parole Release Procedures — (HB 2013)**  
Oppose this Interim Judiciary bill to require the use of ranges of duration of imprisonment to be served prior to eligibility for parole release, in proportion to severity of offense and other factors, because it totally ignores the sentence imposed by the trial court as a factor to be considered.

**Revocation of Probation — (HB 2016)**  
Oppose this Interim Judiciary bill to codify revocation procedures already established by case law and to expand procedural requirements.

**Waiver of Reporting —** Support legislation to allow waiver of reporting of civil cases in District Court unless reporting is formally requested by counsel of either side. This procedure already pertains to violation and traffic infraction cases (HB 3140, requested by District Judges Association).

**Reporting Fees —** Support bill to permit District Courts to charge a fee of \$10 a day for reporting of cases in which a violation or a traffic infraction is charged. This procedure already applies to civil cases in the District Court (HB 3140).

**District Court Procedure —** Support legislation providing that certain district court procedures be similar to circuit court procedures and recodify district court provisions from ORS chapters involving justice courts to those concerned with criminal procedure generally (HB 3140).

**Juvenile Code —** In responding to the new Juvenile Code proposed in SB 2 by the Interim Judiciary Committee, the Judicial Conference

makes plain that its qualified support of the proposed new code does not represent a position with respect to the philosophy of how juveniles should be dealt with. The Conference is recommending to both legislative and executive branches that this is a matter which should be studied in depth by an appropriate commission.

As to the proposed 1977 code, the Conference is seeking 15 amendments that would make procedural or other changes. Among them, one would delete the requirement that a child be represented by counsel in status and detention cases, except to the extent required by federal law. Another amendment would eliminate the opportunity for appeal of the transfer of a case from juvenile to adult jurisdiction until after adjudication in the criminal court. Another would delete a requirement for a probable cause hearing before the court could order a child placed or continued in detention or shelter care.



### *Budget, Planning Recommendations*

Funds are appropriated to the Supreme Court for the salaries and expenses of all of the state's circuit and district judges and the pro tem judges used in their courts, as well as for all expenses of the appellate courts and the State Court Administrator's office. This budget function is carried out by the Supreme Court through the State Court Administrator.

**Study Commission** — Needs of the courts beyond the coming biennium are also considered. A 1977 resolution (SJR 10), introduced in Legislature at the request of the Chief Justice, proposes a state commission to study the workload of the appellate courts and make recommendations on necessary changes in jurisdiction or the addition of judges in the future. The commission would comprise one appointee each of the Senate president and the House speaker, the Supreme Court chief justice, the Court of Appeals chief judge and three private attorneys appointed by the State Bar Board of Governors.

**Circuit and District Judges** — For judges' salary and expense in trial courts the State Court Administrator has submitted to Legislature a 1977-79 budget totaling \$9,718,004, compared with total estimated spending in 1975-77 of \$8,453,693.

Additional costs next biennium reflect the addition by the 1975 Legislature of 12 new judgeships, most of which were not in effect the full biennium, plus eight new judgeships recommended for the 1977-79 budget: One circuit judge and two district judges for Multnomah County; two circuit judges for Lane County; one circuit judge each for Marion and Clackamas Counties; one district judge for Jackson County.

The need for additional judges stems from rapidly and steadily rising caseload, as documented in the statewide statistical records of

the State Court Administrator. Despite the creation of new judgeships, the number of cases per judge has risen steadily. And despite a substantial increase in the number of cases terminated per judge, this has not been enough to prevent increases in the backlog of cases pending.

**Appellate Courts and State Court Administrator** — The 1977-79 budget for the operations of the Supreme Court, the Court of Appeals and the State Court Administrator's office totals \$6,786,227 as submitted to the Legislature. This compares with total estimated spending in 1975-77 of \$4,776,388.

The Court of Appeals would be increased in size from six to eight judges. The Supreme Court would be provided with funds for two pro tem justices throughout the biennium. The need for these additional judges and their 12 new supporting personnel (six law clerks, five secretaries and a legal editor assistant) arises from the sharply rising caseloads of both appellate courts, which in turn is a reflection of steadily increasing activity in all courts of the state.

The need is documented by ongoing court statistical studies. These show that the last year's increase in caseload for each court is substantially higher than the average annual rate of increase over the past six years. Both courts have shown marked gains in the disposition of cases and improvement in the time required to process an appeal and reach decision. Despite these advances, the sheer volume of new cases has caused a growth in court case backlog that could reach serious proportions if judicial manpower remains at the present level.

# Oregon Judicial Conference

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## **The Conference Charge:**

From Oregon Revised Statutes

1.810 Judicial conference; membership; officers; expenses. There hereby is created and established a Judicial Conference of the State of Oregon. The conference shall consist of all the judges of the Supreme Court, the Court of Appeals, the Oregon Tax Court, the circuit courts and the district courts. The Chief Justice shall be chairman of the conference and shall have power to invite any persons not members of the conference to attend the meetings of the conference and consult with it in the performance of its duties. The State Court Administrator shall act as executive secretary of the conference. Each member of the conference, the State Court Administrator, and each person invited by the Chief Justice, is entitled to reimbursement for his hotel bills and traveling expenses necessarily incurred by him in the performance of his duties relating to the Judicial Conference of the State of Oregon. [1955 c.470 §1; 1959 c.552 §12; 1963 c.423 §2; 1965 c.494 §13; 1969 c.198 §29; 1971 c.95 §1]

1.820 Function of conference. The conference may make a continuous survey and study of the organization, jurisdiction, procedure, practice and methods of administration and operation of the various courts within the state. Such survey and study may be coordinated with any similar survey and study made by the Judicial Council of the State of Oregon.\* [1955 c.470 §2; 1965 c.494 §14]

1.830 Meetings. The conference shall meet at such time as shall be designated by its chairman, not less than once annually. [1955 c.470 §3; 1965 c.494 §15]

1.840 Annual report. The conference shall report annually to the Governor with respect to such matters, including recommendations for legislation, as it may wish to bring to the attention of the Governor or of the legislature. [1955 c.470 §4; 1959 c.552 §13; 1965 c.494 §16]

\*The Judicial Council of the State of Oregon was dissolved by the 1971 Legislature.

## **The Conference Leadership:**

### **Executive Committee of Oregon Judicial Conference**

Chief Justice Arno H. Denecke, Chairman

Dean F. Bryson  
Robert Y. Thornton  
William M. Dale, Jr.  
Wendell H. Tompkins  
Darrell J. Williams  
Harold A. Lewis  
Robert W. Redding

Associate Justice  
Appeals Judge  
Circuit Judge  
Circuit Judge  
Circuit Judge  
District Judge  
District Judge

Liaison Members:

Judge Patrick Dooley  
Circuit Judges Association

Judge Walter Foster  
District Judges Association

Judge William W. Wells  
Juvenile Judges Association

Executive Secretary:  
Loren D. Hicks  
State Court Administrator

# The Conference

## *New Planning Duty*

After experiencing a successful and extremely busy year in the work of the state courts, the Oregon Judicial Conference has started 1977 with a new potential for initiating improvement projects and innovative solutions to court problems.

A new leadership role was taken by the Conference when its Executive Committee accepted an assignment from the Oregon Supreme Court to become the official Oregon Judicial Planning Committee. Under new federal legislation such judicial committees are authorized for the purpose of assessing the courts' needs for financial assistance from the Law Enforcement Assistance Administration. Even before this LEAA development, Oregon had been functioning as one of the six pilot states (along with Georgia, Louisiana, Maine, Maryland and North Dakota) in a comprehensive planning project of the National Center for State Courts.

In both instances the aim is to enable the state court systems to have a professional planning capability for longer-term forecasts of needs, hence to make possible more efficient use of available resources or the development of new resources to meet those needs. Under the LEAA law Oregon now is eligible for an annual planning grant of at least \$50,000.

The new Judicial Planning Committee has the responsibility for long-range planning and for determining court-related projects which can qualify for LEAA grants. The Oregon Law Enforcement Council, which in the past has exercised that responsibility, will now have only a general review function so far as court planning projects are concerned. As before, the emphasis will be on solid projects that facilitate crime reduction or otherwise improve the court portion of the criminal justice system—and which cannot under existing circumstances be funded by state or local government.

In 1976 and the immediately preceding years

the Judicial Conference produced studies and encouraged innovations that helped the court system cope with the burden of rapidly increasing caseload and the proliferation of new state

laws. A related major area of Conference activity has been in judicial education and staff training. Virtually all the judges have taken active part in educational programs and study projects throughout the year as well as at the Conference annual meetings.

Educational workshops and lectures dominated the annual meetings of 1975 and 1976. In the most recent one, conducted last April 14-17 at Valley River Inn, Eugene, the program included three half-day seminars: "Statutory Interpretation," conducted by Justice Arno H. Denecke; "Jury Communication," by Professor Gordon I. Zimmerman of the National College of the State Judiciary and the Conference Public Information Committee; "Significant Supreme Court Decisions on Evidence for the Past Two Years," by Justice Thomas H. Tongue.

The Conference meetings included working sessions of the committees, meetings of related organizations, discussion and voting on legislative recommendations and other annual business.

Features of the 1975 Conference annual meeting at Valley River Inn included: "Impact Decisions," presented by Supreme Court Justice James N. Bloodworth of Alabama; "Due Process and Equal Protection in Government Actions," by Professor Hans Linde, now an Oregon Supreme Court justice; and "Decision Making Process," presented by Chief Justice Kenneth O'Connell, Circuit Judge John C. Beatty Jr. and Professor James Bross.

Other study topics of the meeting were statewide computerized court records, the new code of judicial conduct, domestic relations, landlord-tenant cases, the new lien law and a 1975 legislative review.

## Bench Book

**John A. Jelderks**  
Committee Chairman

**Howard J. Blanding**  
**Helen J. Frye**  
**A. R. McMullen**  
**Donald A. W. Piper**  
**Phillip J. Roth**  
**Don H. Sanders**

**Irving M. Steinbock**  
**Robert Y. Thornton**

Staff:  
**Barbara Newell**

One of the judiciary's most significant research and improvement projects culminated in the production and distribution this fall of a 300-page Oregon Judges' Criminal Bench Book, under the supervision of the Bench Book Committee.

Over a two-year period 24 judges participated in the writing and editing of this well-indexed comprehensive reference work for use by trial judges in their courtrooms during trial. It summarizes appropriate statutory and case law and court procedures. Attorney James B. Shiley Jr. served as editor of the Bench Book.

In this project funded by Law Enforcement Assistance Administration and following guidelines of the National College of the State Judiciary, Oregon becomes one of the first states to provide its trial judges with such a useful tool.

## Court Facilities

**Mitchell Karaman**  
Committee Chairman

**J. R. Campbell**  
**Richard J. Courson**  
**Carl Felker**  
**Charles H. Foster**  
**James A. Monce**

**James A. Norman**  
**Roland K. Rodman**

Staff:  
**Jerry Winter**

Continued studies and efforts were made by the Court Facilities Committee toward a goal of establishing statewide standards for court facilities and a statutory mechanism for inspection and accreditation. An inventory of the court facilities in each county also is desired. The committee is centering its efforts on the actual housing of direct court activities, rather than including such court-related facilities as those related to imprisonment, probation, etc.

The committee worked and met with representatives of the National Clearinghouse for Criminal Justice Planning and Architecture. Consulting services of that organization were employed in a study of how to expand the court facilities in Polk County.

Toward the goal of legislation for a Court Facilities Accreditation Commission, this committee has continued its efforts to obtain funding for the state study. In 1975 the necessary state participation was recommended by the appropriate subcommittee of the Emergency Board but failed of authorization when considered by the entire Board. In 1976 the request was approved by both the subcommittee and the full Board. Meanwhile, however, the Oregon Law Enforcement Council committed the funds which were available for the study to other purposes and found that at the present time it had no funds available for the next fiscal year for the proposed state study. Thus the matter remains in suspense.

The bill for creation of a state Court Facilities Commission previously approved by the Judicial Conference has been reintroduced in the 1977 session as SB 227. In 1975 the bill was approved by the Senate Judiciary Committee but upon referral to Ways and Means met an untimely demise. It was a victim of the Governor's policy to create no new commissions. Thus it never had a hearing in Ways and Means.

## Court Reporting

**Darrell J. Williams**  
Committee Chairman

**Theodore D. Abram**  
**William C. Beers**  
**Richard J. Burke**  
**Patrick Gilroy**  
**Glen Hieber**  
**Donald Kalberer**  
**James M. Main**  
**Richard Mengler**  
**Don H. Sanders**

**Court Reporters:**  
**Paul E. Kirk**  
**Dave Ohmart**

**Staff:**  
**David Gernant**

The problems associated with maintaining high standards of professional court reporting in Oregon have occupied the attention of the Court Reporting Committee. Study and discussion were given during the year to such ramifications as the availability of pro tem reporters, the review of the standard court rules pertaining to reporters and the question whether the statewide supply of reporters is adequate. The committee consulted with the Oregon Shorthand Reporters Association on the need for assistance to judges seeking the services of a pro tem reporter in order to keep their dockets current.

Studies of this committee led to two legislative recommendations by the Judicial Conference. One would raise the statutory minimum salary for court reporters from \$7,500 to \$15,000. The other would make it discretionary with each judge whether the reporter shall also serve as the judge's secretary.

## Criminal Law and Procedure

**Gregory Milnes**  
Committee Chairman

**Frank Alderson**  
**Donald Blensly**  
**Anthony L. Casciato**  
**L. A. Cushing**  
**Duane R. Ertsgaard**  
**Sam Hall**  
**Courtney R. Johns**

**Berkeley Lent**  
**Robert M. Mulvey**  
**Herbert M. Schwab**

**Staff:**  
**David Gernant**

The difficult problems arising from the law on insanity defense received intensive study by the Criminal Law and Procedure Committee. Additional study will be required after proposals for change are acted upon by the 1977 Legislature and after the Uniform Jury Instructions Committee has prepared instructions in this area.

Among the other areas of committee study were those involving laws relating to the possession of firearms and other weapons. It was at the initiative of this committee that the Judicial Conference voted to empower its Executive Committee to formulate Conference positions on legislative matters at times when it is not feasible to put them to a vote of the entire Judicial Conference.

## Judicial College

**Richard L. Unis**  
Committee Chairman

**Karl W. Freerksen**  
**Robert E. Jones**  
**Edmund A. Jordan**  
**Harold A. Lewis**  
**William M. McAllister**  
**Loren L. Sawyer**  
**Alfred T. Sulmonetti**  
**George Van Hoomissen**

Staff:  
**Charles Gleason**

Non-Conference:  
**Marjorie Christensen**  
Justice of the Peace  
**Loren D. Hicks**  
State Court Admin.  
**Fred Merrill**  
U. of O. Law School  
**Phil H. Ringle Jr.**  
Municipal Judges Assn.

Keeping their professional education up to date is a continuing process for the judges of virtually all Oregon courts. This process is stimulated and educational opportunities are sponsored or coordinated by the Oregon Judicial College, which is the name given the professional education committee of the Judicial Conference.

Expansion of the Judicial College program was undertaken in 1976 with the development of educational seminars for court staff personnel as well as judges and the establishment of a new office of judicial education on the staff of the State Court Administrator. After national recruiting by the committee, Thomas B. Russell, a former Washington state judge and educator was chosen to become the judicial education director at the start of 1977.

The principal education programs of the past year, which the Judicial College sponsored or helped arrange, were varied and successful. The five-day annual orientation course was conducted in January for an unusually large group of new judges. Last winter also saw a new offering that attracted 144 clerks, bailiffs, secretaries and other trial court staff members to a three-day program of classes. In April most of the three-day annual Judicial Conference meeting was devoted to professional education for the 120 judges attending. The College also sponsored several special presentations during the year by the Special Courts Committee, which helped prepare judges, their staffs and justice-related officials for operating under the new Oregon Vehicle Code that took effect July 1, 1976, and the District Courts becoming courts of record effective January 1, 1977. Among

these was the District Court reporters' training conference attended in December by more than 100 staff members from the state's District Courts.

In 1975 the Judicial College sponsored a judicial education workshop at Monmouth for justices of the peace and municipal court judges, in addition to its annual courses for the new state judges, the Judicial Conference annual meeting and other events. Similar plans are in store for 1977, including a one-week course for justices of the peace and municipal court judges.

Another important judicial education factor is the arrangement, through the State Court Administrator, for trial judges, especially those new to the bench, to attend nationally recognized courses and special schools, such as those sponsored at University of Nevada by the National College of the State Judiciary.

## Judicial Administration

**Jena V. Schlegel**  
Committee Chairman

**Samuel M. Bowe**  
**Aaron Brown Jr.**  
**Clarke Brown**  
**Dean Bryson**  
**George F. Cole**  
**Alan Davis**  
**Pat Dooley**  
**Edward Howell**

**Charles H. Reeves**  
**Val D. Sloper**  
**John C. Warden**  
**Warner V. Wasley**

Staff:  
**Jerry Winter**

The Judicial Administration Committee has the responsibility for continuously surveying a wide range of matters affecting the personnel and administration of the courts, including judicial salary and retirement, the need for new courts and additional judges, personnel systems and special problems occurring in the administration of the courts.

Committee work of the past two years produced support for the 1977 legislative proposals for merit selection of statewide-elected judges, a uniform judges' retirement system and state funding to make possible a statewide public defender system and higher fees for jurors. Other legislation also came out of this committee, as did recommendations for administrative improvements that do not require legislation.

## Judicial Conduct

Bryan Hodges  
Committee Chairman

Shirley Field  
James Hargreaves  
Harlow F. Lenon  
John J. Murchison  
Hollie M. Pihl  
David Smedema

Supreme Court Adviser:  
Edward H. Howell

Staff:  
Loren D. Hicks

Interpreting the Oregon Code of Judicial Conduct in the light of inquiries from judges about their activities is a major responsibility of the Judicial Conduct Committee. In the past two years several judges who made inquiry were given informal advice and a summary report of each question and the Committee's response is published in "Judicial Notices."

This committee also contributes to the orientation education for new judges and, on occasion, to the professional education programs of various judicial associations. Committee activities are coordinated with those of the Judicial Fitness Commission of Oregon and the Oregon State Bar Committee on Professional Responsibility. Suggestions for changes of the Code of Judicial Conduct, which was adopted in 1975 by the Supreme Court, also are given study by this committee.

## Probate Law and Procedure

Kurt C. Rossman  
Committee Chairman

J. S. Bohannon  
James C. Donnell  
Thomas E. Edison  
Jason Lee  
William S. McLennan  
Albert R. Musick

Douglas R. Spencer  
Joseph J. Thalhofer

Staff:  
Esther Baird

Two major contributions to professional education for the Oregon judiciary were made during 1976 by the Probate Law and Procedure Committee, which is charged with stimulating improvement in the handling of probate cases.

Probate practice and the state's probate code are given ongoing study by this committee and active liaison is maintained with Oregon State Bar. Complaints several years ago over delays in closing estates led to active committee programs aimed at reversing that trend. Annual workshops for probate judges were instituted in 1974 and proved successful.

One measure of the progress made in the past five years is in the statewide percentage of estates pending more than three years. This figure has declined steadily from 18.8 percent in 1971 to approximately ten percent in 1976.

The committee's first educational program of 1976 was a workshop in Eugene, April 14, for approximately 100 probate judges, attorneys, mental health experts and court staff. Common problem areas, new probate developments and specific laws affecting the probate courts were studied in detail after several judges made presentations.

A second workshop was conducted for 60 judges and state agency representatives November 3 at Oregon State Hospital in Salem, devoted entirely to the relatively new Oregon Civil Mental Commitment Procedures. Experts from the judiciary and mental health fields provided stimulating panel discussion, and a mock commitment hearing was staged to review the implications of the new law.

## Procedure and Practice

**William M. Dale Jr.**  
Committee Chairman

**Edwin E. Allen**  
**John C. Beatty Jr.**  
**Winfred K. Liepe**  
**Clifford B. Olsen**  
**Robert W. Redding**  
**Thomas H. Tongue**

Attorney Advisers:  
**Thomas Cooney**  
**Lawrence Dean**  
**W. V. Deatherage**  
**Robert H. Fraser**  
**Burl Green**  
**Laird Kirkpatrick**  
**Owen Panner**

The current proposal for establishment of a State Council on Civil Procedure (HB 2316) derives from a comprehensive study of Oregon's civil procedure code over the past three years. For this purpose the Judicial Conference constituted the Procedure and Practice Committee in November, 1973, with instructions to work closely with Oregon State Bar in the study.

This committee and its attorney advisers made a detailed examination of the present code during the course of a long series of meetings. Turning their attention to the question of how the code should be improved, they identified several areas in which they considered change desirable and long overdue. But they also decided that much of the established code should be preserved and that any attempt to rewrite the entire code might lead to unnecessary procedure changes.

As the committee continued its study, it determined that meticulous professional work would be required to accomplish those changes that were necessary because of the complex interrelationships of the various code sections. Rather than risk piecemeal revisions by different committees at different times, the committee concluded, the responsibility for improving the code should be entrusted by statute to a continuing Council on Civil Procedure which could make the proper studies and develop the changes in the code, subject to rejection by the Legislature. As a result, legislation to that effect was introduced in the 1975 session of Legislature and, failing adoption, has been reintroduced in the 1977 session, with the joint support of the Judicial Conference and Oregon State Bar.

## Public Information

**Robert W. Redding**  
Committee Chairman

**Richard D. Barber**  
**Mercedes Deiz**  
**Thomas W. Hansen**  
**Dale Jacobs**  
**Gary Knutson**  
**L. A. Merryman**  
**Charles A. Sams**  
**Carlisle Roberts**

Non-Conference:  
**Helen Riordan**  
Oregon State Bar

Staff:  
**Robert E. Gangware**

Preparation for a 1977 Oregon Citizens' Conference on the Courts is a major project of the Public Information Committee which is charged with efforts to encourage better public understanding of the courts and the judicial branch of government. A cross section of 100 or more citizens will be invited to give their views and their study of selected problems facing the courts. The date and length of the conference will be determined soon.

The committee published in 1976 its first guidelines publication to judges, pertaining to the importance of the relationship between judges and jurors. Informal sharing of information about judges' relations with the public also has been carried on. In an unusual direct public contact project, 13 judges volunteered along with a group of attorneys to man Oregon State Bar information booths on three weekends at major Portland area shopping centers.

Within the judiciary the committee has made major educational presentations about public relations to the Judicial Conference annual meeting and four other classes or meetings of judges. This subject has received emphasis in order to familiarize all courts with the services of the state courts public information office that was established in 1975 with the employment of Robert E. Gangware as information director on the staff of the State Court Administrator.



## Special Courts

Philip T. Abraham  
Committee Chairman

Donald C. Ashmanskas	Non-Conference:
Wayne H. Blair	Nita Bellows
John F. Cushman	Justice of Peace Assn.
Ross G. Davis	Wesley Carter
Robert E. Jones	Mult. District Court
Gerald O. Kabler	Wayne Thompson
James A. Mason	Municipal Judges Assn.
Thomas L. Moultrie	David Wade
William L. Richardson	Mult. District Court

### Staff:

Douglas Bray

Two major changes in the judicial system gave the Special Courts Committee a heavy schedule of study, planning and educational activity in 1975 and 1976. They were the new Oregon Motor Vehicle Code which took effect July 1, 1976, and the law making the District Court a court of record effective January 1, 1977.

The District Courts, Justice of the Peace Courts and Municipal Courts, which are considered "special courts," were all directly affected by the many major changes incorporated in the new vehicle code. The judges worked closely with the code drafters and later with the Traffic Safety Commission, an ad hoc inter-agency committee and the Minor Court Rules Committee in public and judicial education about the new code. The Special Courts Committee took the lead in providing instruction at the annual Traffic Conference and five regional conferences for judges and other public officials.

After the new code was in effect several months, the committee agreed to serve as a clearinghouse for suggestions to revise the code in light of experience. The committee worked with district and municipal judges, justices of the peace and state agencies, culminating in a two-day meeting for preparing legislative proposals. Many call for housekeeping changes; a few are for substantive changes. The 1977 House Judiciary Committee consented to have the Special Courts Committee requests drafted in a single bill for introduction under House Judiciary sponsorship.

The Special Courts Committee and the Court

of Appeals spent many months developing new rules and procedures and conducting educational programs about the new status of District Courts as courts of record. Working with the committee and under the Court of Appeals' direction, attorney Edward J. Harri performed the staff work of writing the rules.

In the new court of record status, the District Courts are using new electronic recording systems for trial reporting in all District Court courtrooms. A review of the rules and procedures provided the principal program for the annual meeting of the District Court Judges Association November 18-20, 1976, and for a statewide District Court staff workshop December 10-11.

## Uniform Jury Instructions

Charles S. Crookham  
Committee Chairman

William A. Beckett  
John Copenhaver  
F. Gordon Cottrell  
Walter I. Edmonds Jr.  
Frank D. Knight

Edward Leavy  
Donald H. Londer  
Wendell H. Tompkins  
William W. Wells  
Charles S. Woodrich

Writing assignments and regular meetings throughout the year involve the Uniform Jury Instructions Committee in the continuing project of clarifying and updating the wording of the instructions judges must deliver to juries, the subject matter depending on the case at trial.

The committee has been busy and productive in making the various instructions conform to the new Oregon Revised Criminal Code. Among the subjects covered have been manslaughter, perjury, riot-related charges, bribery, escape, drug charges, forgery, kidnaping and many others.

The preparation of formal instructions is a joint effort with a similar committee of Oregon State Bar, and it is the Bar which publishes the approved instructions.

## Statistics

**Roland K. Rodman**  
Committee Chairman

**Winston L. Bradshaw**  
**James R. Ellis**  
**Walter W. Foster**  
**Carl G. Stanley**

Non-Conference:  
**Michael Hall**  
**Ray Mayhugh**  
**Gerald C. Schmitz**  
**Lloyd Smith**

Staff:

**Douglas Bray**

Two major developments of 1976 in the program for computerizing court records under Oregon's State Judicial Information System were the first extension of SJIS into the trial courts, those of Marion County, and the approval of two LEAA grants, totaling \$465,000, which assure the further extension of the program into Multnomah and other counties.

Oregon in 1974 was one of the first eleven states to enter the national SJIS project designed to modernize court record keeping, generate new court management and statistical data, expedite case handling and reduce paperwork, all in the interest of an economical improvement of court management throughout the state.

Planning then and now has been led by an Oregon SJIS advisory committee which includes some members of the Statistics Committee of the Judicial Conference. Programming and execution of the program are in the hands of the SJIS staff in the State Court Administrator's office. In 1975 the conversion from manual to automated record keeping in Oregon Supreme Court and Court of Appeals was completed.

The grant money and matching state funds pay for shared time on an existing state computer, for the leasing and installation of terminals in the various courthouses and for the state SJIS staff that develops programs and trains existing court personnel in terminal operation.

Greater standardization of case registers and various court forms is a byproduct of the computer programming. A committee of county clerks worked with SJIS staff in developing

standard case registers for circuit court cases. This is to be tested in 1977 in hopes of statewide implementation by 1978. The new forms and procedures in non-automated counties will permit the recommended expansion of statewide court statistical studies which has been advocated by the Conference Statistics Committee.

In addition to Judges Rodman and Foster and Mike Hall of the Statistics Committee, the following are members of the SJIS Project Committee: Circuit Judges Val Sloper and A. R. McMullen; District Judge Donald R. Blensly; County Clerks Alberta M. Bryant, Lincoln, and Ed Morgan, Marion; Jon Levy, Linn County administrative assistant; Peter J. Meaney, Oregon State Police; and Mike Terry, Lane County Court Administrator.

## Legislative

**John C. Beatty Jr.**  
Committee Chairman

**Donald Blensly**  
**George F. Cole**  
**Ralph M. Holman**  
**Jean L. Lewis**  
**Albin W. Norblad**  
**Herbert M. Schwab**

**Robert M. Stults**  
**Richard Unis**

Staff:

**Charles Gleason**  
**Loren D. Hicks**

While many committees of the Judicial Conference may recommend legislation as a result of their surveys and studies, it is the Legislative Committee that guides the drafting of such legislation, monitors or participates in reviews of laws by outside groups and maintains liaison with the Oregon Legislature during its sessions and interim studies.

This committee keeps the entire judiciary informed of legislative progress and arranges for the appearances of appropriate judges to present testimony to the Legislature. The current scope of the committee's work is indicated in the summary of Conference legislation positions elsewhere in this annual report.

As of January 3, 1977

## Supreme Court

**Chief Justice:**

Arno H. Denecke

**Associate Justices:**

Dean F. Bryson

Ralph M. Holman

Edward H. Howell

Berkeley Lent

Hans Linde

Thomas H. Tongue

## Court of Appeals

**Chief Judge:**

Herbert M. Schwab

**Associate Judges:**

Lee Johnson

Jason Lee

William L. Richardson

Jacob Tanzer

Robert Y. Thornton

## Tax Court

**Judge:**

Carlisle B. Roberts

# The Judiciary

## Circuit Courts

### Judicial District No.; Counties Included

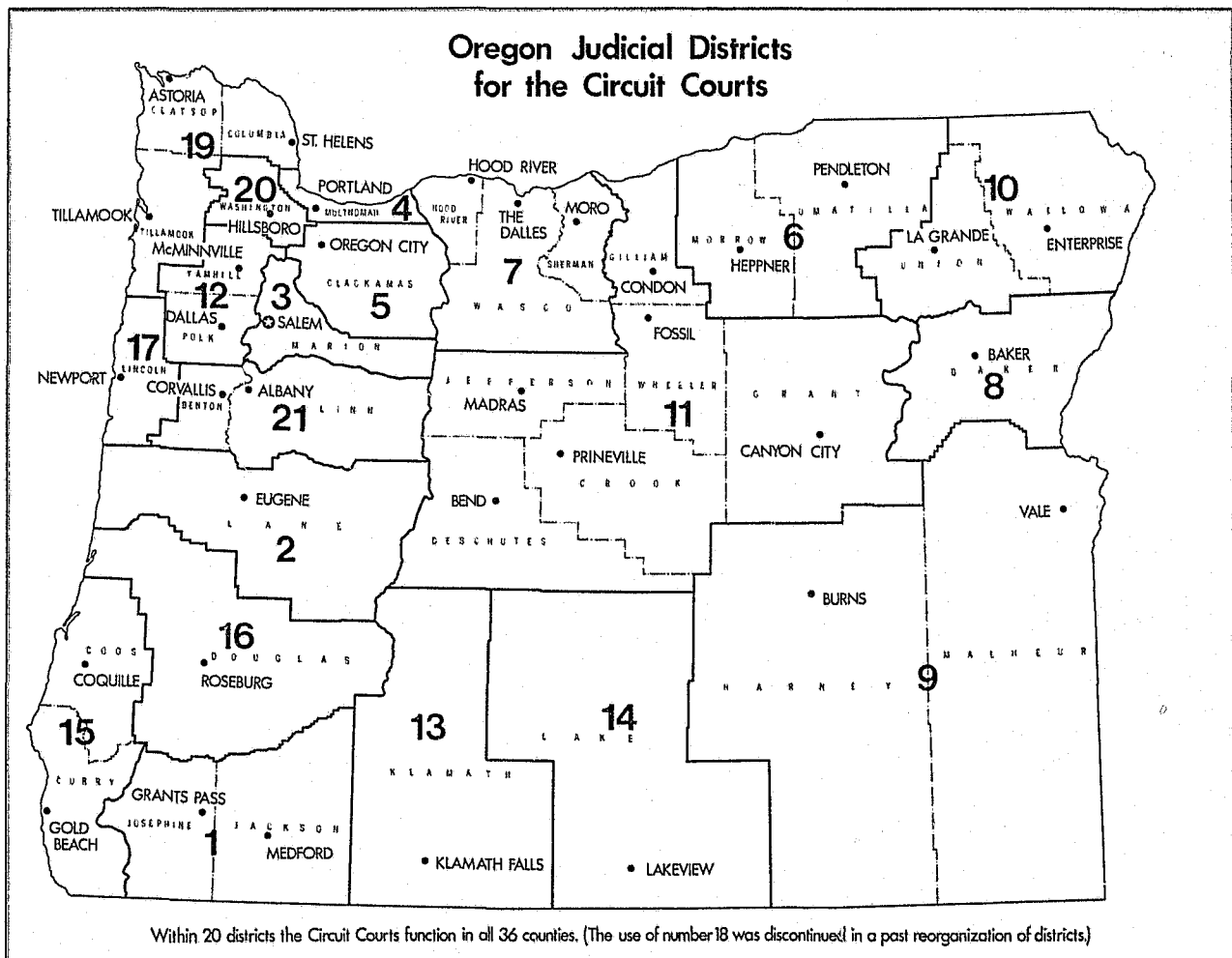
### Circuit Judges As of January 3, 1977

1	Jackson Josephine	Samuel M. Bowe Mitchell A. Karaman	James M. Main Loren L. Sawyer
2	Lane	Edwin E. Allen William Beckett F. Gordon Cottrell Helen J. Frye	Roland K. Rodman Douglas R. Spencer George Woodrich
3	Marion	Richard D. Barber Duane R. Ertsgaard Albin W. Norblad	Jena V. Schlegel Val D. Sloper
4	Multnomah	John C. Beatty Jr. Richard J. Burke Charles S. Crookham William M. Dale Jr. Alan F. Davis Mercedes F. Deiz Pat Dooley James R. Ellis Robert E. Jones	Jean L. Lewis Harlow F. Lenon William S. McLennan John J. Murchison Clifford B. Olsen Phillip J. Roth Alfred T. Sulmonetti George Van Hoomissen Richard L. Unis
5	Clackamas	Howard J. Blanding Winston L. Bradshaw	Dale Jacobs Patrick D. Gilroy
6	Morrow Umatilla	Jack F. Olsen	William W. Wells
7	Hood River, Wasco, Sherman	John A. Jelderks	
8	Baker	William L. Jackson	
9	Harney, Malheur	Frank Yraguen	
10	Union, Wallowa	Warner V. Wasley	
11	Deschutes, Crook, Jefferson, Grant, Gilliam, Wheeler	J. R. Campbell John M. Copenhaver Walter I. Edmonds Jr.	
12	Polk, Yamhill	Kurt C. Rossman Darrell J. Williams	Harry W. Devlin (In new judgeship effective 4-1-77)
13	Klamath	Theodore Abram	Donald A. W. Piper
14	Lake	Charles H. Foster	
15	Coos, Curry	James A. Norman	John C. Warden

# The Judiciary

## Circuit Courts

16	Douglas	Don H. Sanders Robert M. Stults	Charles S. Woodrich
17	Lincoln	A. R. McMullen	
19	Clatsop, Columbia, Tillamook	J. S. Bohannon Thomas E. Edison	Donald L. Kalberer
20	Washington	Donald Ashmanskas Gregory E. Milnes	Albert R. Musick Hollie M. Pihl
21	Benton, Linn	Courtney R. Johns Frank D. Knight	Richard Mengler Wendell H. Tompkins
		<b>Circuit Judges Association</b> President: Pat Dooley	



# The Judiciary

# District Courts

District Judges  
As of January 3, 1977

County	District Judges
Benton	David L. Smedema
Clackamas	Robert M. Mulvey Charles A. Sams
Clatsop	George F. Cole
Columbia	James A. Mason
Coos	Robert E. Jones Charles H. Reeves
Curry	Sam Hall
Deschutes	Joseph J. Thalhofer
Douglas	Carl M. Felker Gerald O. Kabler
Hood River	John F. Cushman
Jackson	Ross G. Davis Lavaughn A. Merryman
Josephine	L. A. Cushing Kim L. Jordan
Klamath	Wayne H. Blair Gary Alan Knutson
Lane	Frank R. Alderson James R. Hargreaves Bryan T. Hodges Winfred K. Liepe Maurice K. Merten
Lincoln	Charles P. Littlehales
Linn	Carl G. Stanley
Marion	Clarke C. Brown Thomas Enright Thomas W. Hansen
Multnomah	Philip T. Abraham William C. Beers Aaron Brown, Jr. Anthony L. Casciato Shirley Field Edmund A. Jordan Donald H. Londer Thomas L. Moultrie Robert W. Redding William C. Snouffer Irving M. Steinbock Edwin A. York
Polk	Walter W. Foster
Umatilla	Richard J. Courson
Union, Wallowa	James A. Monce
Wasco	James C. Donnell
Washington	Karl W. Freerksen Jr. Harold A. Lewis Alan Bonebrake (Effective 2-14-77)
Yamhill	Donald R. Blensly

District Judges Association  
President: Walter Foster



The year 1976 produced many changes on the bench of Oregon by virtue of retirements, new judgeships, appointments and the elections. Some changes occurred early in the year and other changes were set in motion during the year to take full effect in January, 1977.

Six judges were elevated to higher courts by election or appointment: Circuit Judge Berkeley Lent, to the Supreme Court; District Judge William L. Richardson, to the Court of Appeals; District Judges Donald C. Ashmanskas, A. R. McMullen, Albin W. Norblad and Richard L. Unis to the Circuit Courts of Washington, Lincoln, Marion and Multnomah Counties respectively.

The following judges represent additional changes in the judiciary: to the Supreme Court, Hans Linde; to the Court of Appeals, Lee Johnson and Jacob B. Tanzer; to Circuit Courts, William Jackson, Baker County; Jack F. Olsen, Morrow-Umatilla Counties; Robert Stults, Douglas County; George Woodrich, Lane County; Frank Yraguen, Harney-Malheur Counties; Harry W. Devlin, Polk-Yamhill Counties (effective April 1, 1977); to District Courts, Thomas Enright, Marion County; Kim L. Jordan, Josephine County; Charles Littlehales, Lincoln County; Maurice K. Merten, Lane County; Thomas L. Moultrie, Multnomah County; William C. Snouffer, Multnomah County; Edwin A. York, Multnomah County; and Alan C. Bonebrake, Washington County (effective February 14, 1977).

Retirement claimed several of the state's experienced judges, including the two most senior members of the Oregon Supreme Court, Justices William M. McAllister and Kenneth J. O'Connell. Both are former chief justices with distinguished legal careers, Justice McAllister having served 20 years and Justice O'Connell 18 years on the Supreme Court.

Also retiring at the end of the year was Circuit Judge Glen Hieber, Washington County, and earlier in the year Judges Robert H. Foley and Virgil Langtry, both members of the Court of Appeals from its inception; Circuit Judge Henry M. Kaye of Morrow-Umatilla Counties and District Judge Philip M. Bagley of Multnomah County.

Others leaving the bench at the end of 1976 to retire or follow new pursuits are Court of Appeals Judge William S. Fort and Circuit Judges Jeff D. Dorroh Jr. of Harney-Malheur Counties; Eugene K. Richardson, Lincoln County; and Lyle R. Wolfe, Baker County. Circuit Judge Edward Leavy, Lane County, resigned in October, 1976, to accept appointment to the federal bench.

During the year 1975 retirement was taken by Circuit Judges W. F. Brownton, Union-Wallowa Counties; Joseph B. Felton, Marion County; L. Orth Sisemore, Klamath County; and District Judge John F. Gantenbein, Multnomah County. The latter died December 5, 1976. District Judge Robert L. Gilliland, Benton County, resigned in November, 1975.

All Oregon judges of the state system are elected by nonpartisan ballot for six-year terms. When a vacancy occurs between elections, the Governor appoints a successor to serve until the start of the term following the next General Election.

## Judges' Associations

### Circuit Judges

Judges delved into criminal responsibility law, the use of contempt actions to enforce family support payments and ways of handling disruptive litigants when they met in November, 1976, for the annual two-day meeting of the Oregon Circuit Judges Association. Lecturers on these subjects of professional education were Judges Richard D. Barber, George A. Van Hoomissen and Alfred T. Sulmonetti, respectively.

They also heard a review of the Oregon Criminal Code by Donald L. Paillette and a legislative forecast by Judge John C. Beatty Jr., honored retiring Supreme Court Justice Kenneth J. O'Connell and carried out other



professional business.

In their 1975 annual meeting the judges' program included a presentation by the Oregon Parole Board, a review of recent significant appellate decisions, reports of committees and lectures on setting attorneys' fees, criminal justice standards, caseload problems and legislation.

Val Sloper of Marion County served as association president in 1975 and Roland K. Rodman of Lane County in 1976. The latter was succeeded in November, 1976, by Multnomah County Circuit Judge Patrick E. Dooley. Other officers for 1977 are: Darrell J. Williams, vice president; James R. Ellis, secretary; and Richard D. Barber, treasurer.

## Juvenile Judges

Oregon's juvenile judges contributed opinions, discussion and testimony on the proposed new state Juvenile Code that was submitted to the 1977 Legislature. In fact, a re-examination of the juvenile code was the principal focus of the 1976 annual meeting of the Oregon Juvenile Judges Association, March 10-12 at Salishan Lodge.

Senator Betty Browne convened the Interim Judiciary Committee at the same time so that testimony could be taken from the judges as the new code was being drafted. In addition, the judges discussed mutual concerns and heard lectures on domestic relations and juvenile case law by Judges Edward Leavy and Harlow F. Lenon.

In the 1975 annual meeting, February 6-8 at Kah-nee-ta Lodge, the educational program was co-sponsored by the National Council of Juvenile Court Judges and included an address by Judge Noah Weinstein of St. Louis. Intensive study was given to three models of juvenile systems—those linked with county government as in Oregon, those with the state judiciary as in Colorado and those with the executive branch as in Florida.

Legislation review is an important activity of the association and its legislative committee has prepared to make the positions of the

association members known to the 1977 Legislature. Serving as program chairman for the last two annual meetings was Ted Molinari, director of juvenile court services for Polk and Yamhill Counties.

The 1976-77 officers of the Juvenile Judges Association are Circuit Judge William W. Wells, president; Circuit Judge Hollie Pihl, president-elect; and Circuit Judge Samuel M. Bowe, secretary-treasurer.

## District Judges

Oregon's district judges concentrated on studying their new role in conducting a court of record when they met in November, 1976, for the three-day annual professional conference of the Oregon District Judges Association.

Instruction about the law converting their courts to courts of record in January, 1977, was presented by the Judicial Conference Special Courts Committee. Another major part of the association's education program was devoted to reviewing judicial experience with the new 1975 Motor Vehicle Code. A report on a legislative committee's study of fish and wildlife law enforcement was given by State Representative Bernard Byers. The association recommended several legislative proposals to the Judicial Conference.

In the preceding year's conference, the association featured a half-day educational presentation on the legal aspects of search warrants by Judge Charles E. Moylan Jr. of the Maryland Court of Appeals and Judge Richard L. Unis of Multnomah County, both of whom have presented similar instruction at the National College of the State Judiciary. Other 1975 classes were on the conduct of civil trials, presented by Portland attorneys Austin W. Crowe Jr. and Brian L. Welch, and on evidence, by Professor John William Strong, University of Oregon Law School.

The association president in 1975 was Judge Robert M. Mulvey, succeeded by Judges A. R. McMullen in 1976 and Walter Foster in 1977. Judge Ross Davis is secretary-treasurer.

## State Court Administrator

Several significant changes have occurred in the operation of the State Court Administrator's office during the past two years. Manual record keeping for the appellate courts gave way in late 1975 to the new automated records system and subsequently the records work for both the Supreme Court and the Court of Appeals was placed under a single administrator and common staff. Reorganization of other State Court Administrator's staff functions was also carried out. A public information director and a judicial education director have been added.

An overhaul of the format, printing and distribution of the Advance Sheets resulted in one of the major improvements of the period. Delivery to subscribers is now being accomplished within two or three weeks, compared with seven weeks under the old system.

Several of the administrative changes were prompted by recommendations from consultants of the National Center for State Courts after their study of the State Court Administrator's operations in April, 1976. A few of the recommendations, such as that for creating a new position of deputy state court administrator will be given future consideration for implementation.

Earlier physical changes to enhance staff efficiency included a new telephone system and expanded office space for the Administrator's staff and the law clerks in the Supreme Court Building. This was accomplished in 1975 after the Court of Appeals was moved into newly constructed quarters in the State Office Building in order to relieve the severe overcrowding in the court building.

## Hard Working Judiciary

How the average Oregon trial judge divided his working time has been profiled on the basis of data compiled after the first full year of experience with Judicial Service Reports submitted monthly to the Supreme Court by the circuit and district judges. The statistics were seen by judiciary leaders as a positive showing of a hard working judiciary in Oregon with the elected judges concentrating on their primary responsibilities in court and devoting reasonable time to other professional activities and to personal time off.

Of his 253 working days (after deducting holidays and weekends) the average circuit judge worked 220 days in the courthouse, devoted 11.5 days to judicial education and State Bar or Judicial Conference assignments, and was absent 21.5 days because of illness, vacation and other personal reasons. District judges on the average worked 218 days in the courthouse, spent 16 days on judicial education and Judicial Conference or Bar work, and were absent 19 days because of illness, vacation and other personal matters.

## Legal Reference Work

A new legal resource available to bench, bar and law educators is "Criminal Justice Standards in Oregon," a 420-page analysis of how present Oregon law compares with the 476 standards for criminal justice established by the American Bar Association and with the standards of the National Advisory Commission on Criminal Justice Standards and Goals. Commissioned by Oregon Supreme Court and published in October, 1975, the book was researched and written by William C. Snouffer, then a law professor and now a Multnomah County district judge. It was financed by the ABA and the Oregon Law Enforcement Council.

## *Appellate Court Visits*

At the suggestion of the law schools in Eugene and Portland, the Oregon Supreme Court in 1976 followed the lead of the Court of Appeals and inaugurated a plan of occasionally conducting its hearings of attorneys' oral arguments in cities other than Salem. It held a full day of hearings February 4 in the Multnomah County Courthouse, Portland, and another day of hearings November 1 in the City Council Chamber in Eugene. Sessions of the Court of Appeals on several occasions have been conducted at the University of Oregon Law School and the Northwestern School of Law at Lewis and Clark College.

## *New Courts of Record*

All of Oregon's district courts will take on new stature when they officially become courts of record on January 1, 1977. The change, representing an improvement and a modernizing in the administration of justice, resulted from a law enacted by the Legislature in 1975.

For the first time in Oregon the law provides for an official reporting of full trial proceedings so that appeals can be taken from District Court on the record direct to the Court of Appeals. In the past an appeal for District Court has been a retrial of the case in Circuit Court.

Courtrooms of the District Courts were equipped with tape recording equipment in an LEAA-state-financed project to facilitate the required official reporting. Although other

states use courtroom recording devices, Oregon is the first to specify that the audio tape itself will be submitted on appeal to the higher court, rather than a written transcript.

## *Television in Courtroom*

One of the District Court courtrooms in Multnomah County Courthouse has been specially equipped with six unobtrusively placed television cameras and related equipment for the videotaping of actual trials in an educational grant project established by the county and Judge Richard L. Unis. Courtroom performance can thus be recreated for instruction of judges, attorneys, law students, police and others. The system also permits taping of depositions and other uses. Monitoring and control equipment is located at both the judge's bench and an adjacent clerk's desk.

## *LEC Adds Judges*

The judiciary will be represented by three new appointees to the Oregon Law Enforcement Council: Circuit Judge John A. Jelderks, of Wasco, Hood River and Sherman Counties; District Judge Irving M. Steinbock, Multnomah County; and State Court Administrator Loren D. Hicks. Under new federal guidelines for assuring judicial representation on the state councils, the administrator became an ex officio member and the two judges were appointed by Governor Straub.

The fundamentals of administering justice through courts have their origins in centuries past and Oregon's criminal and civil law owe much to the English and American common law—that heritage of evolutionary court decisions defining the rights and duties of individuals in relationship with other persons and with their government.

Under the body of law by which American society governs itself, the courts are called upon to settle disputes between citizens and to give judgment in cases where offenses against the public are charged. Two kinds of law are involved in the process. Statutory law is enacted by the Legislature or the Congress. Basic criminal law in Oregon, for example, is mainly statutory. Case law, on the other hand, is judicial precedent established by specific court decisions that interpret or amplify the statutory law.

Different courts have been created in Oregon to perform variously assigned functions in both criminal and civil law. The criminal, civil and geographical jurisdiction of the courts has been defined by legislative action. The system of state courts includes the Supreme Court, the Court of Appeals, the Circuit Courts, the Tax

Court and the District Courts. Justice Courts, those conducted by justices of the peace, operate under state law but are established by county governments.

Municipal Courts and state administrative tribunals operate outside the state system but within legislative direction. Municipal courts are established by city government charter. Administrative tribunals are quasi-judicial bodies of certain agencies of the executive branch of the government, established to settle disputes over actions taken by those agencies under administrative rules. Both municipal court decisions and administrative tribunal decisions may be appealed to the state courts.

The judiciary of the state system consists of judges who are elected by non-partisan ballot for six-year terms. Judges of the Supreme Court, the Court of Appeals and the Tax Court are elected statewide. Circuit and district judges are elected within the judicial district in which they sit. A vacancy in any of these courts between elections may be filled by appointment of the Governor; the appointive period to terminate with the start of the regular term following the next general election.

## Supreme Court

The court of final appeal in the State of Oregon is the Supreme Court, comprising seven elected justices who in turn choose one of their own members as Chief Justice to serve a six-year term. The court has its headquarters and courtroom in the Supreme Court Building, just east of the Oregon Capitol in Salem.

This court has exclusive appellate jurisdiction over Tax Court decisions and circuit court decisions involving contracts, private wrongs or injuries, real property and other matters in which jurisdiction is not specifically assigned by law to the Court of Appeals. The Supreme Court has the discretion to accept review of a Court of Appeals decision.

In a few legal proceedings the Supreme Court has original jurisdiction. These are mandamus (ordering an official to carry out a certain legal function), quo warranto (challenge of an offi-

cial's right to hold the office), and habeas corpus (legality of detention).

The Supreme Court has the authority to assign judges to sit in other than their elective district for temporary periods and to appoint senior judges and qualified attorneys to sit as judges pro tempore. Oregon law confers on the Supreme Court general administrative authority and supervision over the courts of the state. The Court's administrative and supervisory functions are exercised for the Court by the Chief Justice through the State Court Administrator.

The Supreme Court also has the power to censure, suspend or remove judges upon investigation by the Commission on Judicial Fitness and the Court has the power to reprimand, suspend or disbar attorneys upon investigation and trial by the Oregon State Bar.

### *Court of Appeals*

The Court of Appeals, which was added to Oregon's appellate system in 1969, has six judges who are elected statewide and who select their own chief judge for a six-year term. This court sits in Salem, conducting its hearings in the courtroom in the Supreme Court Building.

The Court of Appeals has exclusive jurisdiction over appeals from the district courts, this function having been added by law on January 1, 1977. It also receives all appeals from the circuit courts in criminal matters, including appeals in post-conviction, habeas corpus and extradition proceedings; appeals in probate matters including inheritance, guardianship and conservatorship proceedings and adoption proceedings; appeals in juvenile proceedings and in domestic relations, including child custody, support and filiation proceedings; appeals in all matters in which any agency of state or local government is a party, except appeals from the Oregon Tax Court; appeals from orders in disciplinary actions by the Corrections Division and in matters of parole and probation.

Parties to a decision of the Court of Appeals may petition for review of that decision by the Supreme Court. In that event the Court of Appeals has 10 days to decide whether it will reconsider its decision; after that the Supreme Court has discretion as to whether it will review the case.

### *Tax Court*

The Oregon Tax Court is a court of statewide jurisdiction with headquarters in the State Library Building in Salem. Court is usually held in Salem but it may by prearrangement be held in counties of the state where the taxpayer resides or where property in question is located. No juries are involved and the procedure is the same as in equity cases.

The judge of the court is elected on a statewide basis for a six-year term. The court generally has the same powers as the circuit courts, except its jurisdiction is exclusive and is limited to cases involving personal income taxes, corporate excise and income taxes, timber taxes, real

and personal property taxes and inheritance and gift taxes. There are two divisions of the court, the regular division and the small claims division.

### *Circuit Courts*

As the state's trial court of general jurisdiction, the circuit court is the only court which may try felony cases, although the felony arraignments and preliminary hearings may be held in lower courts. The circuit court has unlimited monetary jurisdiction in civil matters and hears both law and equity cases.

Circuit courts have jurisdiction in probate, guardianship and conservatorship cases in all counties except Gilliam, Grant, Harney, Malheur, Sherman and Wheeler, where the county courts have probate jurisdiction. Similarly, the jurisdiction over juvenile and adoption matters rests with circuit courts except in Crook, Gilliam, Harney, Jefferson, Morrow, Sherman and Wheeler Counties.

Multnomah County Circuit Court has separate departments for both probate matters and for juvenile and domestic relations cases. Marion County Circuit Court has a separate domestic relations and juvenile department. Such court-established departments have no special powers beyond those which all circuit courts exercise in probate and domestic relations law.

### *District Courts*

The district courts are courts of limited jurisdiction in Oregon. They may try civil cases involving no more than \$3,000. In criminal cases they have jurisdiction over misdemeanors in which punishment can be no more than a fine of \$3,000 or imprisonment of one year, or both.

District courts try most of the state's traffic cases and small claims cases, those involving recovery of no more than \$500 in money or damages.

In nine of the 24 counties having district courts the district judge has the same probate authority vested in circuit judges. The counties are Benton, Clatsop, Coos, Curry, Deschutes,

Hood River, Lincoln, Wasco and Washington. In the other counties probate cases may be assigned by circuit court to a district judge.

The district courts are courts of record as of January 1, 1977, under new state law providing for the reporting of cases by electronic recording. Appeals go directly to the Court of Appeals, using the actual cassette tape as the transcript of the trial proceeding.

### *Justice Courts*

Justices of the peace operate the justice courts which county courts or boards of county commissioners have authorized, but their jurisdiction may not include the cities in which there is a district court.

The justice court has civil jurisdiction, non-exclusive, where the amount claimed does not exceed \$1,000, except in actions involving title to real property, false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction or upon a promise to marry. Justice courts have small claims departments where actions for recovery of money or damages not to exceed \$500 may be prosecuted.

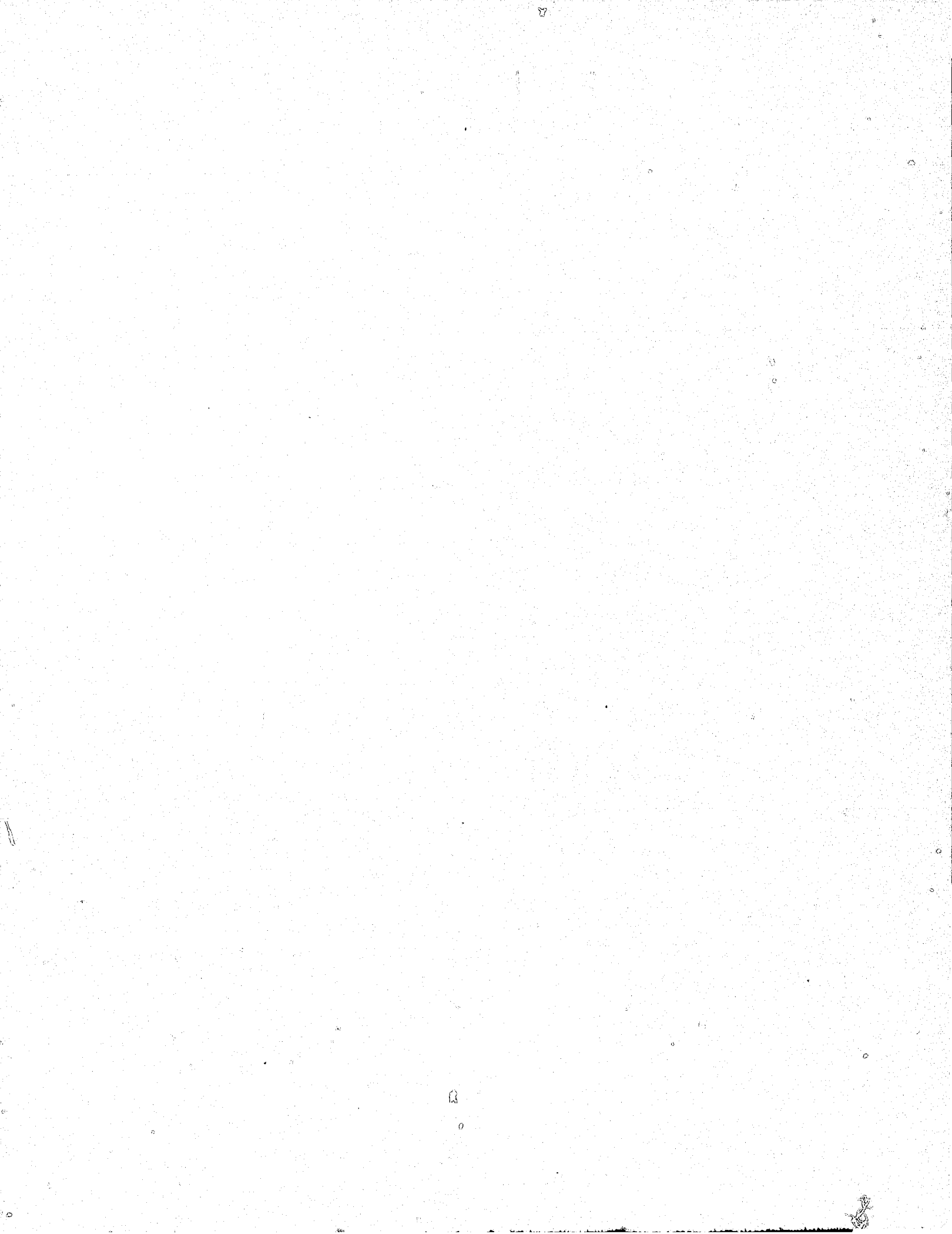
Justice court has criminal jurisdiction in all misdemeanors (crimes punishable by imprisonment for no more than one year) but the defendant may elect to have his case transferred to a district court or, if there is no district court, to the circuit court in the county of his arrest. Justice courts also have jurisdiction over traffic and other violations.

Forty-four Oregon communities have justice courts. The justices of the peace are not required to be attorneys and they are not members of the Oregon Judicial Conference.

### *Municipal Courts*

Most cities in Oregon have a municipal court, controlled in some procedural aspects by state law. Its primary function is to decide cases involving violations of city ordinances.

The procedure and formality of these courts varies greatly. Many small cities combine the functions of municipal court judge with those of recorder, treasurer or other official, in one person. Few municipal judges are elected (most are appointed by the common council) and only a relative few have legal backgrounds. They are not members of the Oregon Judicial Conference.



**END**