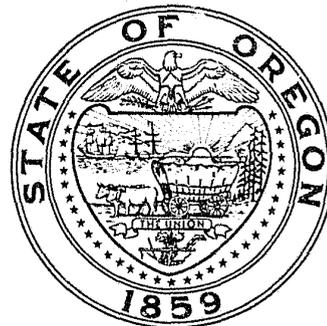


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Original -

Judicial Conference Of The State Of Oregon 1974



OFFICE OF THE STATE COURT ADMINISTRATOR
Ex Officio
EXECUTIVE SECRETARY TO THE CONFERENCE -
Supreme Court Building
Salem Oregon

28369

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Oregon State Courts

Supreme Court

Kenneth J. O'Connell, Chief Justice

William M. McAllister, Associate Justice
Arno H. Denecke, Associate Justice
Ralph M. Holman, Associate Justice
Thomas H. Tongue, Associate Justice
Edward H. Howell, Associate Justice
Dean Bryson, Associate Justice

Court of Appeals

Herbert M. Schwab, Chief Judge

Virgil Langtry, Associate Judge
Robert H. Foley, Associate Judge
William S. Fort, Associate Judge
Robert Y. Thornton, Associate Judge
Jacob Tanzer, Associate Judge

Tax Court

Carlisle B. Roberts, Judge

Circuit Courts

District No.	Counties Included	Name
1.	Jackson Josephine	James M. Main Samuel M. Bowe Loren L. Sawyer Mitchell Karaman
2.	Lane	Edward Leavy Roland K. Rodman F. Gordon Cottrell Edwin E. Allen Douglas R. Spencer Helen J. Frye
3.	Marion	Jena V. Schlegel Val D. Sloper Joseph B. Felton George A. Jones (Resigned 8-15-74) Duane R. Ertsgaard Richard D. Barber (Apptd. 9-3-74)
4.	Multnomah	James R. Ellis Richard J. Burke Clifford B. Olsen Alan F. Davis John C. Beatty, Jr. Berkeley Lent William S. McLennan Alfred T. Sulmonetti Phillip J. Roth Robert E. Jones George Van Hoomissen Jean L. Lewis William M. Dale, Jr. John J. Murchison Charles S. Crookham Harlow F. Lenon Pat Dooley Mercedes F. Deiz
5.	Clackamas	P.K. Hammond (Resigned 12-1-74) Winston L. Bradshaw Howard J. Blanding Dale Jacobs Patrick D. Gilroy (Apptd. 12-11-74)

Circuit Courts Cont.

District No.	Counties Included	Name
6.	Morrow Umatilla	William W. Wells Henry M. Kaye
7.	Hood River, Wasco, Sherman	John A. Jelderks
8.	Baker	Lyle R. Wolff
9.	Harney, Malheur	Jeff D. Dorroh
10.	Union, Wallowa	W.F. Brownton
11.	Gilliam, Grant, Crook, Deschutes, Jefferson, Wheeler	J.R. Campbell John M. Copenhaver
12.	Polk Yamhill	Darrell J. Williams Kurt C. Rossman
13.	Klamath	L. Orth Sisemore Donald A.W. Piper
14.	Lake	Charles H. Foster
15.	Coos, Curry	James A. Norman John C. Warden
16.	Douglas	Don H. Sanders Charles S. Woodrich
17.	Lincoln	Eugene K. Richardson
19.	Clatsop, Columbia, Tillamook	Thomas E. Edison J.S. Bohannon Donald L. Kalberer
20.	Washington	Glen Hieber Albert R. Musick Hollie M. Pihl
21.	Benton, Linn	Richard Mengler Wendell H. Tompkins Courtney R. Johns Frank D. Knight

President — Circuit Judges Association — Clifford B. Olsen (to 11-8-74)
Val D. Sloper (from 11-8-74)

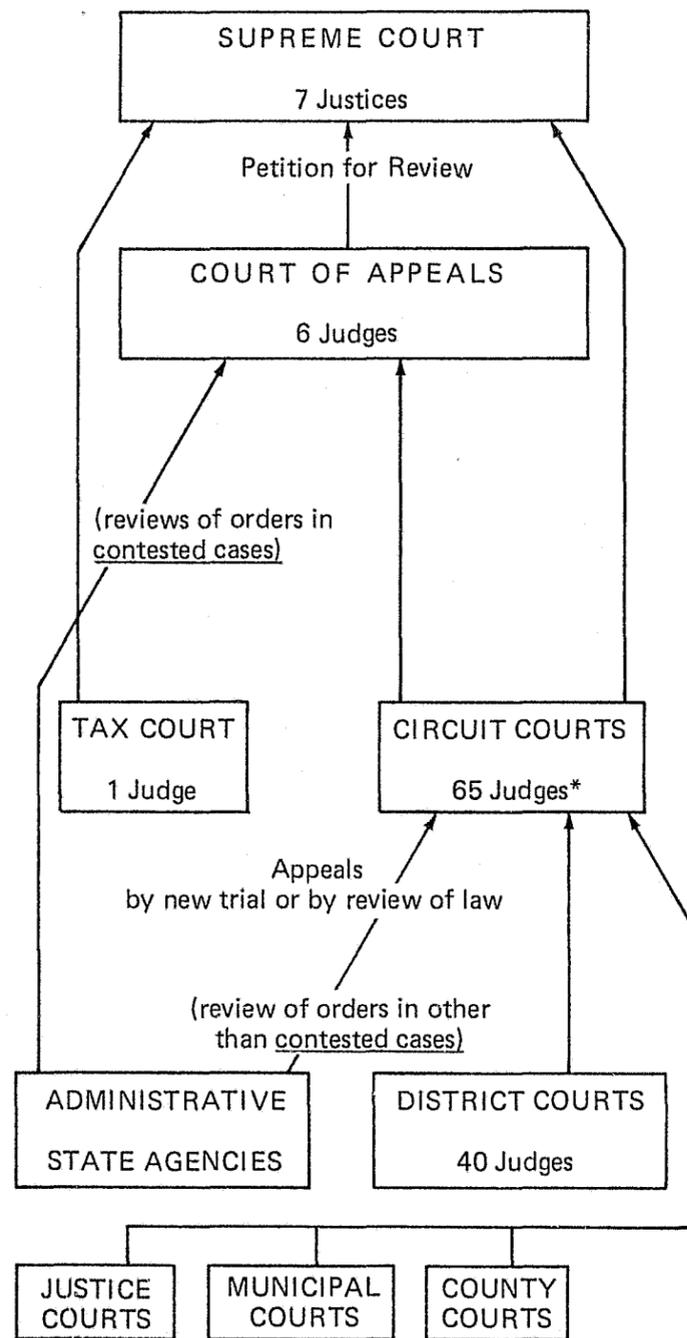
District Courts

County	Name
Benton	Robert L. Gilliland
Clackamas	Charles A. Sams Robert M. Mulvey
Clatsop	Harold T. Johnson (Died 6-24-74) George F. Cole (Apptd. 8-15-74)
Columbia	James A. Mason
Coos	Charles H. Reeves
Curry	Sam Hall
Deschutes	Joseph J. Thalhofer
Douglas	Gerald O. Kabler Carl M. Felker
Hood River	John F. Cushman
Jackson	Lavaughn A. Merryman Ross G. Davis
Josephine	L.A. Cushing
Klamath	Wayne H. Blair
Lane	Frank R. Alderson William A. Beckett Winfred K. Liepe
Lincoln	A.R. McMullen
Linn	Carl G. Stanley
Marion	Albin W. Norblad Thomas W. Hansen
Multnomah	Robert W. Redding John F. Gantenbein

District Courts Cont.

County	Name
	William C. Beers Irving M. Steinbock Shirley Field Philip T. Abraham Philip M. Bagley Aaron Brown, Jr. Anthony L. Casciato Edmund A. Jordan William L. Richardson Richard L. Unis
Polk	Walter W. Foster
Umatilla	Richard J. Courson
Wasco	Sam Van Vactor (Resigned 8-31-74) James C. Donnell (Apptd. 8-31-74)
Washington	Harold A. Lewis Gregory E. Milnes
Yamhill	Donald R. Blensly

President — District Judges Association — L.A. Cushing



Discretionary original jurisdiction in mandamus, quo warranto and habeas corpus proceedings; Appellate jurisdiction in cases involving real property, contracts, torts, appeals from the Tax Court, and in all appeals in which the Court of Appeals does not have jurisdiction.

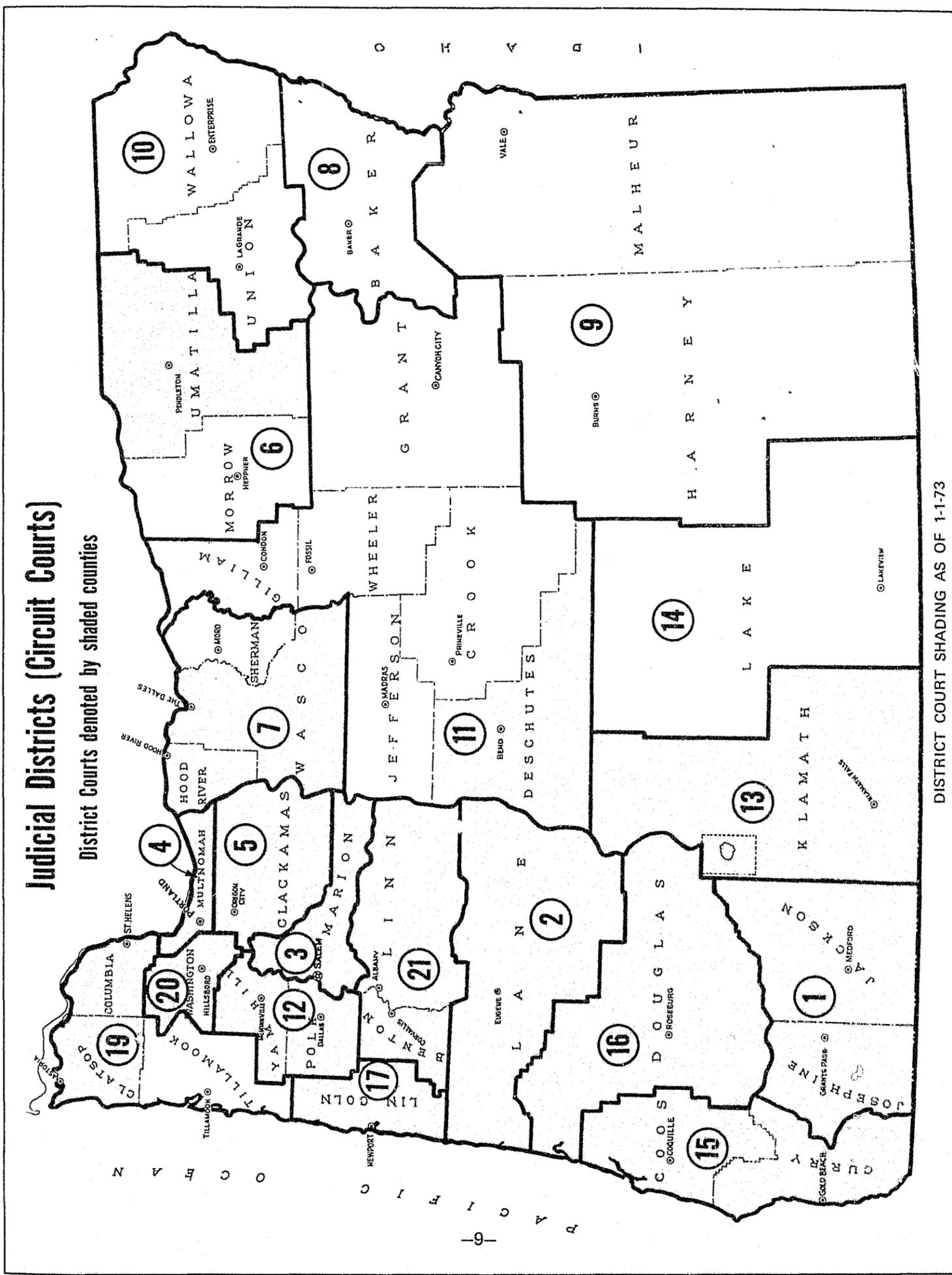
Exclusive appellate jurisdiction in criminal, post-conviction and habeas corpus; probate; domestic relations, adoptions and juvenile matters; appeal of cases where government agency is a party except from the Oregon Tax Court.

General trial and limited appellate jurisdiction.

Limited jurisdiction trial courts and tribunals.

10 County Courts with judicial functions in probate and/or juvenile. (Justice, Municipal and County Court Judges are not members of the Judicial Conference).

*66 as of 1-1-75



Judicial Districts (Circuit Courts)
District Courts denoted by shaded counties

DISTRICT COURT SHADING AS OF 1-1-73

Executive Committee

OREGON JUDICIAL CONFERENCE

Chief Justice Kenneth J. O'Connell, Chairman

Associate Justice Edward H. Howell
Judge Virgil Langtry
Judge J.S. Bohannon
Judge Edward Leavy
Judge Don H. Sanders
Judge Harold A. Lewis
Judge William A. Beckett

Liason representatives:

Judge Val D. Sloper, Circuit Judges Association
Judge L. A. Cushing, District Judges Association
Judge Donald Kalberer, Juvenile Judges Association

Loren D. Hicks, State Court Administrator
Executive Secretary to the Conference

Oregon Judicial Conference Activities 1974

The Judicial Conference Of Oregon pursuant to ORS 1.840 submits its annual report for 1974.

Major effort of the Conference and of the individual courts and judges during 1974 was to deal effectively with the constantly growing number of cases coming to the courts. It is increasingly difficult, but absolutely essential, to maintain a high quality of justice despite the increasing quantity, variety and pressure of judicial business. The Conference and its members are constantly searching and striving for progressive and successful approaches to the problem. Much has been accomplished in this regard during 1974 in individual courts, in the work of conference committees, the judicial associations and in the full Judicial Conference meetings.

MEETINGS:

The Judicial Conference met on two separate occasions in 1974. The first in June at Eugene, Oregon, and the second in November at Gleneden Beach.

The regular two and one-half days meeting in June was preceded by a one-day workshop for probate judges and their staffs. The full Conference meeting was an instructive meld of judicial business and judicial education. The education topics included "Judicial Conduct" presented by Judge Warren Cunningham, Houston, Texas, "What Trial Lawyers Don't Like About Judges" presented by Judge Robert Jones, and a panel of eminent Oregon attorneys, and "Courts and the Community" presented by Judge Donald Fretz of Merced, California.

The business of the Conference consisted of the reports and recommendations of the standing committees, and Conference action thereon. Judicial Conference action on the committee recommendations are contained elsewhere in this report.

The purpose of the November meeting was to provide an opportunity for judicial expression on certain legislation proposed for the 1975 Legislative Assembly. The Judicial Conference considered seven legislative recommendations proposed by the Governor's Commission on Judicial Reform, legislation proposed by the legislature's Interim Committee on Judiciary to revise the classification of traffic offenses and adjudication procedures pursuant to the Revised Oregon Vehicle Code, and other legislation recommended by individual standing committees of the Conference.

The seven major proposals recommended by the Governor's Commission on Judicial Reform are "The Prosecution Function," "Costs of Litigation," "Judicial Retirement," "Selection, Tenure and Qualifications of Judges" "State-wide Public Defender System," "Procedural Rulemaking Authority," and "Court Structure." The Conference decided to take no position on the "Prosecution Function" proposals; the "Costs of Litigation" proposals were supported except that the provision concerning district courts not as courts of record was transposed for consideration with the "Court Structure" proposals, which was later tabled by the Conference. The "Judicial Retirement" measure was supported by the Conference. All recommendations concerning "Selection, Tenure and Qualifications of Judges" were supported except that the provision to remove the present one-year prior residence requirement and the provision to remove the present statute allowing Multnomah County judges to live outside the county if within 10 miles thereof were opposed. The "State-wide Public Defender System" proposal was supported by the Conference. Concerning "Procedural Rulemaking Authority" the Conference voted to reaffirm the position it took at the June Judicial Conference which was in part to support the legislative measure creating a Council on Civil Procedures as prepared by the Conference Committee on Procedure and Practice.

The Conference voted to reaffirm its position taken at the June meeting which was to support the concept of the legislation being drafted by the Interim Committee on Judiciary. The measures deal with offense classifications and adjudication procedures and a complete rewrite of the Oregon Vehicle Code.

The Conference considered a resolution prepared and offered by the Legislative Committee of the Conference concerning the Judicial salary structure. The resolution provided that the 1975 Legislative Assembly be requested to provide a cost-of-living salary increase for the judiciary for fiscal 1975-76 in the general percentage granted to other state employees, and further suggested that a permanent commission to examine into and fix judicial salaries on a biennial basis be created. The resolution was adopted by the Conference.

The session adjourned after the endorsement of four other legislative measures. These concerned the retention of court reporters' notes and trial court

calendar, an increase in statutory jury and witness fees, extending judicial conference membership to retired judges, and the creation of a commission on modernization of court facilities.

Work of the Standing Committees of the Conference

BENCH BOOK COMMITTEE:

The Bench Book Committee has determined to develop bench books for criminal law and procedure and together a companion desk book. The bench book will be designed for a ready reference to be used on the bench as questions develop in criminal court proceedings. The desk book will follow the case outline in the bench book but will be designed for use in chambers, if the judge wishes to do additional reading on a particular point.

The Committee had withheld taking affirmative action pending the adoption of the new Oregon Criminal Procedure Code and for publication by the Oregon State Bar of a Continuing Legal Education book on criminal law and also the publication of the new Oregon Sentencing Manual for Judges. Now that the new legislation has been enacted and the publications have become reality, the committee will proceed with drafting.

The Committee has hired an editor for the bench book and has developed a topic outline and recruited Alameda and district court judges to assist in writing the book. The goal of the committee is to have bench books available for distribution by November 1975.

CALENDARING COMMITTEE:

The Calendaring Committee met extensively during the years 1972 and 1973 to ensure the continued review of case backlog and the disposition of cases, but was less active in 1974. The committee continues to urge the trial courts to implement the model procedures and uniform rules for the calendaring and monitoring of cases in the trial courts as developed by the committee. The calendaring rules were designed to serve courts using an individual or master calendaring system. The committee also developed a uniform trial date notice form.

COURT FACILITIES COMMITTEE:

The Court Facilities Committee chaired by Judge William Fort met in November to consider problems

relating to design and utilization of efficient court buildings and facilities in Oregon.

In October, Judges Fort, Rodman, Karaman and Brownton attended the American Bar Association and American Institute of Architects Conference in Chicago, on the subject of designing efficient courtrooms and courthouses.

The committee proposed that Oregon establish a Court Facilities Accreditation Commission and the proposal was submitted to the full Judicial Conference in November and approved. Legislation was drafted and submitted to the 1975 Legislature establishing such a commission patterned after the New Hampshire commission.

CRIMINAL LAW AND PROCEDURE COMMITTEE:

The chairman of the committee reported that no activities undertaken in 1974 were sufficiently complete for a meaningful report.

ELECTRONIC DATA PROCESSING COMMITTEE:

The Electronic Data Processing Committee has been served by a multi-disciplinary membership of judges, court administrative personnel and professionals in the field of electronic data processing and records management. The committee has kept abreast of developments at the state and local levels that deal with electronic data processing for court records. There has also been continuing communication between the State Judicial Information System project personnel and the committee members pertaining to computerized court records. During the last quarter of 1974 the committee formulated a set of proposed rules for consideration for enactment by the Oregon Supreme Court under the authority of ORS 7.095.

JUDICIAL ADMINISTRATION COMMITTEE:

During 1974 the committee had divided itself into four sub-committees with specific areas of responsibility. The committee has undertaken studies in several fields and has adopted specific recommendations of importance to the Conference.

An initial study has been made to determine how standards or criteria can be developed in determining the necessity of creating new judicial positions. A subcommittee report of some depth suggests the establishment of a "think tank" approach utilizing systems analysis and calling for staff and funding.

Studies are underway to determine the desirability of establishing a clerk of the court position as a

judicial employee, giving broader power to presiding judges and establishing district court judicial districts. One subcommittee is concentrating on proposals for statutory procedure changes which would be of particular aid to the judiciary.

Liaison is being maintained between the Judicial Administration Committee of the Oregon State Bar and with the Judicial Reform Commission, the latter with particular regard to state funding of the court system.

The committee has acted as agent of the Judicial Conference in reviewing requests for new judicial positions and has assisted the Executive Committee in responding to legislative requests for recommendations during the legislative session.

The committee made a request to the Oregon State Bar Judicial Administration Committee to introduce legislation amending the statutes relating to terms of court so that judicial districts may set their own terms.

The committee considered a wide variety of matters relating to judicial salaries and retirement. Three specific recommendations in this area were made to the entire Judicial Conference in June. The first, that the Judicial Conference recommend to the legislature that the retirement benefits for judges be increased to 50% and that the surviving spouse benefits be increased to 25% of the final pay of judges at the time of retirement. The recommendation was adopted unanimously by the Conference.

Second, the committee moved that the Conference adopt its recommendation that legislation be submitted to the 1975 Legislature to allow for a cost-of-living increase for all judges who are retired after the effective date of the Act up to 3% a year and that the judges who are contributing to the retirement fund increase their contribution from 7% to 8%. The Conference supported the recommendation that the legislature grant a cost-of-living increase of 3% per year to judges who retire after the effective date of the Act.

The committee recommended a specific salary increase for all judges which initially was supported by the Conference but was later reconsidered and rejected.

Since June the committee has considered whether the Conference should adopt a policy statement regarding judicial vacation and leave. A lengthy state-

ment was adopted by the committee and forwarded to the Executive Committee of the Conference.

Discussion has been had regarding a detailed examination of proposed legislation affecting the judicial system and the committee's desire for such was forwarded to the Executive Committee. A study of the small claims statute is being considered.

JUDICIAL CONDUCT COMMITTEE:

The Judicial Conduct Committee was created in November 1973 to study and monitor Oregon's Code of Judicial Conduct and general problems of judicial conduct and to maintain liaison with the Judicial Fitness Commission, the Governor, and the Chief Justice, regarding the standards of conduct and criteria for selection of judges. The committee made a brief report to the Oregon Judicial Conference in June 1974. The committee listed several areas of interest it might pursue in the future. The committee recommended that it should be continued and that it evaluate the Canons of Judicial Ethics as adopted by the Oregon Supreme Court.

JUDICIAL EDUCATION COMMITTEE:

The Judicial Education Committee accomplished much in 1974. Assisting the State Court Administrator in January and February the committee contributed to the curriculum and practical benefit of the New Judge Orientation Course. A subcommittee was designated to develop the academic portion of the orientation program for 1975.

The committee was highly successful in the development and execution of the Municipal Judge/Justice of the Peace Education Conference in March. Formal evaluations and informal remarks attested to the value of the conference. Another session is planned for 1975.

The educational program of the Judicial Conference in June was planned and arranged in its entirety by the committee. The three subjects, "Judicial Conduct," "What Trial Lawyers Don't Like About Judges," and "Courts and the Community," were well received by all in attendance.

Following the Judicial Conference the chairman of the committee arranged the education program for the District Judges Association annual meeting. The program was highlighted by New York Judge Irving Younger who presented a two-day course on a wide variety of evidentiary topics.

During the course of the year the committee had a great planning for the educational programs of 1975. In addition to the New Judicial Education Course, the Oregon Judicial Institute and the Judicial Seminars and the Judicial Institute Seminars, the committee expects to develop an educational program for court support personnel.

In order to contribute to quality judicial education on a continuing basis, individual members participate continuing to volunteer their professional training and educational programs.

LEGISLATIVE COMMITTEE:

During 1974 the Legislative Committee considered two special problems. One, the so-called Conflict of Interest Bill introduced and passed during the 1974 Special Session of the legislature, and two, the drafting of bills for the guaranteeing of proposed legislation approved by the Oregon Judicial Conference for introduction during the 1975 session of the legislature.

During the 1974 Special Session of the legislature, the committee followed the progress of HB 3304 and HB 3471, the conflict of interest bills, from the time of their introduction through the committee hearings on these bills, and until the final enactment of HB 3304 (Oregon Law, 1974, ch. 72) and reported all developments on both bills to both the Executive Committee and the Committee on Judicial Administration. It was the decision of those committees that no opposition be made at the hearings on these bills either in favor of or in opposition to them.

At the Judicial Conference in June 1974 the Conference voted to authorize its Executive Committee to appoint a legislative representative for the Conference at the 1975 session of the legislature. At its meeting in November however, the Conference re-considered that action and voted to authorize the permanent Executive and Legislative Committees to make a final decision on that question.

A meeting of the permanent committees was then held and voted unanimously not to engage such a legislative representative. Instead, the committee agreed upon a sub-committee on Judicial Salaries and Retirement headed by Judge Schwab, and a sub-committee on other legislative matters headed by Judge Langer with instructions to report to state court judges at regular intervals concerning the pro-

gress of legislation during the 1975 session. The first of such reports was made on December 30, 1974.

MINOR COURTS COMMITTEE:

The Minor Courts Committee was created in November 1973 to study and advise the Oregon Judicial Conference on problems of special interest to the minor courts in Oregon. The committee met twice in 1974, once with the Legislative Interim Committee on Judiciary, Subcommittee on Adjudication. The scope of this meeting dealt with the decriminalization and administrative adjudication of traffic offenses.

The committee presented its report to the Oregon Judicial Conference in June 1974. It recommended that the Conference support the plan of the Legislative Committee on Judiciary to revise the Oregon Vehicle Code to reclassify most traffic offenses into traffic infractions and to restrict the trial of traffic infractions to court trials without a jury and with no right to counsel at public expense. The committee further recommended that the Conference support the concept of SB 403 which would provide for direct appeals from the district courts to the Court of Appeals.

The Conference supported the committee's recommendations in June and reaffirmed its support of the committee's recommendations in November.

Since the last meeting of the Oregon Judicial Conference the Minor Courts Committee has participated in the revision of the Oregon Minor Courts Judges Manual. The revision of this manual was carried out under the auspices of a federal grant to the Supreme Court.

PROBATE LAW AND PROCEDURE COMMITTEE:

One of the primary charges of this committee has been to develop efficient methods of handling probate cases by the judges and their staffs. In pursuing this task the committee endeavors to maintain a direct liaison with the Oregon State Bar Committee on Probate Law and Procedure. The 1973 annual report of that committee indicated a strong concern regarding the high percentage of decedents' estates pending over three years. The Oregon State Bar acknowledged that the delay in the handling of probate matters was clearly one of the lay public's major annoyances with the judicial system. The Chief Justice requested that the committee take a leading role in investigating the

cause of probate delay and recommend an appropriate system to remove the delay.

As a result of that directive the committee developed and conducted what became Oregon's first Probate Workshop. Not only were all of Oregon's probate judges invited to attend and participate in the session, but special efforts were made to attract all probate commissioners, legal assistants and other court officers working with probate.

Judge Val Sloper and several of Oregon's newly created probate commissioners made a presentation on how the implementation of that program could be of assistance to an over-burdened court. Judge P.K. Hammond explained the judge's role in probate administration and conducted a comprehensive review of the Judicial Conference's approved tickler system. Dean Eugene Scoles presided over a forum whose task was to answer questions arising under the new guardianship code. Judge William McLennan offered a report on Oregon's recently enacted mental commitment procedure which was to be effective July 1st. Walter Pendergrass, the chairman of the Bar's committee, assisted the group in ascertaining what changes in the probate laws might be proposed in the coming legislative year.

PROCEDURE AND PRACTICE COMMITTEE:

The committee was established by the Executive Committee of the Judicial Conference in November 1973. The committee was instructed to:

"Study and make recommendations concerning court procedure and practice; form of pleadings, handling of dockets and court documents; form of process, notices; conflicts and legislation regarding procedures. Maintain direct and close liaison with the Oregon State Bar Committee on Procedure and Practice."

Under this mandate the committee was directed to examine exhaustively the state's procedural rules and statutes to determine whether, and if so, in what respect, they are deficient in meeting the needs of the courts, the bar and the litigants. The committee was asked to propose changes which appear to be desirable, and to consider whether in order to accomplish these purposes procedural rule-making powers should by statute be vested in some body other than the legislature.

The committee met often from January to June 1974 and arrived at certain basic conclusions from which flow its basic recommendations on the matter of rule-making.

First, there are a number of changes in Oregon civil procedure which are desirable and long overdue.

Second, some of the changes require staff studies before they can be accomplished because of the complex interrelationships of various code sections.

Third, the historical pattern of episodic piecemeal change by the legislature has failed to produce consistent improvement in our code of civil procedure or adaptation of the code to meet changing needs because no one in the legislature is responsible for the kind of meticulous staff study which is necessary to accomplish it. In view of the pressure upon the legislature to deal with major social, environmental and economic problems, it is highly unlikely that the 1975 Legislature or any other legislature will ever be in a position to make studied, consistent evaluation and improvement in the judicial code of civil procedure.

Fourth, it is desirable to provide a continuous review and modernization of our civil procedure apart from the legislative process but subject to its ultimate control in order to provide more efficient trial procedures for the benefit of the litigants, the court, the bar and the general public.

Fifth, 33 states have now vested the responsibility for civil procedural change in their highest appellate court instead of their legislative assembly.

Sixth, the committee is committed to the necessity of procedural change. The committee believes that the Supreme Court is not the only agency which can perform that function and that the Legislative Assembly should not be wholly deprived of any part in this process. Likewise, the committee does not believe that the Oregon Procedural System in use for 115 years need be abandoned. Evolutionary modification in an orderly way is preferable to substitution of a totally new procedural system, but in the committee's judgment, in the absence of a mechanism for orderly change, the frustrations of legislators, lawyers, judges, litigants, and the public, are likely to result in the substitution of a totally new system.

For the reasons set forth above, the committee has concluded that the responsibility for civil procedural change should be vested by statute in a Council on

Civil Procedure. Based on the findings, the committee drafted a bill for the creation of a Council on Civil Procedure. The committee submitted its initial report and proposed bill to the Oregon Judicial Conference in June of 1974. The committee recommended that the Conference approve the bill to create a Council on Civil Procedure; that the Conference allow the committee to complete the second phase of its work, the detailed discussion of specific areas of procedure that need attention; and that the committee be authorized to continue its work for the purpose of assisting in the presentation of the bill to the 1975 Legislature. The Conference voted unanimous approval of the committee's report and recommendations.

PUBLIC RELATIONS COMMITTEE:

The committee was expanded during 1974 to include Helen Riordan of the Public Service and Information Committee of the Oregon State Bar. There were no official meetings of the entire committee but the chairman did meet with Mrs. Riordan in an attempt to establish specific goals for the committee and methods for accomplishing the same.

The State Court Administrator's office is proceeding with the project of establishing a full-time public information officer who would be involved with public information and relations on a statewide basis. It is thought that in the future this committee might proceed in the following areas:

1. *Work more closely with the Oregon State Bar Committee on Public Service and Information.*
2. *Establish a format for use by the courts of each judicial district in developing projects such as the student visitor programs, volunteer community service programs as sentencing alternatives, and public information brochures to assist the public in dealing with the courts in such matters as pretrial release, communication with defendants held in custody, small claims, minor traffic, and so forth.*
3. *Involve the Oregon Judicial Conference in public service presentations on court matters of public interest such as pre-trial release, the system for court-appointed counsel, sentencing, and the probation system.*

REPORTING AND RECORDS COMMITTEE:

The Reporting and Records Committee has been

active since 1972 and presented its second annual report to the Oregon Judicial Conference in June 1974. The committee's report dealt with statutory problems in the retention of court reporters' notes and exhibits in courts of records.

The problem arose because of an apparent conflict between ORS 7.120 which allows destruction of notes, tapes, or audio records or exhibits introduced after a period of ten years, and ORS 8.340 (4) which requires permanent retention of the notes, tapes or audio records.

After discussion of the matter the committee was of the opinion that the permanent requirement of ORS 8.340 be deleted and that ORS 7.120 be amended reducing the permissive time of destruction to five years but making permanent retention mandatory in water rights cases, requiring retention of cases involving criminal convictions until the death of the defendant or 40 years from the time of trial whichever occurred first, and requiring retention of cases involving custody of juveniles until the children reach the age of 18 years or are married. The committee recommended legislation be introduced to amend ORS 7.120 and 8.340 (4) to reflect these suggested changes.

The committee next reported on the situation of court reporters becoming overloaded with a backlog of orders for transcripts for appealed cases. There was discussion of the use of state funds for pro tems in such situations but based upon the report of Dave Ohmart, Oregon Shorthand Reporters Association representative, it was felt that this no longer is a problem and that in those few instances when some support was needed, counties had indicated the willingness to provide it. Therefore, it was not recommended by the committee that any state support be requested. The committee briefly reported on the problem of court reporters leaving the jurisdiction of the court without completing all requested transcripts. The committee expressed the opinion that the increase in the page rate which reporters were allowed to charge for transcripts had done much to alleviate this problem. The committee went on to suggest that in the event a court reporter leaves the court that any pay be withheld until all ordered transcripts have been prepared.

The committee recommended that the appellate courts and the circuit courts should adopt a proposed uniform rule requiring the court reporter to begin

preparation of the transcript upon service with a copy of the notice of appeal and to file and serve the transcript upon completion as required by ORS 19.078.

The committee next reported on a voice-writing demonstration done over the past year. The demonstration was sponsored by the National Center for State Courts. This experiment was conducted partially at the Judicial Conference in June 1973 and subsequently in the district courts in Multnomah, Lane and Washington counties. Discussing the matters with the judges and reviewing the report of the National Center, it was the opinion of the committee that voice-writing was a possible alternative to other means of reporting and might be considered at such time as the district courts become courts of record and require verbatim transcripts. The data was not complete as to cost and the committee takes no position in that area merely indicating appropriately accurate transcripts can be prepared using the voice-writing system.

In 1971 amendments to the appeals statutes in chapter 19, specifically ORS 19.078, shifted the burden of certain acts from the attorneys to the court reporters. This required that the reporters, in addition to certification of the transcript which was already their duty, were also required to do the filing, give the notice in writing to the parties that the transcript had been filed, and serve the respondent with the copy of the transcript and provide notice of such service to the clerk. For a period of time reporters have been making a charge for this but had agreed that in the absence of statutory authority and especially in indigent criminal matters this might not be appropriate inasmuch as no provision is made for taxing such a service fee as cost. The committee considered the matter and was of the opinion that a service fee was appropriate and should be provided by appropriate legislation, specifically an amendment to ORS 21.070. The committee took no position relative to the amount of such fee feeling that reporters should justify the charge to any appropriate legislative body.

STATISTICS COMMITTEE:

The Statistics Committee was created in June 1972 to advise the Executive Committee of the Oregon Judicial Conference on the gathering, publishing and analyzing of statistics from the courts of the state.

The committee reviewed the present method of gathering statistics from the circuit and district courts and concluded that there was a need for more detailed information to be collected from the courts. The committee developed a list of proposed data elements to be collected from the circuit courts; these data elements were presented to the Oregon Judicial Conference in June 1972 but the Conference took no action on the proposed data elements at that time.

The following year the main focus of the committee was to continue the study of the appropriate data elements for statistical purposes of the circuit and district courts. The committee modified its list of proposed data elements for the circuit courts that had been presented to the Conference in 1972. The committee developed a similar list of data elements for the district courts. The committee recommended that the Oregon Judicial Conference forward the proposed data elements for the circuit and district courts to the Oregon Supreme Court to be used as resource documents by the Court, by the State Judicial Information Systems Project and by any other interested agency. The committee presented the proposed data elements and its recommendations to the Conference in June 1974 and the report of the committee was amended to remove a recommendation of monthly reporting in favor of quarterly statistical reporting. The report of the committee then as amended was adopted by the Conference.

Since the June Conference several of the members of the committee have been appointed to the advisory committee of the State Judicial Information System Project. The advisory committee is directly concerned with the same general areas of concern that fell within the jurisdiction of the Statistics Committee.

UNIFORM JURY INSTRUCTIONS COMMITTEE:

The uniform Jury Instructions Committee is continuing its work on the instructions under the new criminal code. These matters are being submitted to the bar for approval and publication but the committee has no control over the ultimate date of approval and publication by the bar.

REPORT OF THE CIRCUIT JUDGES ASSOCIATION:

The Circuit Judges Association met for two days immediately following adjournment of the November

meeting of the Judicial Conference. Lectures were given by Judges William Dale, John Jelderks and Donald Kalberer on Writs of Prohibition and other extraordinary remedies. Mr. John W. Darby discussed recurring problems in administering paroles, and Assistant Attorney General W. Michael Gillette reviewed the various elements that form the basis of the Attorney General's decision whether or not to appeal a case. Judge Val Sloper was elected president for the ensuing year. The next meeting of the association is scheduled for November 6-7, 1975.

REPORT OF THE DISTRICT JUDGES ASSOCIATION:

During 1974 the District Judges Association channeled its efforts into four basic areas. Judge Gilliland's Committee on Legislation has been busy especially with the activities in matters of court structure and the proposed changes in the traffic code.

Judge Unis has been involved with education and in addition to facilitating attendance at the many education resources for a good number of district judges, the highlight of the year was arranging for Judge Irving Younger of New York to be with the district judges at their annual meeting in November.

Judge Foster has visited almost all of the district courts in the state personally in an effort ultimately to encourage uniformity in the operation of the district courts; his efforts will hopefully result in a saving of time and money as well as promoting more uniform treatment of offenders.

Realizing the need for better image of the judges in the eye of the public, Judge Redding has headed a Committee on Public Relations. This is felt by the committee to be an important area and one that has been somewhat overlooked in past years.

The District Judges Association will hold its official annual meeting in April 1975 in conjunction with the annual Judicial Conference meeting. New officers of the association will be elected at that time.

REPORT OF THE JUVENILE JUDGES ASSOCIATION:

The Association has divided into three standing committees: the Oregon Juvenile Court Commission chaired by Judge Edward Leavy; the Training and Research Committee chaired by Judge Hollie Pihl; and a Children's Services Division Juvenile Court Judges Liaison Committee chaired by Judge

Jean Lewis. This latter committee is in its second year of operation and is proving its efficiency in resolving problem areas between agencies, and it is hoped that the committee will continue in its constructive work.

The Juvenile Court Commission Committee prepared a bill for submission to the 1975 Legislature that would establish a state-wide Juvenile Court Commission. The commission's job would range over a wide spectrum of responsibilities including education, court rules, budgetary and fiscal matters, inter alia.

Courts Generally

No new judicial positions were created in 1974, although a new circuit court judgeship created by the 1973 Legislature will become effective in January 1975. During the year two circuit court judges and one district court judge retired, and one district court judge, Harold T. Johnson, died.

Although the time lapse in disposition of cases continues to improve in some areas, ground is being lost in others. In an attempt to keep dockets of all courts as current as possible there were many temporary assignments of judges to districts other than their own. Circuit court judges gave 531.5 days of help to other circuit courts, and district court judges gave 69.5 days of assistance to circuit courts. A total of 151 senior judges and attorneys gave 567.5 days of help as judges pro tempore to the circuit courts and 2395 days to the district courts during 1974. This program enabled all courts to remain open for the business of trying cases at full strength all twelve months of the year. Thus the docket backlog has been kept at a minimum, but is gradually increasing. The judges are constantly striving to improve court administration, docket control, the current status of all cases and use of time, but in addition to more efficiency, more manpower is required.

The program of the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals and the State Court Administrator meeting with the presiding judges of the trial courts, three or four at a time, was continued throughout 1974. Meetings have been held during the past two years with the presiding judges of all of the circuit courts and most of the district courts. Meetings with the remaining district courts are scheduled for the first half of 1975.

The conferences are informal and usually last about three hours. Needs and frustrations of the trial courts are discussed, "beefs" and challenges are expressed, ideas created, and a few questions answered. Each meeting is unique, but from each has come the same pattern of dilemmas, concerns and difficulties. Solutions to problems are not easily found, but these meetings have done much to crystalize the greatest

needs and to point the way to finding improved answers.

The Judicial Conference committees held many working sessions throughout the year, and much was accomplished. Legislative proposals are being made by the Conference and the Conference has studied legislation proposed by others and in several instances taken specific action in support or opposition.

The Courts of Oregon

The Oregon Constitution authorizes a Supreme Court and "such other courts as may from time to time be created by law." The original Article VII of the Constitution also provides for circuit courts, county courts, justice of the peace and municipal courts. These provisions now have the status of statutes because of the enactment of Amended Article VII of the Constitution on November 8, 1910. The circuit court is vested with all judicial power, authority and jurisdiction not specifically vested in another tribunal. Legislative action has defined the geographical, civil and criminal jurisdiction of all trial courts of the state system. Municipal courts are created by local charters, but subject to legislative directives.

The law provides rules by which society governs itself in two areas: the settlement of disputes between citizens and the prosecution of offenses against the public. The origins of our law in both the civil and the criminal law are found in the English and American common law, consisting of the stream of court decisions defining the rights and duties of individuals in their relationships with others and with the sovereign. Alongside this body of common law has evolved a separate system of statutory enactments.

All courts of the Oregon state court system administer both criminal and civil law. Neither municipal courts nor administrative tribunals are an integrated part of the Oregon judicial system, although appeals from their decisions may be brought in the appropriate state court.

The civil law has developed both from case law and statutory sources, while the basic criminal law in Oregon is entirely statutory. Court decisions have been rendered interpreting and occasionally rejecting the codified law, however.

Crimes are divided into two categories: felonies where the penalty provided may be a penitentiary sentence, and misdemeanors where the possible jail sentence is less than for felonies. For some purposes, minor infractions such as offenses against certain city ordinance provisions are not designated as crimes. A person charged with a crime may, prior to trial, either be released on his own recognizance or held pending the posting of security to ensure his appearance.

Appeals may generally be made from decisions of all lower trial courts and tribunals to the circuit

court for retrial or examination of the record. Appeals may be taken from final orders in circuit court and in some cases from administrative agencies to the Court of Appeals or Supreme Court. Generally, actions at law can be appealed to the Court of Appeals or the Supreme Court only on questions of law, such as an alleged erroneous ruling by the trial judge. In equity cases the appellate court can make different findings of fact from the record. Criminal convictions may be appealed by the defendant and certain rulings in criminal cases may be appealed by the prosecution on limited grounds. Trial court decisions may be affirmed, reversed, or modified and the cause can be remanded for new trial in the lower court.

The Constitution directs that all state judges be elected to serve for six year terms and that judges shall retire at the end of the calendar year in which they reach 75 years of age. The legislature is empowered by the Constitution to establish a lower retirement age not under 70 years. Incompetency, corruption, malfeasance or delinquency in office are grounds for removal. Involuntary retirement of judges for physical or mental incapacity may be accomplished by a proceeding before a special commission, under provisions of ORS 1.310. A judge may voluntarily retire for similar reasons under ORS 1.330.

The 1969 Legislature created a Commission on Judicial Fitness to investigate complaints from any person concerning the conduct of a judge. The Commission may hold hearings and make recommendations to the Supreme Court regarding such complaint. If a judge is found to be unfit, the Supreme Court may censure him, or suspend, or remove him from office. ORS 1.410 and 1.480.

The Supreme Court may appoint retired senior judges and attorneys as circuit and district court judges pro tempore.

THE SUPREME COURT:

The Oregon Supreme Court with seven justices is the highest court in the state, exercising jurisdiction over cases appealed from the circuit court and having original jurisdiction in mandamus, quo warranto and habeas corpus. It has exclusive appellate jurisdiction in cases involving real property, contracts, torts, appeals from the Tax Court, and all other appeals from circuit courts except those in which the Court of Appeals has jurisdiction. The Supreme Court may elect to

hear an appeal from the court of Appeals (Petition for Review). If a question arises as to which court shall hear an appeal, the Supreme Court shall summarily determine whether it or the Court of Appeals shall hear the case.

Oregon law confers on the Supreme Court general administrative authority and supervision over the courts of the state. It may make rules and orders in aid of this power, but cannot make rules of procedure. The Court's administrative and supervisory functions are exercised for the Court by the Chief Justice through the State Court Administrator.

THE COURT OF APPEALS:

The Court of Appeals with six judges is the second highest court in the state. It has exclusive jurisdiction over cases appealed from the circuit court in criminal, post-conviction, habeas corpus and extradition matters; probate; domestic relations; adoptions and juvenile matters; appeals from government agencies (excluding cases tried in the Tax Court). A case heard in the Court of Appeals may be reviewed by the Supreme Court upon petition. ORS 2.520.

THE OREGON TAX COURT:

The Oregon Tax Court is a court of state-wide 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 the 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 state-wide basis for a six-year term. The court generally has the same powers as the circuit courts, except it hears and has exclusive jurisdiction of cases involving personal income taxes, corporate excise and income taxes, timber taxes, real and personal property taxes and inheritance and gift taxes. The statutes also provide for two divisions of the court, the regular division and the small claims division. No other type of case is heard in the Tax Court.

THE CIRCUIT COURT:

The circuit courts are the state trial courts of general jurisdiction.

The 66 (as of January 1, 1975) circuit judges in Oregon are deployed in 20 judicial districts. Several are multi-state districts and 10 districts embrace multiple counties. The busiest district is Multnomah

County with 18 judges. The least busy is Lake County with one judge. That judge serves extensively in other districts. Circuit courts have unlimited monetary jurisdiction in civil matters and hears both law and equity cases. Felony cases are tried only in circuit courts, although arraignments and preliminary hearings in felony cases are conducted in lower courts.

Since July 1, 1970, circuit judges have had probate jurisdiction in all but six counties and juvenile jurisdiction in all but eight counties. Circuit judges are frequently assigned to other judicial districts by the Supreme Court. The Multnomah and Marion county districts have separate domestic relations departments, and Multnomah County has a separate probate department. Proceedings in the circuit court are reported by court reporters who prepare written transcripts of trials for appellate purposes.

DISTRICT COURTS:

The district courts, with 40 judges, have jurisdiction limited to \$2,500 in civil cases and to misdemeanor (including all traffic) criminal jurisdiction over crimes punishable by fines up to \$3,000 and imprisonment of one year or less. In addition, the district judges conduct preliminary hearings in felony matters, which may result in binding over the accused to the grand jury for a possible circuit court trial.

The district court for Multnomah County has 12 judges; Marion County has two judges; Clackamas County has two judges; Lane County has three judges; Jackson County has two judges; Washington County has two judges and Douglas County has two judges. The other districts have one judge each. At the present time, each district court embraces only a single county and is located at the county seat; a few district judges, however, hold court in communities outside the county seat.

Reporting of district court proceedings is permitted but not required. This will change July 1, 1975, however, pursuant to Oregon Laws 1971, ch 623. When chapter 623 becomes effective it will also make other significant changes in district court procedures, and will increase district court jurisdiction in civil cases to \$3,000.

THE JUSTICE COURTS:

The justice of the peace, remnant of territorial days when each precinct of the state was entitled to a "JP" court, presides over a court with limited

Judicial Conference of the State of Oregon Committees

civil (\$1,000), small claims (\$500) and criminal (traffic, some misdemeanors and magistrate) jurisdiction. Justice courts, like district courts, may not try the title to real property.

Justice courts presently exist in 48 communities in Oregon. County commissioners have the power to establish justice court district boundaries. Only a very few of the justices of the peace of the state are lawyers. Justices of the peace are not members of the Judicial Conference.

MUNICIPAL COURTS:

Each city in Oregon, except Portland, has a municipal court, authorized under the home rule charter of the municipality but controlled in some procedural aspects by state law.

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. Only a relative few have legal backgrounds.

The primary function of municipal courts is to hear and decide cases involving city ordinance violations, which are variously classed as criminal or civil matters, and carry minor penalties. Salaries and duties of municipal judges are determined by the municipality. Cities are required by a recent state law to select juries according to circuit court procedure.

Municipal judges are not members of the Judicial Conference.

STATE-COURT ADMINISTRATOR:

Executive Secretary to the Oregon Judicial Conference:

The State Court Administrator is responsible to the two appellate courts for processing cases on appeal, publishing decisions, administering records, dockets, facilities, personnel and fiscal matters, and other aspects of appellate court administration. The administrator also assists the Supreme Court in connection with the bar examinations and admission of new attorneys, maintains the Supreme Court roster of attorneys, assists in disciplinary matters and performs other liaison with the Board of Governors and the bar committee.

Another and separate role of the State Court Administrator is as assistant to the Chief Justice and the Supreme Court in supervision of the state court system in Oregon. This part of the administrator's job is primarily a service to the trial courts and trial judges. Pursuant to instructions from the Chief Justice he arranges for the assignment of trial judges to other jurisdictions and for the appointment of pro tempore judges as needed. He manages the statistical reporting system for all courts in the state, represents the courts on numerous boards and committees at both the state and national level.

Another major responsibility is serving as Executive Secretary to the Oregon Judicial Conference. In such position the State Court Administrator is responsible for the planning and coordination of the annual meeting of the Conference, supplying the staff and otherwise working with the Conference committees throughout the year and coordinating the several judicial education and other programs of the Conference.

EXECUTIVE COMMITTEE:

Kenneth J. O'Connell, Chairman

Edward H. Howell
Virgil Langtry
J.S. Bohannon
Edward Leavy
Don H. Sanders
Harold A. Lewis
William A. Beckett

Val D. Sloper - liaison - Circuit Judges Assn.
L.A. Cushing - liaison - District Judges Assn.
Donald L. Kalberer - liaison - Juvenile Judges Assn.

Loren D. Hicks, State Court Administrator
Secretary

Responsible for overall policy, direction, coordination of work, committee appointments, review of committee work, liaison with Board of Governors, advisory to Chief Justice, planning, implementation of adopted policies, annual meeting.

BENCH BOOK COMMITTEE:

John A. Jelderks, Chairman

Robert Y. Thornton
Howard J. Blanding
Helen J. Frye
Donald A.W. Piper
Phillip J. Roth
Don H. Sanders
A.R. McMullen
Irving M. Steinbock

Barbara Newell, Staff

Draft, publish and keep up to date, one or more bench books for trial judges.

CALENDARING COMMITTEE:

Don H. Sanders, Chairman

Henry M. Kaye
John C. Warden
William C. Beers

Non-Conference Members:

Naomi Butler
Michael Hall

Douglas Bray, Staff

Study methods, ideas and suggestions for improving court calendaring to better fill and control dockets and avoid scheduling conflicts. Suggest court rules that might improve the flow of court business. Encourage the adoption of modern, proven docket control techniques. Advise individual courts as to possible specific improvements in their calendaring system. Create model form and documents for use in the several courts.

COURT FACILITIES COMMITTEE:

William S. Fort, Chairman

J.R. Campbell
Joseph B. Felton
Charles H. Foster
Donald L. Kalberer
Mitchell Karaman
James A. Norman
Roland K. Rodman
Richard J. Courson

Adell Johnson, Staff

Study nature and extent, if any, of involvement of the Judicial Conference and the State Court Administrator in the planning of new or major remodeling of court facilities at all court levels; desirability of legislation creating a statewide court facilities accreditation committee and, if so, its nature and duties; desirability of the adoption by the Judicial Conference or by state legislation of minimum standards for court facilities; and, if so, the nature and content areas thereof, and problems relating to their implementation. The committee's function is related only to the physical facilities necessary to the administration of justice.

CRIMINAL LAW & PROCEDURE COMMITTEE:

Donald R. Blensly, Chairman

Herbert M. Schwab
Edwin E. Allen
Duane R. Ertsgaard
Courtney R. Johns
Frank D. Knight
Berkeley Lent
Anthony L. Casciato
L.A. Cushing
Robert M. Mulvey

David Gernant, Staff

Continuous study and reports on criminal substantive procedural law and the practice of criminal law, including habeas corpus, post conviction, and prison discipline. Recommend changes. Maintain liaison with Oregon State Bar Committee on Criminal Law and Procedure.

ELECTRONIC DATA PROCESSING COMMITTEE:

William A. Beckett, Chairman

James R. Ellis
Mitchell Karaman

Non-Conference Members:

Don Norman
Gerald C. Schmitz
Lloyd Smith
Harold Hart
Bruce Dalros
Ed Morgan

Douglas Bray, Staff
Ray Mayhugh, Staff

Study the application of electronic data processing to court records and to monitor standards for use of electronic data processing in courts. Also to monitor the many studies being conducted on use of computers in the field of law and in the courts and interpret them to the Conference.

JUDICIAL ADMINISTRATION COMMITTEE:

Jena V. Schlegel, Chairman

Dean Bryson
Edward Howell
Robert Foley
Samuel M. Bowe
Mercedes Deiz
Pat Dooley
Richard M. Mengler
Hollie M. Pihl
Val D. Sloper

Charles Gleason, Staff
David Gernant, Staff

Study in the field of court administration and management, including renumeration and retirement benefits for court personnel, overall budgeting, new judgeships and new courts, personnel system for courts, organization of courts and the court system, function of the office of the presiding judge, special problems such as court reporters, county commissioners, use of para judicial help, study of court administration in other states. Maintain liaison with Oregon State Bar Committee on Judicial Administration.

JUDICIAL CONDUCT COMMITTEE:

F. Gordon Cottrell, Chairman

Ralph M. Holman
Harlow F. Lenon
John J. Murchison
L. Orth Sisemore
Shirley Field
Robert L. Gilliland
Joseph J. Thalhofer

Loren Hicks, Staff

Study and monitor Oregon's Code of Judicial Conduct, advising individual judges on possible conflicts of interests. Advise the bench on practices that cause conflicts and those that avoid them. Maintain liaison with the Judicial Fitness Commission, ABA Committee on Judicial Conduct, and Governor's office and Chief Justice re criteria for judicial selection.

JUDICIAL EDUCATION COMMITTEE:

Richard L. Unis, Chairman

William McAllister
Robert E. Jones
Loren L. Sawyer
Alfred T. Sulmonetti
George Van Hoomissen
Edmund Jordan
Loren Hicks

**Law School
Representatives:**
Dean Fred Fagg, III
(Northwestern)
Asst. Dean Fred Merrill
(U. of O.)
Prof. Ross Runkel
Willamette

**Oregon State Bar
Representative:**
Kay Stallings

Charles Gleason, Staff

Act as planning, coordinating and operating agency for programs of judicial education for Oregon judges and court personnel including the educational portions of the annual meeting of the Judicial Conference, the annual Judges Orientation Course, special training programs for circuit and district court judges, JP's and municipal judges, court support personnel, etc. Establish policies and priorities for selection of judges and others to attend out of state seminars and colleges. Maintain liaison with the many national judicial education and training programs, with the Oregon State Bar CLE Program, and with the Oregon colleges of law.

LEGISLATIVE COMMITTEE:

Thomas H. Tongue, Chairman

Herbert M. Schwab
John C. Beatty, Jr.
Alan F. Davis
John M. Copenhaver
Jean L. Lewis
Roland K. Rodman
George F. Cole
Gregory E. Milnes
Albin W. Norblad
Richard L. Unis

**Non-Conference
Member:**
Carl H. Francis

Loren Hicks, Staff
Charles Gleason, Staff
David Gernant, Staff

Maintain liaison with the Oregon Legislature. Plan and coordinate presentations on legislative proposals supported and opposed by the Judicial Conference. Follow course of legislation of interest to the courts. Advise other committees relative to legislation in their field of interest. Maintain liaison with the Oregon State Bar relative to its legislative program and with its Committee on Law Revision, develop a unified approach to legislative matters.

MINOR COURTS COMMITTEE:

Philip T. Abraham, Chairman

Herbert M. Schwab
Wayne H. Blair
John F. Cushman
Ross G. Davis
John F. Gantenbern
Gerald O. Kabler
James A. Mason

Douglas Bray, Staff

Study and advise on problems of special interest to the minor courts of the state, especially the Justice of the Peace courts and Municipal Courts, and to a lesser extent, District and County Courts. Make recommendations toward bringing the minor courts more into the state system of courts. Maintain close liaison with the minor courts and with the Oregon Association of Justices of the Peace, courts subdivision of the League of Oregon Cities, the Minor Court Rules Committee and national minor court organizations such as the American Academy and the National Conference of Special Court Judges.

PROBATE LAW and PROCEDURE COMMITTEE:

Kurt C. Rossman, Chairman

J.S. Bohannon
Thomas E. Edison
P.K. Hammond
William S. McLennan
Albert R. Musick
Douglas R. Spencer
John C. Warden
William W. Wells
Darrell J. Williams

Esther Ward, Staff

Study and make recommendations concerning Oregon's probate code and probate practice; develop and urge adoption of efficient methods of handling probate cases by the courts, and the bar. Maintain liaison with the Oregon State Bar Committee on Probate Law and Procedure.

PROCEDURE and PRACTICE COMMITTEE:

John C. Beatty, Jr. Chairman

Arno Denecke
Jacob Tanzer
William M. Dale, Jr.
Douglas R. Spencer
Winfred K. Liepe
Robert W. Redding

Attorney Advisors to Committee:

William V. Deatherage and David Templeton
(Oregon State Bar)
Burl Green and Lawrence Dean (American Trial Lawyers Assn.)
Thomas Cooney and Owen Panner (Oregon Assn. of Defense Counsel)

David Gernant, Staff

Study and make recommendations concerning court procedure and practice, form of pleadings, handling of dockets, court documents, notices, and legislation re such procedures. Maintain liaison with Oregon State Bar Committee on Procedure and Practice.

PUBLIC RELATIONS COMMITTEE:

Robert W. Redding, Chairman

Dale Jacobs
Carlisle Roberts
Philip M. Bagley
Thomas W. Hansen
Lavaughn A. Merryman
Charles A. Sams

Non-Conference Member:

Helen Riordan

Adell Johnson, Staff

Study and make recommendations relative to public relations of the judiciary. Sponsor and monitor public programs for Law Day, newspaper stories, TV shows, civic club speakers, etc. Advise on relations with the media. Maintain liaison with the Oregon State Bar public relations program.

REPORTING and RECORDS COMMITTEE:

Jeff D. Dorroh, Chairman

Virgil Langtry
James R. Main
Lyle R. Wolff
Frank R. Alderson
Carl M. Felker
Harold A. Lewis
Charles H. Reeves

Oregon Shorthand Reporters Association
Representative:
Dave Ohmart

Adell Johnson, Staff

Study and make recommendations relative to hiring, supervision, remuneration and responsibilities of court reporters. Also study systems and innovations in court reporting and preparation of transcripts. Examine and give advice on particular problems in court reporting. Also, study and make recommendations relative to storage and ultimate destruction of court reporters notes and other court records. Maintain liaison with the Oregon Shorthand Reporters Association.

STATISTICS COMMITTEE:

Roland V. Rodman, Chairman

Winston L. Bradshaw
Richard J. Burke
Eugene K. Richardson
Walter W. Foster
Carl G. Stanley

Non-Conference Members:

Michael Hall
John R. Peterson
Daniel E. Wood

Douglas Bray, Staff

Study the reporting and publication of judicial statistics from all courts. Advise on efficiency and value of the statistics and on need for changes to the system. Maintain liaison with the many agencies and groups in the field of judicial statistics, analyze and report on the facts and trends revealed by Oregon court statistics.

UNIFORM JURY INSTRUCTIONS COMMITTEE:

Charles S. Crookham, Chairman

Glen Hieber
Henry M. Kaye
Edward Leavy
Clifford B. Olsen
Wendell H. Tompkins
Charles S. Woodrich
William A. Beckett
William L. Richardson

Study and draft uniform jury instructions for civil and criminal trials. Maintain liaison with Oregon State Bar Committee on Uniform Jury Instructions.

ORS Statutes Creating Judicial Conference of the State of Oregon

1810 *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]

1820 *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.¹ [1955 c.470 §2, 1965 c.494 §14]

1830 *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]

1840 *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]

¹ The Judicial Council of the State of Oregon was dissolved by the 1971 Legislature.

By-Laws of the Judicial Conference of the State of Oregon As Amended June 12, 1970

1. EXECUTIVE COMMITTEE

- a. There shall be a standing committee of the Judicial Conference called the Executive Committee. Said Committee shall consist of 3 Circuit Court Judges, 2 District Court Judges, 1 Judge of the Court of Appeals and 2 Supreme Court Judges, including the Chief Justice who shall be Chairman.
- b. The Executive Committee shall supervise the work of the Conference, possessing and exercising all the powers of the Conference when the Conference is not in session.
- c. The term of the one elective member from the Supreme Court shall be two years commencing upon the conclusion of the annual meeting of the Conference at which he was elected. The elective Supreme Court member shall be nominated and elected by the Supreme Court Judges.
- d. The term of the member from the Court of Appeals shall be three years commencing upon the conclusion of the annual meeting of the Conference at which he was elected.
- e. The terms of the three members from the Circuit Court shall be three years commencing upon the conclusion of the annual meeting of the Conference at which each member was elected. The Circuit Court members shall be nominated and elected by the Circuit Court Judges.
- f. The terms of the two members from the District Court shall be three years commencing upon the conclusion of the annual meeting of the Conference at which each member was elected. The District Court members shall be nominated and elected by the District Court Judges.
- g. Five members, including the Chief Justice, shall constitute a quorum.
- h. Vacancies on the Executive Committee occurring between elections shall be filled by appointment by the

Chief Justice for the unexpired term. The Chief Justice shall consult with the Supreme Court or with the remaining Court of Appeals, Circuit Court or District Court members, as may be appropriate.

- i. The Executive Secretary of the Conference shall serve as Secretary to the Executive Committee.

2. NOMINATING COMMITTEES

- a. The Chief Justice may appoint three nominating committees if necessary. One shall consist of three Court of Appeals Judges which shall select Court of Appeals nominees for election to the Executive Committee, one shall consist of three Circuit Court Judges which shall select Circuit Court nominees for election to the Executive Committee and one shall consist of three District Court Judges which shall select District Court nominees for election to the Executive Committee. Each committee shall be discharged upon the election of one of its nominees as a member of the Executive Committee.
- b. The duty of the Nominating Committee to select nominees for membership on the Executive Committee is not in derogation of the right of members of the Conference to nominate from the floor.

3. COMMITTEES AND COMMITTEE WORK:

- a. The Chief Justice shall, with the advice of the Executive Committee, have power to create committees, task forces, study groups or other such arms of the Conference composed of one or more Conference members as shall be necessary to carry out the work of the Conference, and appoint the member or members thereof.
- b. Whenever practicable the subjects for study and consideration by such arms of the Conference shall be submitted to the Conference as a whole for their determination of the suitability of such subjects for study.

Constitution of Oregon

Article VII (Amended) Judicial Department

- Sec. 1. Courts; election of judges; terms of office; compensation
- 1a. Retirement of judges; recall to temporary active service
 2. Amendment's effect on courts, jurisdiction and judicial system; Supreme Court's original jurisdiction
 - 2a. Temporary appointment and assignment of judges
 - 2b. Inferior courts may be affected in certain respects by special or local laws

Section 1. Courts; election of judges; term of office; compensation. The judicial power of the state shall be vested in one supreme court and in such other courts as may from time to time be created by law. The judges of the supreme and other courts shall be elected by the legal voters of the state or of their respective districts for a term of six years, and shall receive such compensation as may be provided by law, which compensation shall not be diminished during the term for which they are elected.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

Section 1a. Retirement of judges; recall to temporary active service. Notwithstanding the provisions of section 1, Article VII (Amended) of this Constitution, a judge of any court shall retire from judicial office at the end of the calendar year in which he attains the age of 75 years. The Legislative Assembly or the people may by law:

- (1) Fix a lesser age for mandatory retirement not earlier than the end of the calendar year in which the judge attains the age of 70 years;
 - (2) Provide for recalling retired judges to temporary active service on the court from which they are retired; and
 - (3) Authorize or require the retirement of judges for physical or mental disability or any other cause rendering judges incapable of performing their judicial duties.
- This section shall not affect the term to which any judge shall have been elected or appointed prior to or at the time of approval and ratification of this section.
[Created through S.J.R. No. 3, 1959, adopted by people Nov. 8, 1960]

Section 2. Amendment's effect on courts, jurisdiction and judicial system; Supreme Court's original jurisdiction. The courts, jurisdiction, and judicial system of Oregon, except so far as expressly changed by this amendment, shall remain as at present constituted until otherwise provided by law. But the Supreme Court may, in its own discretion, take original jurisdiction in mandamus, quo warranto and habeas corpus proceedings.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

- Section 2a. Temporary appointment and assignment of judges.** The Legislative Assembly or the people may by law empower the Supreme Court to:
- (1) Appoint retired judges of the Supreme Court or judges of courts inferior to the Supreme Court as temporary members of the Supreme Court.
 - (2) Appoint members of the bar as judges pro tempore of courts inferior to the Supreme Court

- Sec. 3. Jury trial; re-examination of issues by appellate court; record on appeal to Supreme Court; affirmance notwithstanding error; determination of case by Supreme Court.
4. Supreme Court; terms; statements of decisions of court
 5. Juries; indictment; information
 6. Incompetency or malfeasance of public officer
 7. Oath of office of Judges of Supreme Court
 8. Removal of judges
 9. Juries of less than 12 jurors

(3) Assign judges of courts inferior to the Supreme Court to serve temporarily outside the district for which they were elected.
A judge or member of the bar so appointed or assigned shall while serving have all the judicial powers and duties of a regularly elected judge of the court to which he is assigned or appointed.
[Created through S.J.R. No. 30, 1957, adopted by people Nov. 4, 1958]

Section 2b. Inferior courts may be affected in certain respects by special or local laws. Notwithstanding the provisions of section 23, Article IV of this Constitution, laws creating courts inferior to the Supreme Court or prescribing and defining the jurisdiction of such courts or the manner in which such jurisdiction may be exercised, may be made applicable:

- (1) To all judicial districts or other subdivisions of this state; or
- (2) To designated classes of judicial districts or other subdivisions; or
- (3) To particular judicial districts or other subdivisions.
[Created through S.J.R. No. 34, 1961, adopted by people Nov. 6, 1962]

Section 3. Jury trial; re-examination of issues by appellate court; record on appeal to Supreme Court; affirmance notwithstanding error; determination of case by Supreme Court. In actions at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of this state, unless the court can affirmatively say there is no evidence to support the verdict. Until otherwise provided by law, upon appeal of any case to the supreme court, either party may have attached to the bill of exceptions the whole testimony, the instructions of the court to the jury, and any other matter material to the decision of the appeal. If the supreme court shall be of opinion, after consideration of all the matters thus submitted, that the judgment of the court appealed from was such as should have been rendered in the case, such judgment shall be affirmed, notwithstanding any error committed during the trial; or if, in any respect, the judgment appealed from should be changed, and the supreme court shall be of opinion that it can determine what judgment should have been entered in the court below, it shall direct such judgment to be entered in the same manner and with like effect as decrees are now entered in equity cases on appeal to the supreme court. Provided, that nothing in this section shall be construed to authorize the

supreme court to find the defendant in a criminal case guilty of an offense for which a greater penalty is provided than that of which the accused was convicted in the lower court.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

Section 4. Supreme Court; terms; statements of decisions of court. The terms of the supreme court shall be appointed by law; but there shall be one term at the seat of government annually. At the close of each term the judges shall file with the secretary of state concise written statements of the decisions made at that term.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

Section 5. Juries; indictment; information. In civil cases three-fourths of the jury may render a verdict. The Legislative Assembly shall so provide that the most competent of the permanent citizens of the county shall be chosen for jurors; and out of the whole number in attendance at the court, seven shall be chosen by lot as grand jurors, five of whom must concur to find an indictment. But provision may be made by law for drawing and summoning the grand jurors from the regular jury list at any time, separate from the panel of petit jurors, for empanelling more than one grand jury in a county and for the sitting of a grand jury during vacation as well as session of the court. No person shall be charged in any circuit court with the commission of any crime or misdemeanor defined or made punishable by any of the laws of this state, except upon indictment found by a grand jury; provided, however, that any district attorney may file an amended indictment whenever an indictment has by a ruling of the court, been held to be defective in form. Provided further, however, that if any person appear before any judge of the circuit court and waive indictment, such person may be charged in such court with any such crime or misdemeanor on information filed by the district attorney. Such information shall be substantially in the form provided by law for indictments, and the procedure after the filing of such information shall be as provided by law upon indictment.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910; Amendment proposed by S.J.R. No. 23, 1957, and adopted by people Nov. 4, 1958]

Section 6. Incompetency or malfeasance of public officer. Public officers shall not be impeached; but incompetency, corruption, malfeasance or delinquency in office may be tried in the same manner as criminal offenses, and judgment may be given of dismissal from office, and such further punishment as may have been prescribed by law.
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

Section 7. Oath of office of Judges of Supreme Court. Every judge of the supreme court, before entering upon the duties of his office, shall take and subscribe, and transmit to the secretary of state, the following oath:
"I, _____ do solemnly swear (or affirm) that I will support the constitution of the United States, and the constitution of the State of Oregon, and that I will faithfully and impartially discharge the duties of a judge of the supreme court of this state, according to the best of my ability, and that I will not accept any other office, except judicial offices, during the term for which I have been elected."
[Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

Section 8. Removal of judges. (1) In the manner provided by law, and notwithstanding section 1 of this Article, a judge of any court may be removed from his judicial office by the Supreme Court for:

- (a) Conviction in a court of this or any other state, or of the United States, of a crime punishable as a felony or a crime involving moral turpitude; or
- (b) Wilful misconduct in a judicial office involving moral turpitude; or
- (c) Wilful or persistent failure to perform judicial duties; or
- (d) Habitual drunkenness or illegal use of narcotic drugs.

(2) Notwithstanding section 6 of this Article, the methods provided in this section and in section 18, Article II of this Constitution, are the exclusive methods of removal of a judge from judicial office.
[Created through S.J.R. No. 9, 1967; adopted by people Nov. 5, 1968]

Section 9. Juries of less than 12 jurors. Provision may be made by law for juries consisting of less than 12 but not less than six jurors.
[Created through S.J.R. No. 17, 1971, adopted by people Nov. 7, 1972]

END

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