CHAPTER XI.

DESCENT OF REAL ESTATE.

SEC. 1. When any persons shall die seized of any lands, tenements or hereditaments, or any right thereto, or entitled to any interest therein in fee simple, or for the life of another, not having lawfully devised the same, they shall descend, subject to his debts, as follows:

1. To the testator's children, and to the issue of any deceased child by right of representation; and if there be no child of the intestate living at the time of his death, his estate shall descend to all his other lineal descendants, and to the issue of any deceased child or sister by right of representation; provided, that if he shall leave a mother also, she shall take an equal share with the brothers and sisters.

2. If he shall leave no issue, his estate shall descend to his father;

3. If he shall leave no issue, nor father, his estate shall descend in equal shares to his brothers and sisters, and to the children of any deceased brother or sister by right of representation; provided, that if he shall leave a mother also, she shall take an equal share with the brothers and sisters.

4. If the intestate shall leave no issue, nor father, and no brother nor sister, living at his death, his estate shall descend to his mother to the exclusion of the issue of his deceased brothers or sisters;

5. If the intestate shall leave no issue, father, mother, brother nor sister, his estate shall descend to his next of kin in equal degree; excepting that, when there are two or more collateral kindred in equal degree, but claiming through different ancestors, those who claim through the nearest ancestor, shall be preferred to those claiming through an ancestor more remote; provided, however,

6. If any person shall die leaving several children, or leaving one child, and the issue of one or more others, and any such surviving child shall die under age, and not having been married, all the estate that came to such deceased child by inheritance from such deceased parent, shall descend in equal shares to the other children of the same parent, and to the issue of any such other children who shall have died, by right of representation.

7. If at the death of such child, who shall die under age, and not having been married, all the other children of his said parent shall also be dead, and any of them shall have left issue, the estate that came to such child by inheritance from his said parent, shall descend to all the issue of the other children of the same parent; and if all the said issue are in the same degree of kindred to the said child, they shall share the estate equally; otherwise, they shall take according to the right of representation.

8. If the intestate shall leave no kindred, his estate shall escheat to the territory.

9. Every illegitimate child shall be considered an heir of his mother, and shall inherit her estate in whole or in part, as the case may be, in like manner as if he had been born in lawful wedlock: but such illegitimate child shall not be allowed to claim, as representing his mother, any part of the estate of her kindred, either lineal or collateral.

Sec. 3. If any illegitimate child shall die intestate, without lawful issue, his estate shall descend to his mother; excepting in the case provided for in the following section.

Sec. 4. When the birth of an illegitimate child, his parents shall intermarry, such child shall be considered legitimate to all intents and purposes.

Sec. 5. The degrees of kindred shall be computed according to the rules of the civil law; and the kindred of the half-blood shall inherit equally with those of the whole blood in the same degree.

Sec. 6. Any estate, real or personal, that may have been given by advancement in his lifetime, as an advancement to any child or other lineal descendant, shall be considered a part of the intestate's estate, so far as regards the division and distribution thereof among his issue, and shall be taken by such child or other descendant towards his share of the intestate's estate.

Sec. 7. If the amount of such advancement exceed the share of the heir so advanced, he shall be excluded from any further portion in the division and distribution of the estate, but he shall not be required to refund any part of such advancement; and if the amount so received shall be less than his share, he shall be
CHAPTER XII.
DISTRIBUTION OF PERSONAL ESTATE.

SEC. 1. Order of distribution and application of personal estate.
1. The widow, if any, shall be allowed all articles of her apparel or ornament, according to the degree and estate of her husband, and such provisions and other necessaries for the use of herself and the family under her care, as shall be allowed and ordered in pursuance of the provisions of this act, and this allowance shall be made, as well when the widow waives the provision made for her in the will of her husband, as when he dies intestate;
2. The personal estate remaining after such allowance, shall be applied to the payment of the debts of the deceased, with the charges for his funeral and the settling of the estate;
3. The residue, if any, of the personal estate, shall be distributed among the same persons as would be entitled to the real estate by this act, and in the same proportion as there prescribed, excepting as is herein further provided;
4. If the intestate were a married woman, her husband shall be entitled to the whole of the said residue of the personal estate;
5. If the intestate leave a widow and issue, the widow shall be entitled to one-half of said residue;
6. If there be no issue, the widow shall be entitled to the whole of said residue;
7. If there be no husband, widow or kindred of the intestate, the whole shall escheat to the territory.

SEC. 2. If the intestate leave a widow and issue, and any of the issue shall have received an advancement from the intestate in his lifetime, the value of such advancement shall not be taken into consideration in computing the one-half part to be assigned to the widow; but she shall be entitled to the one-half only of the said residue after deducting the value of the advancement.

SEC. 3. Whereas doubts have arisen as to what has been the law in relation to the distribution of personal estate in this territory, the rule of distribution established by this chapter, is hereby declared to have been the law of the land, since the first session of the Legislative Assembly of this territory, begun and held at Oregon City, on the 16th day of July, A. D. 1849. Provided, that nothing in this section contained, shall be so construed as to disturb the settlement of any estate whereof administration is complete and distribution made.

SEC. 4. This act shall take effect and be in force from and after the first day of May next.

Passed December 14th, 1853.
**AN ACT RELATING TO WILLS.**

### CHAPTER I.

#### WILLS.

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### CHAPTER II.

#### WILLS.

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<td>Every person over the age of eighteen years, of sound mind, may, by last will, dispose of his goods and chattels.</td>
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<td>Sec. 3</td>
<td>Married woman, may, by will, dispose of any real estate held in her own right, subject to any rights which her husband may have as tenant by the curtesy.</td>
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<td>Sec. 4</td>
<td>Every will shall be in writing, signed by the testator, or by some other person under his direction, in his presence, and shall be attested by two or more competent witnesses, subscribing their names to the will, in the presence of the testator.</td>
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<td>Sec. 5</td>
<td>Every person who shall sign the testator's name to any will by his direction, shall subscribe his own name as a witness to such will, and state that he subscribed the testator's name at his request.</td>
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<td>Sec. 6</td>
<td>No will in writing, except in cases hereinafter mentioned, nor any part thereof shall be revoked, except by a subsequent will in writing, or by burning, canceling, tearing or obliterating the same by the testator, or in his presence, and by his consent and direction.</td>
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<td>Sec. 7</td>
<td>If after making a will disposing of the whole estate of the testator, such testator shall marry and die, leaving issue by such marriage living at the time of his death, or shall have issue of such marriage born to him after his death, such will shall be deemed revoked, unless provision shall have been made for such issue by some settlement, or unless such issue shall be provided for in the will, and no evidence shall be received to rebut the presumption of such revocation.</td>
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<td>Sec. 8</td>
<td>A will made by an unmarried woman shall be deemed revoked by her subsequent marriage.</td>
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<td>Sec. 9</td>
<td>A bond, covenant or agreement made for a valuable consideration by a testator to convey any property devised, or bequest, in any last will previously made, shall not be deemed a revocation of such previous devise or bequest either in law or equity; but such property shall pass by the devise or bequest, subject to the same remedies on such bond, covenant or agreement for the specific performance or otherwise, against devisees or legatees, as might be had by law against the heirs of the testator, or his next of kin, if the same had descended to them.</td>
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<td>Sec. 10</td>
<td>A charge or incumbrance upon any real or personal estate, for the purpose of securing the payment of money, or the performance of any covenant or agreement, shall not be deemed a revocation of any will relating to the same estate, previously executed; the devises and legacies therein contained shall pass and take effect, subject to such charge or incumbrance.</td>
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<tr>
<td>Sec. 11</td>
<td>If any person make his last will and die, leaving a child or children, or descendants of such child or children, in case of their death, not named or provided for in such will, although born after the making of such will, or the death of the testator, such testator, so far as shall regard such child or children, or their descendants, not provided for, shall be deemed to die intestate; and such child or children, or their descendants, shall be entitled to such portion of the estate of the testator, real and personal, as if he had died intestate; and the same shall be assigned to them; and</td>
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CHAPTER I.

all the other heirs, devisees and legatees shall refund their proportional part.

Sec. 12. If such child or children, or their descendants, shall have an equal proportion of the testator's estate bestowed on them in the testator's lifetime, by way of advancement, they shall take nothing by virtue of the provisions of the preceding section.

Sec. 13. When any estate be devised to any child, grandchild, or other relative of the testator, and such devise shall die before the testator, leaving lineal descendants, such descendants shall take the estate, real and personal, as such devisees would have done, in case he had survived the testator.

Sec. 14. If after making any will, the testator shall duly make and execute a second will, the destruction, cancelling or revocation of such second will shall not revive the first will, unless it appear by the terms of such revocation, that it was his intention to revive and give effect to the first will, or unless he shall duly republish his first will.

Sec. 15. The probate court shall take proof of last wills.

Sec. 16. If the testator have a house or house in any place of abode in any county, his will shall be there proved; if he have no place of residence, and lands be devised, it shall be proved in the county where any part of the lands lie; and if he have no residence, and there be no lands devised, the will shall be proved in the county in which the testator died; or if he died out of the territory, then in any county.

Sec. 17. When any will is exhibited to be proved, the court may immediately receive the proof and grant a certificate of probate, or if such will be rejected, grant a certificate of rejection.

Sec. 18. If any witness be prevented by sickness from attending at the time any will may be produced for probate, or reside out of the territory, or more than thirty miles from the place where the will is to be proved, such court may issue a commission, annexed to such will, and directed to any judge, justice of the peace, or mayor, or other person, empowering him to take and certify the attestation of such witness.

Sec. 19. If such witness appear before such officers, and make oath or affirmation that the testator signed the writing annexed to such commission, as his last will; or that some other person signed it by his direction, and in his presence; that he was of sound mind; that the witness subscribed his name thereto in the presence of the testator; the testimony so taken shall have the same force as if taken before the court.

Sec. 20. When one of the witnesses to such will shall be examined, and the other witnesses are dead, insane, or their residence unknown, then such proof shall be taken of the handwriting of the testator, and of the witnesses insane, dead, or residence unknown, and of such other circumstances as would be sufficient to prove such will in a trial at common law.

Sec. 21. If it shall appear to the satisfaction of the court, that all the subscribing witnesses are dead, insane, or their residence unknown, the court shall take and receive such proof of the handwriting of the testator and subscribing witnesses to the will, and of such other facts and circumstances as would be sufficient to prove such will in a trial at law.

Sec. 22. All the testimony adduced in support of any will, shall be reduced to writing, signed by the witnesses, and certified by the judge of probate.

Sec. 23. No nuncupative will shall be good when the estate bequeathed exceeds the value of two hundred dollars; nor unless it be proved to the satisfaction of the testator, at the time of pronouncing the same, that he had no person present to bear witness that such was his will, or to that effect; nor unless such nuncupative will was made at the time of the last sickness, and at the dwelling-house of the deceased, where he had been residing for the space of ten days or more, except where such person was taken sick from home, and died before his return.

Sec. 24. Any witness at sea, or soldier in the military service, may dispose of his estates, or other personal property, as he might have done by common law, or by reducing the same to writing.

Sec. 25. No proof shall be received of any nuncupative will, unless it be offered within six months after the death of the testator, or unless the will be reduced to writing within thirty days after they were spoken.

Sec. 26. When any will is exhibited to be proved, the court may prove, unless the testamentary words, or the substance thereof were reduced to writing within thirty days after they were spoken.

Sec. 27. All wills shall be recorded by the judge in a book kept for that purpose, within thirty days after probate, and the originals shall be carefully filed.

Sec. 28. Every will proved according to the provisions of this act, recorded and certified by the judge of probate, and attested by his seal of office, may be read as evidence without any further proof.

Sec. 29. The record of any will shall be proved and recorded as aforesaid, and the exemplification of such record by the judge of probate, in whose custody the same may be, shall be received as evidence, and shall be as effectual in all cases as the original would be if produced and proven, and may in like manner be expelled by contrary proof.

Sec. 30. If any person interested in the probate of any will shall appear within five years after the probate or rejection thereof, and by petition to the district court for the county, contest the validity of the will, or pray to have the will proven, which has been rejected, an issue shall be made up, whether the writing produced be the will of the testator or not, which shall be tried by a jury, or if neither party require a jury, by the court.

Sec. 31. The verdict of the jury, or the finding and judgment of the court, so taken shall be final; and any appeal to the Supreme Court, or any protest made in the county court, shall have no effect; and the court may, in its discretion, order the will to be proved and certified, or to be rejected, without any further proof.

Sec. 32. The evidence and proceedings in the preceding cases, shall be reduced to writing; and the will be delivered to the executor, or other proper person, for record, in the usual form.
the court shall be final, saving to the court the right of granting a
new trial as in other cases, and to either party an appeal in matters
of law to the supreme court.

Sec. 33. If no person shall appear within the time aforesaid, the
probate or rejection of such will shall be binding, saving to infants,
matured men, women, persons absent from the United States, or of
unsound mind, a like period of five years after their respective disabi-
lities are removed.

Sec. 34. In all trials respecting the validity of a will, if any sub-
scribings witness be deceased, or cannot be found, the oath of such
witness examined at the time of probate, shall be admitted as evi-
dence, and shall have such weight as the court or jury may think it
deserves.

Sec. 35. Any person not an inhabitant, but owning property,
within or without this territory, may devise or bequeath such property
by last will, executed and proved (if real estate be devised)
according to the laws of this territory, or (if personal estate be be-
queathed) according to the laws of this territory, or of the country,
state or territory in which the will shall be proved.

Sec. 36. Copies of such will, and the probate thereof, shall be
recorded in the same manner as wills executed and proven in this
 territory, and shall be admitted in evidence in the same manner,
and with like effect.

Sec. 37. Any such will may be contested and annulled within
the same time, and in the same manner as wills executed and proven
in this territory.

Sec. 38. If any person has attested or shall attest the execution
of any will, to whom any beneficial devise, legacy, estate, interest,
gift, or appointment of, or affecting any real or personal estate,
other than or except charges in lands, tenements, or hereditaments,
for the payment of any debt or debts, shall be thereby given or
made; such devise, legacy, estate, gift, or appointment so given or
made, shall be void.

Sec. 39. If any such witness would be entitled to any share in
the estate devised or bequeathed, in case the will should not be estab-
lished, or so much of the estate as would have descended, or would
be thereby given to such witness, shall be saved to him, as will fit
the value of the devise or bequest made to him in the will; and he
may recover the same from the devisees or legatees named in
the will, in proportion to, and out of the parts devised and be-
queathed to him.

Sec. 40. If any such devise, legacy, interest, gift, or appointment
be void.

Sec. 41. If, by any will, any real estate be charged with any
debt, and any creditor, whose debt is so charged, has attested the
execution of such will, every such creditor shall be admitted as a
witness to the execution of such will.

Sec. 42. If any person has attested, or shall attest the execution
of any will, to whom any legacy or bequest is thereby given, and
such person, before giving testimony concerning the execution of
such will, shall have been paid, or have accepted or released, or
shall refuse to accept such bequest or legacy upon tender thereof,
such person shall be admitted as a witness to the execution of such
will.

Sec. 43. The credit of such witness shall be subject to the con-
sideration of the court or jury.

Sec. 44. If any legatee or devisee who has attested or shall at-
test the execution of any will, shall have died, or die in the lifetime
of the testator, or before he has received or released the lega-
cy or bequest so given to him, and before he shall have refused
to receive such legacy or bequest, on a tender made thereof, such
legatee or devisee shall be deemed a legal witness to the execution
of such will.

Sec. 45. No person to whom any estate, gift, or appointment
shall be given or made, which is hereby declared to be null and
void, or who shall have refused to receive such legacy or bequest
on tender made, and who shall have been examined as a witness
concerning the execution of such will, shall, after he shall have
been so examined, demand or receive, except as provided in the
thirty-ninth section, any profit or benefit of, or from any such es-
state, interest, gift, or appointment so given or made to him, by any
such devisee, legatee, or receiver, or accept from any person any such
legacy or bequest, or any satisfaction or compensation for the same.

Sec. 46. If any person by last will, devise any real estate to any
person for the term of such person's life, and after his or her death,
his or her children or heirs, or right heirs in fee, such devise shall
vest an estate for life only in such devisee, and remain in fee simple
in such children.

Sec. 47. In case of lands or other estate in this territory, in
which the words "heirs and assigns," or "heirs and assigns for
ever," are omitted, and no expressions are contained in such will,
whereby it shall appear that such devise was intended to convey
an estate for life only, and no further devise be made of the devised
premises, to take effect after the death of the devisee, to whom
the same shall be given; it shall be understood to be the intention
of the testator thereby to devise an absolute estate in fee simple
to the devisee for all such devised premises.

Sec. 48. If any testator, in his last will, devise any chattel or
real estate to any person, and the same shall be taken in execu-
tion for the payment of the testator's debts, then all the other lega-
ettees, devisees, and heirs shall refund their proportionate part
of such loss to such person from whom the devisee shall have
been taken. When any devises, legatees, or heirs shall be required to
refund any part of the estate received by them, for the purpose
of making up the share, devise, or legacy of any other devisee,
legatee or heir, the probate court, upon the petition of the person
entitled to contribution or distribution of such estate, shall order
the same to be made according to equity, and enforce such order
with like effect as decrees in courts of equity.

Sec. 50. The term "will," as used in this act, shall be so con-
strued as to include all codsists as well as wills.
CHAPTER I. OF PARENTS AND CHILDREN.

Sec. 1. Parents and children when liable for each other's support.

2. Minor's maintenance when may be chargeable on minor's estate.

3. Mother cannot bind, after marriage.

Sec. 2. If any minor who has a father living, have property, the income of which is sufficient for his maintenance and education in a manner more expensive than the father can reasonably afford, regard being had to the situation of the father's family, and to all the circumstances of the case, the expenses of the maintenance and education of such child may be defrayed out of the income of his own property, in whole or in part, as shall be judged reasonable by the probate court, and the charges therefor may be allowed accordingly in the settlement of the accounts of his guardian.

Sec. 3. The power of the mother to bind her children, whether legitimate or illegitimate, shall cease in case of her subsequent marriage, and shall not be exercised during the continuance of such marriage, either by herself or her husband.

AN ACT RELATING TO PARENTS AND CHILDREN, GUARDIANS AND WARDS, AND TO MASTERS, APPRENTICES AND SERVANTS.

CHAPTER II. OF GUARDIANS AND WARDS.

Sec. 1. Judge of probate may appoint guardians.

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3. Nomination when to be certified by justice of the peace.


5. Bond of guardian.

6. Guardian may appoint guardian by will.

7. Bond of guardian so appointed: proviso.

8. Powers of court to appoint guardians to defend or prosecute suits.

9. Application for guardian on behalf of insane persons: appointment.

10. Power and duties of such guardian.

11. When guardian may be appointed for spendthrift, &c.

12. Notice to spendthrift and appointment of guardian.

13. Copy of complaint, &c., to be filed with recorder of deeds, and its effects.

14. Judge to make allowance in such case for expenses of ward in defending himself.

15. Powers and duties of guardian for spendthrift.

16. In settling accounts and collecting debts.

17. How to manage estate of his ward.


19. Court may authorize transfer and investment of stock.

20. Removals and resignations of guardians.


22. Power of court to require new bonds, and discharge sureties.

23. Action against sureties on bond when to be brought.


25. Appointment of guardian for non-resident minor.

26. Powers and duties of such guardian.

27. His bond.

28. Guardianship first granted, exclusive throughout territory.

29. Compensation of guardian.

30. Joint accounts may be allowed on oath of one guardian.

31. The words "insane person" and "spendthrift" defined.

Passed December 15, 1853.
CHAPTER 2.

OF GUARDIANS ANDWARDS.

the age of twenty-one years, or until the guardian shall have been discharged according to law; provided, however, that the father of the minor, if living, and in case of his death, the mother, while she remains unmarried, being themselves respectively competent to transact their own business, shall be entitled to the custody of the person of the minor, and to the care of his education.

Sec. 3. Every such guardian shall give bond, with surety or sureties to the Territory of Oregon, in such sum as the judge of probate may order, with conditions, as follows:

1. To make a true inventory of all the real estate, and of all the goods, chattels, rights and credits of the ward that shall come to his possession or knowledge, and to return the same into the probate court, at such time as the judge may order.

2. To dispose of and manage all such estate and effects according to law, and for the best interest of the ward; and faithfully to discharge his trust in relation thereto, and in relation to the custody, education and maintenance of the ward;

3. To render on oath an account of the property in his hands, including the proceeds of all real estate sold by him, and of the management and disposition of all such property, within one year after his appointment, and at such other times as the judge of probate shall direct;

4. At the expiration of his trust to settle his accounts with the probate judge, or with the ward, or his legal representatives, and to pay and deliver over all the estate and effects remaining in his hands, or due from him on such settlement, to the person or persons who shall be lawfully entitled thereto.

Sec. 6. Every father may, by his last will in writing, appoint a guardian or guardians for any of his children, whether born at the time of making the will or afterwards, to continue during the minority of the child, or for a less time; and every such testamentary guardian shall have the same powers, and perform the same duties with regard to the person and estate of the ward, as a guardian appointed by the judge of probate.

Sec. 7. Every such testamentary guardian shall give bond in like manner, and with like conditions as is before required of a guardian appointed by the judge of probate; provided that when the testator in the will appointing the guardian, shall have ordered or requested that such bond shall not be given, the bond shall not be required, unless from a change in the situation or circumstances of the guardian, or for other sufficient cause, the judge of probate shall think proper to require it.

Sec. 3. Nothing contained in this chapter shall impair the power of the supreme court, the district court, probate court, or courts of a justice of the peace, to appoint a guardian to defend the interests of any minor impelled in such courts, or interested in any suit or matter therein pending; nor their power to appoint or allow any person as next friend for a minor to commence, prosecute or defend any suit in his behalf.

Sec. 9. When the relations or friends of any insane person, or any other persons, inhabitants of the county in which such insane person resides, shall apply to the probate judge by petition in writing, to have a guardian appointed for him, the judge shall cause notice to be given to the supposed insane person of the time and place appointed for hearing the case, not less than ten days before the time so appointed; and if, after a full hearing, it shall appear to the probate judge that the person in question is incapable of taking care of himself, the judge shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

Sec. 10. Every guardian so appointed for an insane person, shall have the care and custody of the person of the ward, and the management of all his estate, until the guardian shall be legally discharged, and he shall give bond to the Territory of Oregon, in like manner and with like conditions as is before prescribed with respect to the guardian of a minor, excepting that the provision relating to the education of the ward, shall be omitted in the condition of the bond.

Sec. 11. When any person by excessive drinking, gaming, idleness, or debauchery of any kind, shall so spend, waste, or lessen his estate, as to expose himself or his family to want or suffering, or the county to charge and expense for the support of himself and family, the county commissioners for such county of which such spendthrift is a resident or an inhabitant, shall present a complaint to the probate judge, setting forth the facts and circumstances of the case, and praying to have a guardian appointed for him.

Sec. 12. The probate judge shall cause notice to be given, to such supposed spendthrift, of the time and place appointed for hearing the case, not less than ten days before the time so appointed; and if, after a full hearing, it shall appear to the probate judge that the person complained of comes within the description contained in the preceding section, he shall appoint a guardian of his person and estate, with the powers and duties hereinafter specified.

Sec. 13. After the order of notice has been issued, the complainants shall cause a copy of the complaint, with the order of notice to be filed in the office of the recorder of deeds for the county; and, if a guardian shall be appointed upon such application, all contracts, excepting for necessaries, and all gifts, sales or transfers of real or personal estate made by such spendthrift, after such filing of the complaint in the recorder's office, and before the termination of the guardianship, shall be null and void.

Sec. 14. When a guardian shall be appointed for an insane person, or spendthrift, the judge shall make an allowance, to be paid by the guardian, for all reasonable expenses incurred by the ward in defending himself against the complaint.

Sec. 15. Every guardian so appointed for a spendthrift, shall have the care and custody of the person of the ward, and the management of all his estate, until the guardian shall be legally discharged, and he shall give bond to the Territory of Oregon, in like manner and with like conditions as is before directed with respect to the guardian of an insane person.

Sec. 16. Every guardian appointed under the provisions of this chapter, shall pay all just debts due from his ward, out of his personal estate, if sufficient, and if not, out of his real estate, upon obtaining a license for the sale thereof, as provided by law; he shall
CHAPTER 2.

The guardian shall also manage the estate of his ward frugally and without waste, and apply the income and profits thereof, so far as may be necessary for the comfortable and suitable maintenance and support of the ward and his family, if there be any; and if the income and profits be insufficient for that purpose, the guardian may sell the real estate upon obtaining a license therefor as provided by law, and shall apply the proceeds of such sale, so far as may be necessary, for the maintenance and support of the ward and his family.

A court may authorize the guardian, in their respective counties, on the application of a guardian or of any person interested in the estate of any ward, after notice to all other persons interested, may authorize or require the guardian to sell and transfer any stock in the public funds, or in any bank, insurance company, or other corporation, or any other personal estate, or effects held by him as guardian, and invest the proceeds of such sale, and also, all other moneys in his hands, in real estate, or in any other manner that may be most for the interest of all concerned therein; and the probate court may make such further order, and give such directions as the case may require for managing, investing and disposing of the estate and effects in the hands of the guardian.

Removals and resignations of guardians.

When any guardian, appointed either by a testator or by the judge of probate, shall become insane or otherwise incapable of discharging his trust, or evidently unsuitable therefor, the judge of probate, after notice to such guardian, and to all others interested, may remove him; and every guardian, upon his request, may be allowed to resign his trust, when it shall appear to the judge of probate proper to allow the same; and upon every such resignation or removal, and also, upon the death of any guardian, the judge of probate may appoint another in his stead.

Marriage of female ward.

The marriage of any female, who is under guardianship as a minor, shall operate as a discharge of her guardian; and the guardian of any insane person, or spendthrift, may be discharged by the probate judge, when it shall appear to him, on the application of the ward or otherwise, that such guardianship is no longer necessary.

New bonds.

The probate court may require a new bond to be given by any guardian, and may discharge the existing surties from future responsibility, in the like case, and upon the like terms as are prescribed with regard to executors or administrators.

Section 23. No action shall be maintained against the surties in any bond given by a guardian, unless it be commenced within three years from the time when such guardian shall be discharged; provided, that at the time of such discharge, the person entitled to bring such action shall be out of the territory, the action may be commenced at any time within three years after his return to the territory.

Section 24. Upon complaint made to the probate judge by any guardian or by the ward, or by any creditor or other person interested in the estate of any ward, or by persons having claims thereto in expectancy, as heir or otherwise, against any one suspected of having concealed, embezzled, or conveyed away any of the money, goods or effects of the ward, the judge may cite and examine such suspected person, and proceed with him as to such charge, in the same manner as is provided respecting persons suspected of concealing or embezzling the effects of a deceased testator or intestate.

Section 25. When any minor or other person liable to be put under guardianship, according to the provisions of this chapter, shall reside without this territory, and shall have any estate in the county, the court may order, and after a full hearing and examination, if it shall appear to him proper, he may appoint a guardian for such absent person.

Section 26. Every guardian appointed according to the provisions of this chapter, shall have the same powers and duties with respect to any estate of the ward that may be found within this territory, and also with respect to the person of the ward if he shall come to reside therein, as are prescribed to any other guardian appointed by force of this chapter.

Section 27. Every such guardian shall give bond to the Territory of Oregon, in like manner and with like condition as is above provided with respect to other guardians, excepting that the provisions respecting the inventory, the disposition of the estate, and the account to be rendered by the guardian, shall be confined to such estate, and effects which shall come to his hands in this territory, and that the provisions respecting the custody of the ward shall not be applicable, unless the ward shall come to reside in this territory.

Section 28. The guardianship, which shall first be lawfully granted of any person residing without this territory, shall extend to all the estate of the ward within the same, and shall exclude the jurisdiction of the probate court of any other county.

Section 29. Every guardian shall be allowed the amount of all his reasonable expenses incurred in the execution of his trust, and shall also have such compensation for his services, as the court in which his accounts are settled, shall consider just and reasonable.
CHAPTER III.

OF MASTERS, APPRENTICES, AND SERVANTS.

SEC. 1. Term of indenture.

1. All children under the age of fourteen years, may be bound as apprentices or servants until that age; and all minors above the age of fourteen years, may be bound as apprentices or servants; females until the age of eighteen years or to the time of their marriage within that age, and males until the age of twenty-one years, in the manner prescribed in this chapter.

SEC. 2. Children under the age of fourteen years, may be bound by their father, or in case of his death or incompetency, by their mother, or by their legal guardian; and if illegitimate, they may be bound by their mother; and if they have no parent competent to act, and no guardian, they may bind themselves with the approbation of the probate judge of the county where they reside.

SEC. 3. Minors above the age of fourteen years may be bound in the same manner; provided, that when they are bound by their parent or guardian, the consent of the minor shall be expressed in the indenture, and testified by his signing the same.

SEC. 4. No minor shall be bound as aforesaid, unless by an indenture of two parts, sealed and delivered by both parties; and when made with the approbation of the probate judge, his approbation shall be certified in writing, signed by the judge on each part of the indenture.

SEC. 5. One part of the indenture shall be kept for the use of the minor by his parent or guardian, when executed by them respectively; and when made with the approbation of the probate judge, it shall be deposited in the probate office, and safely kept for the use of the minor.

SEC. 6. The county commissioners may bind as apprentices or servants, the minor children of any poor person who has become actually chargeable to their county, as having a lawful settlement therein, and also all minor children who are themselves chargeable to the county as having a legal settlement therein.

SEC. 7. Such children, whether under or over the age of fourteen years, may be bound, females to the age of eighteen, or to the time of their marriage within that age, and males to the age of twenty-one years; and provision shall be made in the contract for teaching such children to read, write, and cipher, and for such other instruction, benefit and allowance, either within or at the end of the term, as the county commissioners may think reasonable.

SEC. 8. No minor shall be bound by the county commissioners, unless by an indenture of two parts, sealed and delivered by the county commissioners and by the master, one part of which shall be deposited with the probate judge for the county, and the other part of such minor resides, and be safely kept by him for the use of the minor.

SEC. 9. All consideration of money or other things paid or allowed by the master upon any contract of service or apprenticeship made in pursuance of this chapter, shall be paid or secured to the sole use of the minor thereby bound.

SEC. 10. Parents, guardians, probate judges and county commissioners, shall inquire into the treatment of all children bound by them respectively, and with their approbation, and of all who shall have been bound by their predecessors in office, and defend themselves from all cruelty, neglect and breach of covenant, on the part of their masters.

SEC. 11. In case of any such misconduct or neglect of the master, a complaint may be filed by the parents, guardians, county commissioners, or other person in the probate court for the county in which the master resides, setting forth the facts and circumstances of the case; and the court, after having duly noticed the master, shall proceed to hear and determine the cause, as the allegations of the parties may require.

SEC. 12. After a full hearing of the parties, or of the complainant alone, if the master shall neglect to appear, the court may render a judgment or decree that the minor be discharged from his apprenticeship or service, and for the costs of the suit against the master, and may award execution accordingly, and the minor may thereupon be bound out anew.

SEC. 13. If the complaint shall not be maintained, the court shall Costs, when
CHAPTER 3.

WARRANTS.

SEC. 20. The warrant of the justice when directed to any officer or other person by name, shall authorize him to convey the offender to the place of residence of the master, or to the jail of the county where the master resides, although it may be in any other county in this territory.

SEC. 21. All the costs incurred in any such process against a servant or apprentice, shall be paid in the first instance by the complainant, and if the complaint be supported, the amount of costs may be recovered by the master in an action on the indenture, if the same were executed by a parent or guardian; and if recovered against a guardian, the amount paid by him in such action, may be charged by him in his guardianship account; and if the indenture were executed by the county commissioners, or by the minor, with the approbation of the probate judge, the amount of such costs may be recovered in an action against the minor, after he shall arrive at full age.

SEC. 22. If any such apprentice shall be guilty of any gross misbehavior, or refusal to do his duty, or wilful neglect thereof, his master may file his complaint in the probate court for the county in which he resides, setting forth the facts and circumstances of the case, and the court, after having duly notified the apprentice or servant, and all persons who have covenanted on his behalf, and also the county commissioners who shall have approved of the indenture, or their successors in that office, shall proceed to hear and determine the cause, as the allegations of the parties may require.

SEC. 23. After a full hearing of the parties, or of the complainant alone, if the adverse party neglect to appear, the court may render a judgment or decree, that the master be discharged from the contract of apprenticeship or service, and for the costs of suit, such costs to be recovered of the parent or guardian of the minor, if there be any who executed the indenture, and execution therefor to be issued accordingly; and if there be no parent or guardian liable for such costs, the amount thereof may be recovered in an action against the minor, after that he shall arrive at full age; and any minor discharged as aforesaid, may be bound out anew.

SEC. 24. No indenture of apprenticeship or service made in pursuance of this chapter, shall bind the minor after the death of his master; but the apprenticeship or service shall be thenceforth discharged, and the minor may be bound out anew.

Provisions of this chapter shall apply as well to mistresses as to masters.

SEC. 25. Any indenture of apprenticeship or service made in pursuance of this chapter, or in behalf of a minor, may be made either with a woman or man, and all the foregoing provisions shall apply as well to mistresses as to masters.

SEC. 26. Nothing contained in this chapter shall prevent or affect the right of a father, by the common law, to sue or contract for the service of his children for the term of their minority or any part thereof.

SEC. 27. This act shall take effect and be in force from and after the first day of May.

Passed December 15th, 1853.
SALE OF LANDS OF MINORS AND OTHER PERSONS.

CHAPTER I.

SALE OF LANDS OF MINORS AND OTHER PERSONS.

SEC. 1. When guardian may sell estate of a ward.
2. When guardian may sell and place proceeds at interest.
3. Application of proceeds.
4. Investment of proceeds.
5. Residence on final settlement, considered real estate.
6. Position of guardian for license to sell.
7. Order to show cause.
8. Service thereof.
9. When certificate of county commissioners necessary.
10. Bond to be given by guardian before sale.
11. His oath.
12. Notice of sale, how given, evidence may be perpetuated.
13. As to how long a license to sell may continue.
14. When foreign guardian may fix his appointment of guardian, after which he may be licensed to sell.
15. Manner of conducting sale by foreign guardian.
16. Where proceedings respecting sale may be instituted.
17. Residence on final settlement regarded as real estate, disposition thereof.
18. Persons objecting to license, when to pay costs.
19. Limitation of sale by ward, to recover estate sold by guardian.
20. Sale not to be avoided on account of certain irregularities.
22. When sale not held void in case of adverse claimants.
23. Act when to take effect.

SEC. 2. When it shall appear upon the representation of any such guardian, that it would be for the benefit of his ward, that his real estate or any part thereof should be sold, and the proceeds thereof be put out on interest, or invested in some productive stock, his guardian may sell the same accordingly, upon obtaining a license therefor, and proceeding therein in the manner hereinafter provided.

SEC. 3. If the estate be sold for the maintenance of the ward and his family, as provided in the first section of this chapter, the guardian shall apply the proceeds of the sale for that purpose, so far as necessary, and shall put out the residue, if any, on interest, or invest it in the best manner in his power, until the capital shall be wanted for the maintenance of the ward and his family, in which case the capital may be used for that purpose, so far as may be necessary, in like manner as if it had been the personal estate of the ward.

SEC. 4. If the estate is sold in order to pay and invest the proceeds, as provided in the second section, the guardian shall make the investment according to his best judgment, or in pursuance of any order of the probate court relating thereto.

SEC. 5. In every case of the sale of real estate, as provided in this chapter, the residue of the proceeds, if any remain upon the final settlement of accounts of the guardianship, shall be considered as real estate of the ward, and shall be disposed of among the same persons, and in the same manner as the real estate would have been if it had not been sold.

SEC. 6. In order to obtain a license for such sale, the guardian shall present to the probate court of the county in which he was appointed guardian, a petition therefor, setting forth the condition of the estate of his ward, and the facts and circumstances under which it is founded, tending to show the necessity or expediency of such a sale, which petition shall be verified by the oath of the petitioner.

SEC. 7. If it shall appear to the court from such petition that it is necessary, or would be beneficial to the ward that such real estate, or some part of it, should be sold, the court shall thereupon make an order directing the next of kin of the ward, and all persons interested in the estate, to appear before such court at a time and place to be therein specified, not less than four, nor more than eight weeks, from the time of making such order, to show cause why a license should not be granted for the sale of such estate.

SEC. 8. A copy of such order shall be personally served on the next of kin of such ward, and on all persons interested in the estate, at least ten days before the hearing of the petition, or shall be published at least three successive weeks, in such newspaper circulating in the county as the court shall specify in such order.

SEC. 9. No such license shall be granted for the sale of any real estate of a ward, excepting that of a minor, unless the commissioner of the county of which the ward is an inhabitant, shall certify in writing their approbation of the proposed sale.

SEC. 10. Every guardian licensed to sell real estate as aforesaid, shall, before the sale, give bond to the judge of probate for the county in which he was appointed, with sufficient surety or sureties, with condition to sell the same in the manner prescribed for sales of real estate by executors or administrators, and to account for and dispose of the proceeds of the sale in the manner provided by law.

SEC. 11. Such guardian shall also, before fixing on the time and place of sale, take and subscribe an oath before the judge of probate, or some other officer competent to administer the same, in substance as follows: That in disposing of the estate which he is licensed to sell, he will use his best judgment in fixing on the time and place of sale, and that he will exert his utmost endeavors to dispose of the same in such manner as will be most for the advantage of all persons interested therein.

SEC. 12. He shall also give public notice of the time and place of sale, and shall proceed therein in like manner as is prescribed for executors and administrators, and the evidence of giving such notice may be perpetuated in the same manner, and with the same effect as is provided in the case of sales of real estate by executors and administrators.

SEC. 13. No license granted in pursuance of this chapter shall be in force for more than one year, after the time of granting the same.
Chapter 1.

Sec. 14. When any minor, insane person, or spendthrift residing out of this territory, shall be put under guardianship in the state or county in which he resides, and shall have no guardian appointed in this territory, the foreign guardian may file an authenticated copy of his appointment in the probate court of any county in which there may be real estate of the ward; after which he may be licensed by the proper probate court for the same county, to sell the real estate of the ward in any county, in the same manner and upon the same terms and conditions as are prescribed in this chapter, in the case of a guardian appointed in this territory, except in the particulars hereinafter mentioned.

Sec. 15. Every foreign guardian so licensed to sell real estate, shall take and subscribe the oath in the like case of guardians appointed in this territory, and shall give notice of the time and place of sale, and conduct the same in the same manner prescribed for guardians appointed in this territory, and may perpetuate the evidence of the notice in the same manner.

Sec. 16. All the proceedings required to be had in any probate court in this territory, respecting such sale by a foreign guardian, shall be had in the court for the county in which the authenticated copy of his appointment is filed.

Sec. 17. Upon every such sale by a foreign guardian, the proceeds of sale, or as much thereof as may remain upon the final settlement of the accounts of guardianship, shall be considered as real estate of the ward, and shall be disposed of among the same persons, and in the same proportions as the real estate would have been disposed of, according to the laws of this territory, if it had not been sold; and the foreign guardian shall, in every case, before making the sale, give bond to the judge of probate, with sufficient surety or sureties, with condition to account for and dispose of the same according to law.

Sec. 18. If any person shall appear and object to the granting of any license prayed for under the provisions of this chapter, and if it shall appear to the court, that either the petition or the objection is unreasonable, the court may in its discretion award costs for the party prevailing in the case.

Sec. 19. No action for the recovery of any estate, sold by a guardian under the provisions of this chapter, shall be maintained by the ward, or by any person claiming under him, unless it be commenced within five years next after the termination of the guardianship; excepting only that persons out of the territory, and minors and others under legal disability to sue at the time when the cause of action shall accrue, may commence their action at any time within five years next after the removal of the disability, or after their return to the territory.

Sec. 20. In case of an action relating to any estate, sold by a guardian under the provisions of this chapter, in which the ward, or any person claiming under him, shall contest the validity of the sale, the same shall not be avoided on account of any irregularity in the proceedings—Provided, it shall appear:

1. That the guardian was licensed to make the sale, by a probate court of competent jurisdiction;

2. That he gave a bond that was approved by the probate judge;

3. That he took the oath prescribed in this chapter;

4. That he gave notice of the time and place of sale, as prescribed by law; and

5. That the premises were sold accordingly, at public auction, and are held by one who purchased them in good faith.

Sec. 21. If in relation to such sale, there should be any neglect or misconduct in the proceedings of the guardian, by which any person interested in the estate shall suffer damage, such aggrieved party may recover such damage in a suit on the bond of such guardian, or otherwise as the case may require.

Sec. 22. If the validity of any sale, made by a guardian under the provisions of this chapter, shall be drawn in question by any person claiming adversely to the title of the ward, or claiming under any title that is not derived from or through the ward, the sale shall not be held void, on account of any irregularity in the proceedings—Provided, that the guardian was licensed to make the sale, by the proper probate court, and that he did accordingly execute, and acknowledge in legal form, a deed for the conveyance of the premises.

Sec. 23. This act shall take effect and be in force from and after the first day of May next.

Passed December 16th, 1853.
SEC. 1. To be enacted by the Legislative Assembly of the Territory of Oregon. That the widow of every deceased person shall be entitled to dower out of the lands of her husband, if such lands have been purchased during coverture, or were inherited from her husband in the state of marriage, or were devised to her for life, after the marriage, unless she be lawfully barred therefrom.

SEC. 2. If a husband, seised of an estate of inheritance in lands, and not put into possession of the same with the children or other heirs of the deceased, shall have assigned his estate of inheritance to the widow, such assignment may be made by will, and the widow shall be entitled to dower out of the same.

SEC. 3. When a person seised of an estate of inheritance in lands, and not put into possession of the same with the children or other heirs of the deceased, shall have assigned his estate of inheritance to the widow, such assignment may be made by will, and the widow shall be entitled to dower out of the same.

SEC. 4. When a husband shall convey any lands to his wife, by a deed acknowledged by the husband, and the lands were derived from his husband, or were inherited from his husband in the state of marriage, or were devised to her for life, after the marriage, unless she be lawfully barred therefrom.

SEC. 5. When in either of the cases mentioned in the two preceding sections, or in case of a mortgage in which she shall have joined with her husband, the mortgage, or those claiming under him, shall, after the death of her husband, cause the mortgage or premises to be sold by virtue of such mortgage, and if any surplus shall remain, after payment of the moneys due thereon, and the costs and charges of the sale, such widow shall be entitled to the interest, or income of one third part of such surplus, for her life as dower.

SEC. 6. If, in either of the cases above specified, the heir, or other person claiming under the husband, shall pay and satisfy the mortgage, the amount so paid shall be deducted from the value of the land, and the widow shall have set out for her, for her dower in the mortgaged lands, the value of one third of the residue, after such deduction.

SEC. 7. When a widow shall be entitled to dower out of any lands, which shall have been alienated by the husband in his lifetime, and such lands shall have been enhanced in value after the alienation, such lands shall be estimated in setting forth the widow's dower, according to their value at the time they were so alienated.

SEC. 8. When a widow is entitled to dower in the lands of which her husband died seised, and her right to dower is not disputed by the heirs or devisees, or any person claiming under them or either of them, it may be assigned to her in whatever counties the lands may lie, by the judge of probate for the county, in which the estate of the husband is settled, upon application of the widow, or any other person interested in the lands; notice of which application shall be given to such heirs, devisees, or other persons in such manner, as the judge of probate shall direct.

SEC. 9. For the purpose of assigning such dower, the judge of probate shall issue his warrant to three discreet and disinterested persons, authorizing and requiring them to set off the dower by metes and bounds, when it can be done without injury to the whole estate.

SEC. 10. The commissioners shall be sworn by a judge of any court of record, or a justice of the peace, faithfully to discharge their duties, and shall, as soon as may be, set off the dower according to the command of such warrant, and make return of their doings, with an account of their charges and expenses, in writing to the probate court; and the same being accepted and recorded, and an attested copy thereof filed in the office of the recorder of deeds of the county where the lands are situated, the dower shall remain fixed and certain, unless such confirmation be set aside or reversed; costs on error or on appeal, and one half of the costs of such proceedings, shall be paid by the widow, and the other half by the adverse party.

SEC. 11. When the estate, out of which dower is to be assigned, consists of a mill, or other tenement, which cannot be divided or sold, the widow may occupy the same with the children or other heirs of the deceased, or may receive one-third part of the rents, issues, and profits thereof, as the heir, or others interested do not object, without having the dower assigned.

SEC. 12. When a widow is entitled to dower in the lands of which her husband died seised, she may continue to occupy the same, with the children or other heirs of the deceased, or may receive one-third part of the rents, issues, and profits thereof, as long as the heirs, or others interested do not object, without having the dower assigned.

SEC. 13. A married woman may bar her right of dower, in any estate conveyed by her husband, or by his guardian, if he be a minor, by joining in the deed of conveyance, and acknowledging the same, as prescribed in the preceding chapter, or by joining with her husband in a subsequent deed acknowledged in like manner.

SEC. 14. A woman may also be barred of her dower in all the lands of her husband, by a jointure settled on her with her assent before the marriage—Provided, such jointure consists of a frehold

*On the commission of the commissioners.*


title 1

Evidence of her consent.

When bars by pecuniary provisions.

When by the jointure or dower.

When between jointure and dower.

When to elect between jointure, dower, and dowry.

When to elect to have elected.

When to be endowed anew.

Alien or nonresident entitled to dower.

Woman not to commit waste; to keep house, &c. in repair.

How long widow may remain in dwelling-house of husband.

When to recover damages.


estate in lands, for the life of the wife at least, to take effect in possession, or profit, immediately on the death of her husband.

Sec. 15. Such assent shall be expressly given, if the woman be of the full age of twenty-one, by her becoming a party to the conveyance by which it is settled; and such assent shall be given, if she be under that age, by her joining with her father or guardian in such conveyance.

Sec. 16. Any pecuniary provision that shall be made for the benefit of an intended wife, and in lieu of dower, shall, if assented to as provided in the preceding section, bar her right of dower in all the lands of her husband.

Sec. 17. If any such jointure or pecuniary provision be made before marriage, and without the assent of the intended wife, or if it be made after marriage, she shall make her election after the death of her husband, whether she will take such jointure or pecuniary provision, or be endowed of the lands of her husband, but she shall not be entitled to both, unless it plainly appears by the will to have been so intended by the testator.

Sec. 18. When a widow shall be entitled to an election, under either of the last two preceding sections, she shall be deemed to have elected to take such jointure, dower, or any lands so made, or whether she will be endowed by the lands of her husband; but she shall not be entitled to both, unless it plainly appears by the will to have been so intended by the testator.

Sec. 19. When a widow shall be entitled to an election under either of the last two preceding sections, she shall be deemed to have elected to take such jointure, dower, or any lands so made; but unless within one year after the death of her husband, she shall commence proceedings for the assignment or recovery of her dower.

Sec. 20. If a woman be lawfully entitled to lands assigned to her as dower, or settled upon her as jointure, or be deprived of the provision made for her by the will or otherwise, in lieu of dower, she shall be entitled to the same as in like manner as if such assignment, jointure, or other provision had not been made.

Sec. 21. A woman being an alien, shall not on that account be barred of her dower; and any woman residing out of the territory shall be entitled to dower of the lands of her deceased husband, lying in this territory, of which her husband died seized, and the same may be assigned to her, or recovered by her in like manner, as if she had been married in this territory, at the time of her death.

Sec. 22. No woman, who shall be endowed of any lands, shall commit or suffer any waste on the same; but every woman, so endowed, shall maintain the houses and tenements, with the fences and appurtenances in good repair, and shall be liable to the person having the next immediate inheritance therein, for all damages, occasioned by any waste committed, or suffered by her.

Sec. 23. A widow may remain in the dwelling-house of her husband one year after his death, without being chargeable with rent therefore, and shall have her reasonable sustenance out of the estate for one year.

Sec. 24. Whenever in any action, brought for the purpose, a widow shall recover her dower in lands, of which her husband died seized, she shall be entitled also to recover damages for the withholding of such dower.

Sec. 25. Such damages shall be one third part of the annual value of the mean profits on the lands, in which she shall so recover her dower, to be estimated in a suit against the heirs of her husband, and from the time of his death, and in suits against other persons from the time of demanding her dower of such persons.

Sec. 26. Such damages shall not be estimated for the use of any permanent improvements made after the death of her husband, by his heirs, or by any other person claiming title to such lands.

Sec. 27. When a widow shall recover her dower in any lands, aliened by the heir of her husband, she shall be entitled to recover of such heir, in a civil action, her damages, for withholding such dower, from the time of the death of her husband, to the time of the alienation by the heir, not exceeding six years in the whole; and the amount which she shall be entitled to recover from such heir shall be deducted from the amount she would otherwise be entitled to recover from such grantee; and any amount recovered as damages, from such grantee, shall be deducted from the sum she would otherwise be entitled to recover from such heir.

Sec. 28. When the widow shall have accepted an assignment of dower, in satisfaction of her claim upon all the lands of her husband, it shall be a bar to any further claim of dower, against the heir of such husband, or any grantee of such heir, or any grantee of such husband, unless such widow shall have been lawfully evicted of the lands so assigned as aforesaid.

Sec. 29. When any woman, not having a right to dower, shall during the infancy of the heirs of the husband, or any of them, or any person entitled to the lands, recover dower by the default or collusion of the guardian of such infant heirs or other person, such heir or other person so entitled, shall not be prejudiced thereby, but when he comes of full age, he shall have an action against such widow, to recover the lands so wrongfully awarded for dower.

TITLE II.

Estates by the Curtesy.

Sec. 29. When husband to hold as tenant by the curtesy.

Sec. 30. When any man and his wife shall be seised in her right of any estate of inheritance in lands, the husband shall, on the death of his wife, hold the lands for his life, as tenant thereof by curtesy, although such husband and wife may not have had issue born alive.

TITLE III.

General Provisions.

Sec. 31. Liability of person in possession of land, out of which rent is reserved.

Sec. 32. Recovery of rent, deed evidence to prove amount due.

Sec. 33. Construction of preceding sections.

Sec. 34. Determination of estate at will and by suffrage.

Sec. 35. Alien may hold, convey, and demise land.

Sec. 36. Title of land heretofore conveyed, not to be questioned on account of alienage.

Sec. 37. Heir or assigns of heir who may sue for injury done inheritance.

Sec. 38. When joint-tenant may maintain action against cotenant.

Sec. 39. Act, when to take effect.
AN ACT RELATING TO COUNTIES.

CHAPTER I.

OF COUNTIES.

Sec. 1. Every person in possession of land, out of which any rent is due, whether it was originally demised in fee, or for any other estate of freehold, or for any term of years, shall be liable for the amount or proportion of rent due from the land in his possession, although it be only a part of what was originally demised.

Sec. 2. Such rent may be recovered in an action at law, and the deed of demise, or other instrument in writing, if there be any, showing the provisions of the lease, may be used in evidence by either party, to prove the amount due from the defendant.

Sec. 3. Nothing contained in the two preceding sections, shall deprive landlords of any other legal remedy for the recovery of their rents, whether secured to them by their leases, or provided by law.

Sec. 4. All estates at will, or by sufferance, may be determined by either party, by three months' notice in writing, given to the other party; and when the rent reserved in a lease at will is payable at periods of less than three months, the time of such notice shall be sufficient, if it be equal to the interval between the times of payment; and in all cases of neglect or refusal to pay the rent due on a lease at will, fourteen days' notice to quit, given in writing by the landlord to the tenant, shall be sufficient to determine the lease.

Sec. 5. Any alien may acquire and hold lands, or any right thereunto, or interest therein by purchase, devise, or descent, and he may convey, mortgage, and devise the same, and if he shall die intestate, the same shall descend to his heirs: and in all cases such lands shall be held, conveyed, mortgaged, or devised, or shall descend in like manner, and with like effect, as if such alien were a native citizen of this territory, or of the United States.

Sec. 6. The title to any lands heretofore conveyed shall not be questioned, nor in any manner affected by reason of the alienage of any person, from or through whom such title may have been derived.

Sec. 7. A person, seized of an estate in remainder or reversion, may maintain a civil action for any injury done to the inheritance, notwithstanding any intervening estate for life or years.

Sec. 8. Joint tenant, or tenant in common, and his executors or administrators, may maintain an action against his co-tenant, for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants, or tenants in common.

Sec. 9. This act shall take effect, and be in force from and after the first day of May next.

Passed January 16th, 1854.
Chapter I.

County Commissioners.

Sec. 1. Commissioners, board of; their election, term of office, &c.
Sec. 2. Division of county into districts; commissioners to be elected from each district; proviso.
Sec. 3. Term of office of commissioners elected to fill vacancies.
Sec. 4. Official oath of commissioners; certificate thereof to be filed.
Sec. 5. Commissioners may bring and defend suits.
Sec. 6. Commissioners to hold four sessions annually.
Sec. 7. July session, what business to be transacted at.
Sec. 8. Commissioners may hold extra sessions; sessions not to exceed three days.
Sec. 9. Compensation of commissioners.
Sec. 10. In case of division, question when to be postponed.
Sec. 11. County auditor to be clerk of board; his duties.
Sec. 12. Commissioners to use official seal.
Sec. 13. General duties of county commissioners.
Sec. 14. Election of chairman; effect of signature; documents how signed in his absence.
Sec. 15. Commissioners to provide offices, stationery, &c., for county officers.
Sec. 16. When to receive and inspect assessment roll.
Sec. 17. Commissioner to receive suits and petitions.
Sec. 18. To receive and inspect assessment roll.
Sec. 19. Power to compound debts.
Sec. 20. Not to be interested in any contract for county under penalty.
Sec. 21. Power to administer oaths.
Sec. 22. To provide place for holding court.
Sec. 23. Appeal from decision of commissioners, how and when taken.
Sec. 24. Act when to take effect.

Chapter II.

County Officers.

Sec. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That there shall be established in each organized county in this territory, a board of commissioners, to consist of three persons, having the qualifications of electors, any two of whom shall be competent to do business, to be elected by the qualified electors thereof, at the annual election, who shall hold their office for three years, except as hereinafter provided.
Sec. 2. Each county shall be divided into three districts, numbered one, two, and three, not subject to alteration oftener than every three years, and such districts shall be laid off by the board of commissioners of the respective counties, at their first session after the first day of May next, and in counties hereafter organized, within one year from the organization of the county, and hereafter, one commissioner shall be elected from the residents of each of such districts, by the voters of the whole county: Provided, that the commissioners first elected in any county in this territory, shall hold their office for the term of one, two, and three years, and until their successors are elected and qualified, to be by them determined by lot at their first session: Provided further, that if any commissioner shall absent himself from the county in which he is elected for six months in succession, it shall be deemed a resignation of his office.
Sec. 3. Whenever it shall become necessary to elect a commissioner to fill any vacancy occasioned by death, resignation, or removal, the person elected shall hold his office for the unexpired term for which his predecessor was elected, and until his successor is elected and qualified.

Passed January 24th, 1854.
CHAPTER I.

Sec. 4. Before any commissioner shall enter upon the duties of his office, he shall take and subscribe an oath or affirmation, before some person authorized to administer the same, faithfully to discharge the duties of a commissioner of the county, in which he resides; and deposit a certificate thereof with the clerk of the board of commissioners, of his county, to be by him filed in his office.

Sec. 5. The commissioners thus elected and qualified may sue and be sued, pleaded and be impleaded, defend and be defended, answer and be answered unto, in any court, either in law or in equity, and do and transact all business on behalf of their respective counties, that may be assigned to them by law; and in all cases where their respective counties have been injured, or may hereafter be injured in their goods, chattels, lands, tenements, rights, claims and effects, or contracts, such commissioners may in their name of office, without setting out their individual names, bring any suit or suits, either in law or equity, which may be best calculated to obtain redress for such injury, and may, in like manner, and by their name of office, be sued by any person or persons, having any claims against such county.

Sec. 6. The board of commissioners shall hold four sessions annually, at the seat of justice of their respective counties, commencing on the first Monday of April, July, September and December; at all of which they shall transact any business which may be required by law; provided, that if the district court be in session on any of the above mentioned days, the commissioners shall meet on the Monday preceding, but no session shall be continued for a longer period than six days.

July session.

Sec. 7. At the July session the commissioners shall examine and compare the accounts and vouchers of the county auditor and treasurer, count the funds in the treasury, and direct the auditor to publish an exhibit of the receipts and expenditures of the past year.

Sec. 8. The said board of county commissioners are hereby authorized to hold extra sessions, in case they may think the business of their county requires the same; and ten days notice from any two of the commissioners to the third, shall be considered a sufficient call for said extra sessions—Provided, that no such extra session shall exceed three days.

Compensation.

Sec. 9. The commissioners shall each receive five dollars per day, for each and every day they may be necessarily employed in transacting the county’s business, and ten cents a mile for every mile travelled in going to, and returning from the meeting of said board, or in the discharge of any official duty, to be computed by the most usual and direct route.

Sec. 10. When two only of the members shall be present, at the meeting of the board, and a division take place on any question, it shall be postponed to a subsequent meeting.

Sec. 11. The county auditor shall be the clerk of the board of county commissioners, and shall attend the meetings of the board, and keep a record of the proceedings, and do such other business as he shall be required by law to do.

Sec. 12. The commissioners of each county shall have and use a seal for the purpose of sealing their proceedings; and copies of the same when signed and sealed by said commissioners, and attested by their clerk, shall be good evidence of such proceedings in the trial of any cause in any court of this territory.

Sec. 13. The several boards of county commissioners are authorized and required:

1. To provide for the erection and repairing of court-houses, jails, and other necessary public buildings for the use of the county;
2. To lay out, discontinue, or alter county roads and highways within their respective counties, and to do all other necessary acts relating thereto;
3. To license and fix the rates of farriery; to grant grocer y and other licenses authorized by law to be by them granted;
4. To fix the amount of taxes to be assessed according to the provisions of law, and cause the same to be levied and collected;
5. To have the care of the county property and the management of the county funds, and business; except in cases otherwise provided for, and shall have no other powers, except such as are, or may be given by law.

Sec. 14. The commissioners aforesaid at their annual session in June, in each even year, shall elect one of their members to preside at the meetings of the board, and he shall sign all documents requiring the signature of the board; and the signature of such person, as chairman of the board of commissioners, shall be as legal and binding as if the entire board had affixed their names—Provided, that in case such chairman shall be absent at any meeting of the board, all documents requiring the signature of the board, shall be signed by both members present.

Sec. 15. It shall be the duty of the board of county commissioners to provide offices for the sheriff, the county auditor, and clerk of the district court, and also provide all books and stationery, necessary for the use of the board of county commissioners, the office of the county auditor, the clerk of the district court, the probate court, and county treasurer, and also provide convenient desks for the preservation and security of the books, and other documents in the several offices.

Sec. 16. The board of commissioners at their session in September in each year, shall receive and inspect the assessment roll, returning the same to the assessors, and if it be found correct, it shall be accepted by the board in writing subscribed by the chairman and attested by the clerk, and caused the same to be filed in the office of the county auditor, where it shall remain as a matter of record, and shall be a guide for future assessors, so far as the same shall remain correct.

Sec. 17. The boards of commissioners of the several counties of this territory, are vested with the entire superintendence of the poor in their respective counties.

Sec. 18. The county commissioners of their respective counties shall have power to compound for a release in whole, or in part, of any debt due to their county, and for the use thereof, when in their opinion, the interests of the county will not be prejudiced.
Chapter 1

No county commissioner shall, directly or indirectly, as contractor, be concerned in any contract for work to be done, or materials to be furnished for the county, under the penalty of two hundred dollars, to be recovered by an action at law, for the use of the county; and such commissioner shall moreover forfeit any compensation he was to receive on such contract.

Sec. 20. The commissioners are authorized and empowered to administer all oaths or affirmations, necessary in discharging the duties of their office.

Sec. 21. Until proper buildings are erected at a place fixed upon, for the seat of justice in any county, it shall be the duty of the county commissioners to provide some suitable place for holding the courts of such county.

Sec. 22. Any person may appeal from the decision of the board of county commissioners, to the next term of the district court, of the same county; such appeal shall be taken within twenty days after such decision, and the party appealing shall notify the commissioners that the appeal is taken, at least ten days before the first day of the next term of the court appealed to; which notice shall be in writing, and shall be delivered personally to the commissioners, or left with the auditor of the county; and the party appealing shall give a bond to the county, with one or more sureties, to be approved by the county auditor, conditioned to pay all the costs which shall be adjudged against him, on such appeal, in the said district court.

Sec. 23. This act shall take effect, and be in force from and after the first day of May next.

Passed January 24th, 1854.

AN ACT RELATING TO ASSESSORS.

Sec. 1. Election of assessors; qualification and term of office.

1. Any person may be elected to serve as assessor in any county; provided, he has resided in the county for one year; and is a qualified elector.

2. A term of office for each assessor shall be two years.

Sec. 2. The said assessors shall, each, before entering on the discharge of the duties of his office, give a bond to the county for which he was elected, with two or more sureties to be approved by the board of county commissioners in such penal sum as such board shall direct, conditioned for the faithful performance of his duties, according to law; and shall take and subscribe an oath, faithfully and impartially to discharge the duties of his office according to law, and to the best of his abilities.

Sec. 3. The assessors, after qualifying as above prescribed, shall immediately receive from the county auditor a blank assessment roll, for their respective counties, and shall, in the months of July and August thereof, assess all the taxable property within their respective counties, and shall deliver to the board of county commissioners, on or before their session in September, next following, a full and complete assessment roll, which roll shall set forth a full and precise description of the land, or town lots, as owned by each person therein named, which description shall correspond with the plan or plot of the original survey, or the plan or plot of any town laid out and recorded; and said lands and town lots shall be valued at their true cash value, taking into consideration the improvements on the land, and in the surrounding country, the quality of the soil, its convenience to navigation, public roads, mills, privileges, and other local advantages.

Sec. 4. All the personal property not exempted from taxation shall be valued at its true value in cash, and it shall be the duty of each assessor to value all improvements on claimed land within his county as personal property.

Sec. 5. It shall be the duty of every assessor to swear every person subject to taxation, and to give a true account of his or her property according to the best of his or her knowledge and belief; and should any person or persons, when required, refuse to testify as above, the assessor shall ascertain the taxable property of such person or persons, from the best information to be derived from other sources.

Sec. 6. Each assessor shall give three weeks public notice in some newspaper, printed in his respective county; and if there be no such newspaper, in some newspaper in general circulation in his county, or by posting up notices in six conspicuous places in his county, setting forth that, on the last Monday in August, the assessor will attend at the office of the county auditor of his county, and with the assistance of said auditor, will publicly examine the assessment rolls, and correct all errors in valuations, descriptions, qualities of lands, lots, or other property; and it shall be the duty of persons interested to appear at the time and place appointed, and if it shall appear during such examination that there is any land, or other property assessed twice, or assessed beyond its actual value, or assessed in the name of a person not the owner thereof, or any lands, lots, or other property not assessed, the auditor and assessor shall make the proper directions.

Sec. 7. If any person shall wilfully neglect to attend at the time and place required, he shall be liable for a violation of his duty, and suffer such fine or imprisonment, or both, as the district court shall impose. Provided, that it may be competent for any assessor, in case of his being prevented by sickness, or any other excusable cause, as above prescribed, to appoint some suitable person, having the qualifications of a voter, his deputy, who shall perform...
AN ACT RELATING TO COUNTY AUDITORS.

CHAPTER 1.

SEC. 1. Election of auditor, term of office.
1. Auditor to be clerk of board of commissioners.
2. Election of how conducted: provisions.
3. Oath of auditor to be administered on certificate of election: bond: duties of auditor.
4. Account current to be kept with treasurer.
5. May appoint deputy.
6. Auditor and deputy may administer oaths.
7. May practice as attorney before commissioners.
8. May cancel county orders and issue others in lieu.
9. In case of sickness, commissioners may appoint auditor pro tem.
10. Act not to apply to auditors now in office.
11. Appointment of deputy to be in writing: oath of deputy.
12. Auditor to attend meeting of board of county commissioners, as clerk.
13. Act when to take effect.

SEC. 2. Be it enacted by the Legislative Assembly of the Territory of Oregon, That at the first general election in each and every county organized for county purposes, and every two years thereafter, there shall be elected a county auditor, who shall have the qualifications of a voter and shall continue in his office for the period of two years, and until his successor is duly elected and qualified.

SEC. 3. The election provided for by this act, shall be conducted and the returns made in the manner and form prescribed by the law regulating general elections: Provided, that the person or persons associated with the auditor in opening and examining the poll books, shall issue to the person duly elected under this act, his certificate of election.

SEC. 4. Every auditor within fifteen days after receiving his certificate of election, and before he shall enter upon the discharge of the duties of his office, shall take and subscribe an oath before the clerk of the district court, or judge of probate of his proper county, faithfully and impartially to perform the duties of his office as prescribed by law, to the best of his abilities; which oath shall be recorded in the minutes of the board of county commissioners, and filed in the office of the county auditor, and be a part of the official acts of such deputies. And auditor may be attached for judicial purposes. He shall also give a bond to the county, with good and sufficient sureties, in the penal sum of one thousand dollars, to be approved by the county commissioners of his county, conditioned that he will faithfully and impartially fulfill the duties of his office, which bond shall be filed in the office of the clerk of the district court of the county, or if there be no such officer, with the clerk of the district court of the county to which his county may be attached for judicial purposes. He shall also give a bond to the county, with good and sufficient sureties, in the penal sum of one thousand dollars, to be approved by the county commissioners of his county, conditioned that he will faithfully and impartially fulfill the duties of his office, which bond shall be filed in the office of the clerk of the district court of the proper county; he shall audit all accounts and demands chargeable against his county, (which are not directed to be settled and allowed by some other tribunal or person,) and present the same to the county commissioners for their inspection and allowance, and for all such sums of money allowed by the county commissioners, or such other tribunal or person, or where the same is fixed by law, he shall issue his orders on the treasurer of the county, payable to the person entitled thereto, which orders shall be numbered according to the date of their issue, and the number, date, and amount of each, and to whom payable, and for what purpose drawn, shall, at the time of issuing the same, be entered in a book kept for that purpose.

SEC. 5. He shall keep an accurate account-current with the treasurer of the county, and when any person shall deposit with him any receipt given by the treasurer, for money paid into the treasury, he shall file such receipt, and charge the treasurer with the amount thereof.

SEC. 6. Auditors may appoint deputies to perform the duties of auditor, and shall be liable for the official acts of such deputies.

SEC. 7. Auditors and their deputies are authorized to administer oaths necessary in the performance of their duties; and in all other cases, such oaths are required by law to be administered.

SEC. 8. No person doing the duties of auditor shall practice as an attorney before the court of county commissioners.

SEC. 9. Any person may have a county order cancelled by the auditor, and two or more new orders issued in lieu thereof, by presenting such auditor the fees allowed for such services.

SEC. 10. In case the auditor is unable to attend to the duties of his office, the officers composing the board of county commissioners, and having no deputy able to attend, some person may be deputized by such board to perform the duties of auditor for the time being.

SEC. 11. Nothing in this act shall be so construed as to prevent the persons now discharging the duties of county auditor in any county, from continuing to perform the duties of that office during the time he would otherwise have been entitled.
AN ACT RELATING TO COUNTY TREASURER.

CHAP. I.

Appoint- ment of county treasurer.

Treasurer how elected; his term of office.

2. Oaths and bond to be filed.

3. As to receipt and disbursement of county moneys.

4. May appoint or remove deputies.

5. Office where to be kept; treasurer and deputy may administer oaths.


7. Books subject to inspection of commissioners.

8. When to pay auditor's order; proceedings if out of funds.

9. Redemption of order bearing interest; proceedings thereof.

10. Orders to be redeemed according to priority of presentment.

11. Order redeemed when and where to be deposited.

12. Removal of treasurer by county commissioners.

13. Annual settlements; books to be transferred to successor.


15. Act when to take effect.

AN ACT RELATING TO COUNTY TREASURER.

Sec. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That there shall be elected at the annual election in each county in this territory, by the qualified voters thereof, some suitable person, being a resident of the same county, to be the county treasurer, who shall continue in office for one year, and until his successor is elected and qualified.

Sec. 2. The county treasurer, before he enters on the duties of his office, shall take an oath faithfully to discharge the duties of his office as prescribed by law; he shall also, before he shall enter upon the duties of his office, give a bond to the county, with at least four sureties residing in the county, as sureties, in an amount to be determined by the board of county commissioners, who shall also approve the sureties to the bond.

Oath of office and bond.

To receive and disburse money.

Sec. 3. He shall receive all moneys due and accruing to his county, and disburse the same on the proper orders, issued and attested by the county auditor.

Sec. 4. County treasurers may appoint one or more deputies, and may take from them bond with sureties; may remove such deputies at pleasure, and such treasurer and his sureties shall be liable for all official acts of such deputies.

Sec. 5. The county treasurer shall keep his office at the seat of justice of his county, and shall keep the same open for the transaction of business during business hours; and he and his deputy are authorized to administer all oaths, necessary in the discharge of the duties of his office.

Sec. 6. He shall so arrange and keep his books, that the amount received and paid out, on account of separate and distinct funds, or specific appropriations, shall be exhibited in separate accounts, as well as the whole receipts and expenditures by one general account.

Sec. 7. He shall at all times keep his books and office subject to the inspection and examination of the board of county commissioners, and shall exhibit the money in his office to such board at least once a year.

Sec. 8. He shall pay all orders of the county auditor when presented, if there be money in the treasury for that purpose, and write on the face of each order, the date of redemption and his signature. If there be no funds to pay such order when presented, he shall indorse thereon, 'Not paid for want of funds,' and the date of such presentment, over his signature, which shall entitle such order thereupon to draw legal interest—Provided, that such interest shall commence from the date of notice by publication in some newspaper, printed or circulated in his county, to be given by the county treasurer, that there are funds to redeem such outstanding orders, which notice such treasurer shall give in such case.

Sec. 9. When the county treasurer shall redeem any order on which interest is due, he shall note on such order the amount of interest by him paid thereon, and shall enter on his account the amount of such interest, distinct from the principal.

Sec. 10. County orders shall be redeemed by the treasurer according to the priority of the time of presentment—Provided, such orders payable out of the county revenue shall be received in payment of county taxes, without any regard to priority of presentment, number; but such treasurer shall not pay any balance thereon over and above such tax, when there are outstanding orders unpaid for want of funds.

Sec. 11. The treasurer shall, on the first Monday in December, March, June, and September, in each year, deposit with the county auditor, all county orders redeemed, who shall receive thereof.

Orders redeemed, when and where deposited.

Sec. 12. Whenever suit shall have been commenced on the official bond of any delinquent treasurer, he may be removed by the board of county commissioners of his county.

Sec. 13. The county treasurer shall annually make complete settlement with the board of county commissioners, at the regular June term thereof, and shall, at the expiration of his term, deliver to his successor all public money, books and papers in his possession.
AN ACT RELATING TO CORONERS.

Chapter 1.

Section 1. Election of coroner, term of office and bond.

When there shall be no sheriff, or undersheriff in any county, the coroner shall have such powers as the sheriff may have in the performance of similar duties, and in such cases the coroner of any county, attached to another county for the performance of similar duties, shall have such powers as the sheriff may have in the performance of similar duties.

Section 2. Oath to be administered to sheriff.

Section 3. Clerk, when to serve process on behalf of the sheriff.

Section 4. Whenever any party, his agent, or attorney, shall make, file with the clerk of the district court, an affidavit stating that he believes the sheriff or such county will not, by reason of partiality, prejudice, consanguinity, or interest, faithfully perform his duties in any suit, the clerk shall direct the original or other process in such suit to the coroner, who shall execute the same, in like manner as the sheriff might, or ought to have done.

Section 5. Coroners shall make inquest upon view of the dead body. Inquest.

Section 6. When the jurors who have been summoned appear, the coroner shall call over their names and then in view of the dead body shall administer to them the following oath: You solemnly swear or affirm (as the case may be) that you will, to the best of your knowledge and belief, tell the truth, and, upon the true presentment made on behalf of the county, to which you belong, to the county of your county, at the dwelling-house of , or at a place called in said county, at the hour of , then and there to inquire, upon the view of the body of there lying dead, when, how, and by what means he came to his death.—Hereof fail not.

Given under my hand, the day of , 18 .

Coroner.
person whose body now lies before you, dead, came to his death, and you shall return a true inquest thereof, according to your knowledge, and such evidence as shall be laid before you—So help you God.

If the six jurors shall not appear, the coroner may require the constable, or any other person, whom he shall appoint, to return jurors from the bystanders to complete that number.

Coroner may issue subpoenas.

SEC. 9. The coroner may issue subpoenas for witnesses returnable forthwith, or at such time and place as he shall direct. The persons served with such subpoenas shall be allowed the same fees, and their attendance shall be enforced in the same manner by the coroner, and they shall be subject to the same penalties, as if they had been served with a subpoena in behalf of the United States of America, to attend a justice's court.

SEC. 10. An oath to the following effect shall be administered to the witnesses by the coroner:

Form of oath

You solemnly swear that the evidence you shall give to this inquest, concerning the death of the person lying here dead, shall be the truth, the whole truth, and nothing but the truth—So help you God.

Testimony to be reduced to writing.

SEC. 11. The testimony of all witnesses, examined before any inquest, shall be reduced to writing by the coroner, or some other person by his direction, and subscribed by the witnesses respectively giving it in.

Jury to deliver inquisition to coroner.

SEC. 12. The jury, upon inspection of the dead body, and after hearing the testimony, and making all needful inquiries, shall draw up and deliver to the coroner the inquisition, under their hands, in which they shall find and certify when, how, and by what means the deceased person came to his death, and his name if known, together with all the material circumstances attending his death; and if it shall appear that he was murdered, the jurors shall further state who were, if known, or were in any manner the cause of his death, which inquisition may be in substance as follows:

An inquisition taken at __________ in the county of __________, on the day of __________, 18___. Before the coroner of said county, upon the view of the body of __________, (or a person lying there dead,) by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire, on behalf of the United States of America, when, how, and by what means the said __________ (or person) came to his death, upon their oaths say, (then insert when, how, and by what person, means, weapon, or instrument, he was killed.)

In testimony whereof, the said coroner and jurors of this inquest have hereunto set their hands, the day and year aforesaid.

AN ACT RELATING TO CORONERS.

Chapter 1.

Section 1. Election of coroner; term of office.

Section 2. Sheriff to collect taxes.

Section 3. Execution of bonds, and oath of office.

Section 4. Sheriff, when to qualify.

Section 5. To appoint deputies; liability for deputy; oath of deputy.

Section 6. Sheriff to have charge of jail and prisoners; ineligible for other office; not to practice law.

Section 7. Raising power of county; other powers and duties of sheriff.

Section 8. County commissioners to appoint sheriff in case of vacancy.

Section 9. Writs, sheriff to give certificate of.

Section 10. Proceedings against, on failure to pay over money collected; proviso.

Section 11. When to settle with commissioners for taxes collected.

Section 12. Not to receive more fees than allowed by law.

Section 13. Not to purchase property sold by him on execution.

Section 14. May finish certain business after expiration of office.

Section 15. Sheriffs and jailors to receive and keep persons charged with crime; proviso.

Section 16. Fees for collecting taxes.

Section 17. Conveying prisoner through another county.

Section 18. Sheriff, deputy, and coroner not to practice law; penalty for.

Section 19. Liability of sheriff for neglect, misconduct, &c.

Section 20. When coroner to execute bond.

Section 21. Term of sheriffs now in office not affected.

Section 22. Act when to take effect.

AN ACT RELATING TO SHERIFFS.

Chapter 1.

Section 13. If the jury find that any murder, manslaughter or assault has been committed on the deceased, the coroner shall bind over by recognizance such witnesses as he may deem proper, to appear and testify at the next term of the court, to be held in the same county, at which an indictment for such offence can be found; he shall also return to the same court the inquisition, written evidence, all recognizances, and examinations by him taken, and may commit to the jail of the county, any witnesses who shall fail to recognize, in such manner as he shall direct.

Section 14. If any person charged by the inquest with having committed such offence, shall not be in custody, the coroner shall have the same power as a justice of the peace, to issue process for his apprehension, and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having jurisdiction of the case, who shall proceed therein in the same manner, that is required of justices of the peace (or other magistrate or court) in like case.

Section 15. When any coroner shall take an inquest upon the view of the dead body of any stranger, or being called for that purpose; shall not think it necessary, on view of such body, that an inquest should be taken, he shall cause the body to be decently buried, and all the expenses of the inquisition and burial, shall be paid by the county in which such dead body shall be found.

Section 16. In case of the absence of the coroner, any justice of the peace or judge of probate, being notified of any dead body as before mentioned, shall be authorized and they are hereby required to appoint some suitable person to hold an inquest on the same, and the person so appointed shall have the same powers that are hereby conferred on the coroner.

Section 17. This act shall take effect and be in force from and after the first day of May next.

Passed January 19th, 1854.
CHAPTER.

SEC. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That there shall be elected at the annual election, by the qualified voters of each county in this territory, a sheriff, who shall hold his office for two years, and until his successor is elected and qualified.

SEC. 2. The sheriff of each county shall be the collector of taxes in his county, and perform all the duties required by law to be performed by sheriff and tax collector respectively.

SEC. 3. Every person elected or appointed to the office of sheriff, shall, before entering on the duties of his office, enter into a bond to his county, in the penal sum of ten thousand dollars, with two or more sureties, residing in his county, to be approved by the board of county commissioners, and the approval indorsed thereon, conditioned that the sheriff shall well and faithfully, in all things, perform the duties of sheriff and collector of taxes, according to law, during his continuance in office, without fraud, deceit, or oppression, which bond shall be filed in the office of the county auditor.

SEC. 4. The sheriff shall be responsible for all the acts of his deputy, and, if any party shall recover judgment against him, shall be allowed to practice law in any court, of which he is an officer.

SEC. 5. The sheriff shall have power, under his hand and seal, to appoint one or more deputies, who are hereby empowered to perform all the duties devolving on the sheriff of the county; and the sheriff shall be responsible for all the acts of his deputy, and may remove such deputy at pleasure; but no deputy sheriff shall enter upon the duties of his office, unless he has taken an oath to perform the duties of his office faithfully and impartially, and to the best of his ability; which oath shall be subscribed and certified on the back of his appointment, and filed and recorded in the office of the county auditor.

SEC. 6. Every sheriff shall have the custody of the jails and prisons of his county and the prisoners in the same, and shall hold all such persons as are charged with any crime or offense. They shall keep their office at the county seat, and shall generally perform all the duties, which are, or may hereafter be authorized by law, to be performed by the sheriff or tax collector.

SEC. 7. It shall be the duty of sheriffs to keep and preserve the peace in their respective counties, for which purpose they are empowered to call to their aid such persons or power of their respective counties as they may deem necessary: they shall also pursue and apprehend all felons, and persons charged with any crime or misdemeanor, and for that purpose may execute any warrant to them directed, in any part of this territory: they shall execute all writs and other processes from the justice of the peace, district court, or any other court, or any person, or persons, to them directed by legal authority; they shall attend at the sessions of the district court, and they shall serve or post up all notices they may receive from the board of county commissioners, or from the county auditor; they shall give notice of a special election when notified by the county auditor, and shall notify the county commissioners when any vacancy happens in the office of county auditor; shall collect the county revenue, and pay over to the county treasurer the sums so collected and take his receipt therefor, which receipt shall be a sufficient voucher on his settlement for the taxes collected by him, and shall keep his office at the county seat, and shall generally perform all the duties, which are, or may hereafter be authorized by law, to be performed by the sheriff or tax collector.

SEC. 8. In case the office of sheriff shall become vacant, the board of county commissioners shall forthwith appoint some suitable person (having the qualifications of a voter in the county) to be sheriff of the county during the unexpired term, or till the next general election.

SEC. 9. Every sheriff, to whom any writ shall be delivered in the county, is to be executed, shall, if required by the person delivering the same, give to such person a certificate thereof, under his hand, stating that by authority, wherein the names of the parties, the day of delivering the writ, shall be mentioned.

SEC. 10. If any sheriff shall fail to pay over to the county treasurer, according to law, any money which he has collected or received, belonging to such county, or shall neglect, or refuse to pay over such money, he may have collected by virtue of any process, or shall neglect his duties, to the injury of the county, or any persons, it may be lawful for the board of county commissioners, or such person or persons, entitled to receive the same, who may have been injured as aforesaid, to proceed against such sheriff, in a summary way, before the district court, by motion, giving such sheriff three days' notice of such application, and recover the amount due, or damages done, with twenty per cent damages thereon for such neglect, and shall have exclusive jurisdiction for the purposes aforesaid.

SEC. 11. It shall be the duty of every sheriff in this territory, to make a settlement with the board of county commissioners, for the taxes and money collected by him, or due the county, at the April term of such board annually, and as often thereafter as he shall be required by said board, and when exhibiting his accounts to the said board for settlement, he shall have the same examined and audited by the county auditor, until the board of county auditors shall be elected.

SEC. 12. No sheriff or other officer, by color of his office shall directly or indirectly ask, demand, or receive for any service, or act done by him performed in pursuance of any duty of their office, any greater or more fees than he is allowed by law, on pain of forfeiting for such offense, to the party aggrieved, treble the sum so demanded or received, together with costs of suit.

SEC. 13. No sheriff shall become the purchaser, nor procure any person to become the purchaser for him of any property, real or personal; they shall entrust the office of sheriff to another person, and the county auditor shall receive the money so collected and take his receipt therefor, which receipt shall be a sufficient voucher on his settlement for the taxes collected by him, and shall keep his office at the county seat, and shall generally perform all the duties, which are, or may hereafter be authorized by law, to be performed by the sheriff or tax collector.
AN ACT RELATING TO SHERIFFS.

CHAPTER I.

§ 1. Any sheriff, or other officer, shall be absolutely null and void, unless he shall perform all the duties and be subject to all the liabilities imposed by law upon a sheriff duly elected and qualified.

§ 2. Whenever any sheriff shall neglect to make due return of any process; delivered to him to be executed, or shall be guilty of any misconduct in relation thereto, he shall be liable to fine or attachment, or both, at the discretion of the court; such fine, however, shall not exceed five hundred dollars, and he shall also be liable to an action for damages to the party aggrieved.

§ 3. Whenever the coroner shall fail to make due return of any process; delivered to him to be executed, he shall perform all the duties and be subject to all the liabilities imposed by law upon a sheriff duly elected and qualified.

§ 4. Nothing contained in this act shall be so construed as to prevent any person, now holding the office of sheriff in this territory, from holding the same, during the term from which he was elected.

Sec. 22. This act shall take effect and be in force from and after the first day of May next.

Passed January 31st, 1854.

AN ACT RELATING TO THE ASSESSMENT AND COLLECTION OF TAXES.

CHAPTER I.

ASSESSMENT.

TITLE I. Property to be Taxed.

TITLE II. Writs and to whom Property shall be Assessed.

TITLE III. Of the Duties of Assessors.

TITLE IV. Of the Manner of Assessing Taxes.

TITLE V. Of the Collection and Return of Taxes.

TITLE VI. Of the Sale for Unpaid Taxes and the Conveyance and Redemption thereof.

TITLE VII. Miscellaneous Provisions.

Sec. 1. Be it enacted by the Legislative Assembly of the Territory of Oregon, That all taxes for the support of the government of this territory shall be assessed on polls, and on property valued in equal and rateable proportion, and all property, real and personal, within this territory, not expressly exempted therefrom, shall be subject to taxation in the manner provided by law.

Sec. 2. The terms "real property" and "land," wherever used in this act, shall be held to mean and include not only the land itself, whether laid out into town lots or otherwise, with all things contained therein, but also all buildings, structures, improvements, trees, and other fixtures of whatever kind thereon, and all rights and privileges belonging or in any wise appertaining thereto.

Sec. 3. The terms "personal estate" and "personal property," shall be construed to include all household furniture, goods, chattels, moneys and gold-dust, on hand or on deposit, either within or without this territory; all boats and vessels, whether at home or abroad, and all capital invested therein; all debts due or to become due from solvent debtors, whether on account, contract, note, mortgage or otherwise; all public stocks, and stocks or shares in all incorporated companies, and such portion of the capital of incorporated companies, liable to taxation on their capital, as shall not be invested in real estate.
898 ASSESSMENT.

Sec. 4. The following property shall be exempt from taxation;
1. All property, real and personal, of the United States, and of this territory;
2. All public or corporate property of the several counties, cities, towns, and school districts, in this territory, used or intended for corporate purposes;
3. The household furniture of every head of a family, to the amount of three hundred dollars;
4. The personal property of all literary, benevolent, charitable and scientific institutions, incorporated within this territory, and such real estate belonging to such institutions, as shall be actually occupied for the purposes for which they were incorporated;
5. All houses of public worship, and the lots on which they are situated, and the pews or slips, and furniture therein, and all burial grounds, tombs and rights of burial; but any part of any building, being a house of public worship, which shall be kept or used as a store or shop, or for any other purpose, except for public worship or for schools, shall be taxed upon the cash valuation thereof as personal property, to the owner or occupant, or to either; and the taxes shall be collected thereon in the same manner as taxes on personal property;
6. All public libraries, and the real or personal property belonging to or connected with the same;
7. The property of all Indians, who are not citizens, except lands held by them by purchase;
8. The personal property of all persons, who by reason of infirmity, age or poverty, may, in the opinion of the assessor, be unable to contribute toward the public charges.

Poll-tax.

Sec. 5. A poll tax shall be assessed upon every white male inhabitant of this territory, between the ages of twenty-one and fifty years.

TITLE II.

Where and to whom Property shall be Assessed.

Sec. 6. Where land to be assessed.
1. Land of incorporated companies where to be assessed.
2. Undivided estate of deceased persons to be assessed to heirs, &c., without name.
3. Persons when and where to be taxed for personal estate.
4. Goods, wares in trade, &c., to be taxed where same may be.
5. Partners may jointly or separately be taxed.
6. Personal property pledged, &c., to whom to be assessed.

Where assessed.

Sec. 6. All lands shall be assessed in the county in which the same shall lie, and every person shall be assessed in the county where he resides, when the assessment is made for all real and personal property, then owned by him within such county; but land owned by one person and occupied by another may be assessed in the name of the owner or occupant; and unoccupied land, if the owner is unknown, may be assessed as such without inserting the name of any owner.

Sec. 7. The real estate of incorporated companies liable to taxation, shall be assessed in the county in which the same shall lie, in the same manner as the real estate of individuals.

Sec. 8. The undivided estate of any deceased person may be assessed to the heirs or devisees of such person, unless occupied by some other person to whom it may be assessed, without designating them by name, until they have given notice to the assessed of the division of the estate, and the names of the several heirs, or devisees; and each heir and devisee shall be liable for the whole of such tax, and shall have a right to recover from the other heirs and devisees, their respective proportions thereof, when paid by him.

Sec. 9. Every person, except as provided in the preceding section, shall be assessed in the county in which he resides, when the assessment is made for all taxable personal property owned by him, including all personal estate in his possession or under his control, as trustee, guardian, executor, or administrator; and where there are two or more persons jointly in possession, or having the control of any such property in trust, the same may be assessed to either or all such persons, but it shall be assessed in the county where the same shall lie, if either of such persons reside in such county.

Sec. 10. All goods, wares, and merchandise, kept for sale in this territory; all stock employed in any of the mechanic arts; and all capital and machinery employed in any branch of manufactures, or other business, within this territory, owned by a corporation out of this territory, or by any persons whether residing in or out of the territory, shall be taxable in the county where the same may be, either to the owner thereof, or to the person who shall have charge of, or be in possession of the same.

Sec. 11. Partners in mercantile or other business may be jointly taxed in their partnership name, or severally taxed for their individual shares, for all personal property employed in such business; and in such case they are jointly taxed, such partner shall be liable for the whole tax.

Sec. 12. All the stock and personal estate of every incorporated company, liable to taxation, unless otherwise provided, shall be assessed in the name of the company, in the county where the principal transacting financial business office or place shall be; and if such company have no such office or place of transacting financial business, then in the county where its operations shall be carried on; and in collecting any tax on any such stock or personal estate, the personal estate of any such company may be seized and sold, the same as that of individuals; and in case no such property belonging to the company can be found sufficient to satisfy the tax and legal charges, then the personal property of any member thereof may be taken and sold to pay the same.

Sec. 13. The owner or holder of stock in any incorporated company which is taxed on its capital, shall not be taxed as an individual for such stock.

Sec. 14. When personal property is mortgaged or pledged, it shall, for the purpose of taxation, be deemed the property of the person who has the possession.