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INVENTORY
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COUNTY ARCHIVES
of
ARKANSAS

GOVERNMENT PUBLICATION

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NUMBER 12
CLEBURNE COUNTY
(HEBER SPRINGS)

Prepared By
The Historical Records Survey
Division of
Professional and Service Projects
Works Progress Administration

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OF ARKANSAS

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No. 12. CLEBURNE COUNTY (HEBER SPRINGS)

. . . . . .

Little Rock, Arkansas
The Historical Records Survey
March 1939

The Historical Records Survey

Luther H. Evans, National Director
Robert L. Baugh, State Director

Division of Professional and Service Projects

Florence Kerr, Assistant Administrator
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FOREWORD

The Inventory of the County Archives of Arkansas is one of a number of bibliographies of historical materials prepared throughout the United States by workers on the Historical Records Survey of the Works Progress Administration. The publication herewith presented, an inventory of the archives of Cleburne County, is number 12 of the Arkansas series.

The Historical Records Survey was undertaken in the winter of 1935-36 for the purpose of providing useful employment to needy unemployed historians, lawyers, teachers, and research and clerical workers. In carrying out this objective, the project was organized to compile inventories of historical materials, particularly the unpublished government documents and records which are basic in the administration of local government, and which provide invaluable data for students of political, economic, and social history. The archival guide herewith presented is intended to meet the requirements of day-to-day administration by the officials of the county, and also the needs of lawyers, business men, and other citizens who require facts from the public records for the proper conduct of their affairs. The volume is so designed that it can be used by the historian in his research in unprinted sources in the same way he uses the library card catalog for printed sources.

The inventories produced by the Historical Records Survey attempt to do more than give merely a list of records -- they attempt further to sketch in the historical background of the county or other unit of government, and to describe precisely and in detail the organization and functions of the government agencies whose records they list. The county, town, and other local inventories for the entire country will, when completed, constitute an encyclopedia of local government as well as a bibliography of local archives.

The successful conclusion of the work of the Historical Records Survey, even in a single county, would not be possible without the support of public officials, historical and legal specialists, and many other groups in the community. Their cooperation is gratefully acknowledged.

The Survey was organized and has been directed by Luther H. Evans, and operates as a nation-wide project in the Division of Professional and Service Projects, of which Mrs. Florence Kerr, Assistant Administrator, is in charge.

F. C. HARRINGTON
Administrator

PREFACE

The Historical Records Survey, a nation-wide project initiated in January 1936 as a division of the Federal Writers' Project, WPA, became an independent part of Federal Project No. 1 in November 1936. The headquarters of the Survey is in Washington, D. C.; the National Director is Dr. Luther H. Evans. Principally, it is the purpose of the Survey to prepare bibliographical guides for researchers and other interested persons to the great masses of unpublished historical materials in the nation. An initial step in this direction has been the Survey's work in the preparation and publication of inventories of county records. This phase of the program has provided the chief occupation, up to this time, of the Historical Records Survey in Arkansas.

In Arkansas, the Survey was organized in March 1936 under the direction of Mrs. Bernie Babcock, State Director of the Federal Writers' Project. In October 1936, it was separated from the Federal Writers' Project and Howard Reed was appointed State Director. On November 2, 1938, Robert L. Baugh succeeded Mr. Reed.

When completed, the Inventory of the County Archives of Arkansas will include 75 units, one volume for each county in the state. Each unit will be numbered according to its position in an alphabetical list of the counties. Thus, this inventory of the Cleburne County archives is No. 12, though it is the first volume published by the Survey in Arkansas.

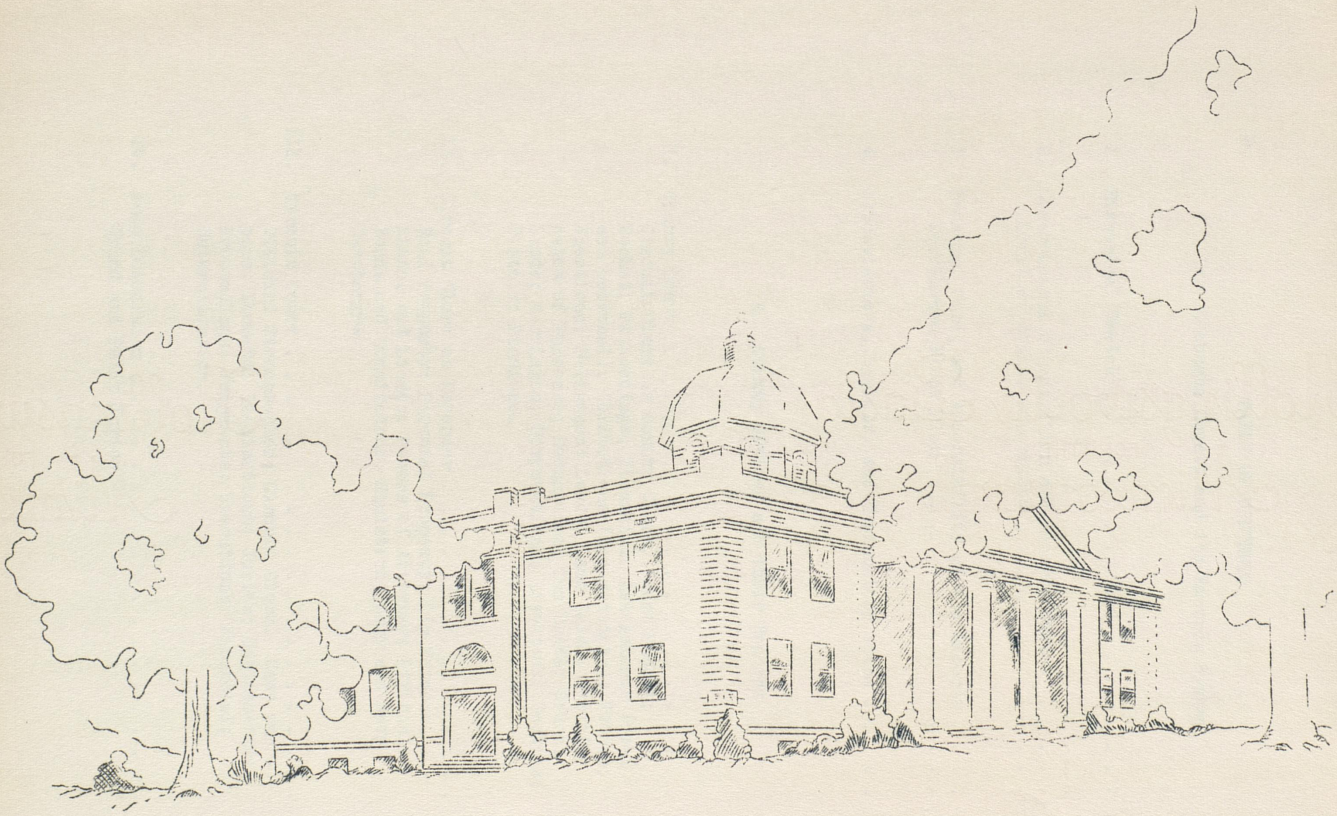
The Cleburne County survey began in the courthouse at Heber Springs, the county seat, on January 17, 1937, and the initial field work was completed March 21, 1937. The original field workers were Mrs. Maude Dandridge and Miss Lonnie Turney. A recheck, started September 16, 1938, and ended March 9, 1939, was made by Miss Gladys West and Mrs. Mamie T. Stark. For the completeness and accuracy of this inventory, the four field workers are responsible. Essays were written and final editing was done by the state office staff. Courteous and valuable assistance was given the field workers by the officials and other citizens of Cleburne County. State office researchers received much help from persons in Little Rock, particularly officials in the Little Rock Public Library, the library of the Arkansas State History Commission, and the Arkansas Supreme Court Library. The general progress of the Survey in Arkansas has been facilitated by the friendly cooperation of Floyd Sharp, State Administrator of the Works Progress Administration, and Mrs. Dot Kennan, State Director of Professional and Service Projects, WPA. John C. L. Andreassen, Regional Supervisor of the Historical Records Survey, gave invaluable assistance in making the final reading of the manuscript of the Cleburne County inventory. The recheck and editorial work was under the direct supervision of Arthur Halliburton, State Editor.

Preface

In this inventory, titles of records are arranged under the office of origin and by subject; in the chronological index, record entry numbers are arranged chronologically by decades; in the subject index, they are arranged alphabetically, with cross references. Preceding the record entries for each office is a brief essay on the historical evolution, functions, and records of the office. Several general introductory essays are to be found in the forepart of the book.

Robert L. Baugh
State Director
Historical Records Survey

Little Rock, Arkansas
March 9, 1939



CLEBURNE COUNTY COURTHOUSE, HEBER SPRINGS, ARK.

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1. HISTORICAL SKETCH

Cleburne, Arkansas's youngest county, was created February 20, 1883 (A. Ark., 1883, 40). It was named for Gen. Patrick R. Cleburne, who entered the Confederate service in 1861 as colonel of the First Arkansas Infantry and attained the rank of major general (Dallas T. Herndon, Centennial History of Arkansas, 4 vols., Chicago, Little Rock, 1922, I, 742). The boundaries given the new county cut into Independence, Van Buren, and White Counties, with Van Buren contributing the largest segment of land (A. Ark., 1883, 40).

In 1930, the county's population was 11,373 (Fifteenth Census of the United States, 1930, Population, III, Washington, 1932, 214); the land area was, and is, 619.8 square miles (Arkansas Geological Survey, "Digest of Topographical Mapping in Arkansas", 1935, 25 pp., p. 2, typed, files, Arkansas Geological Survey, Little Rock); thus the population density per square mile was 18.35 persons. The assessed valuation of property in the county is $1,446,623 ("Abstract of Tax Books, County Clerks", 1937, Arkansas Corporation Commission, Little Rock).

The law creating the county established its boundaries, which have remained the same, as follows: "Beginning at the northeast corner of township twelve (12) north, and range eight (8) west of the fifth (5th) principal meridian, running thence west to the northeast corner of section two (2), township twelve (12) north, range twelve (12) west, thence south to the southwest corner of section thirty-five (35), township nine (9) north, range twelve (12) west, thence east to the southeast corner of section thirty-three (33), township nine (9) north, range eight (8) west, thence north to the center of the main channel of Little Red River, thence down the main channel of said river to the line dividing ranges seven (7) and eight (8), thence north to the place of beginning." The same act made the town of Sugar Loaf (the original name of Heber Springs) the temporary county seat and instructed the sheriff of Van Buren County to announce an election to be held the following May 7 for the selection of a permanent county seat and of a representative to the General Assembly "and all other officers necessary for the organization of said county of Cleburne." (A. Ark., 1883, 40.)

Pending organization of the new county, the clerk of the circuit court of Van Buren County was authorized to receive and keep for it bonds or other written obligations of any person or persons who had promised buildings or other valuable things to the county on the condition that the county seat be located at a specified place (A. Ark., 1883, 43, 44).

The first officers of Cleburne County, serving the short term until the next regular election in 1884, were W. G. Ward, judge; T. J. Andrews, clerk; S. J. Morton, sheriff; T. J. Majors, treasurer; James Arnett, coroner; C. A. Sales, surveyor, and J. C. Barnes, assessor (Fay Hempstead, A Pictorial History of Arkansas, St. Louis, New York, 1890, 1183).

The territory now comprising Cleburne County, and, indeed, all the present area of Arkansas above the Arkansas River, was held by the Osage Indians prior to the Osage treaty of 1808, when that nation ceded to the

United States all its northern Arkansas lands except a comparatively small portion in the extreme northwestern corner, in what are now Benton, Washington, and Crawford Counties. Previous to that time the Osage had been the richest of all the Indian nations. Their cession virtually was forced upon them by the United States as a punitive measure for their depredations on white settlers. No sooner had the Osages departed than Cherokees in Tennessee were petitioning the government for a part of the vacated lands. They already were familiar with the area. Before the turn of the century, a group of them led by a chief called "The Bowl", otherwise "Colonel Bowles", had come into Arkansas to escape punishment for their participation in the Muscle Shoals massacre. They lived in the St. Francis River swamps in the northeastern section of Arkansas and returned to Tennessee when the blame for incitement of the massacre was placed on white men and the Indians exonerated. In the Tennessee settlement, however, there developed a wide difference of desire regarding tribal policy, those in the "Upper Town", the majority, desiring to remain where they were and engage in agriculture, and those in the "Lower Town" preferring to move to Arkansas and occupy themselves chiefly as hunters. To resolve this difficulty, they appointed a deputation to call on President Jefferson. The delegates arrived in Washington with petitions in the fall of 1808 and on January 9, 1809, received President Jefferson's promise that suitable arrangements would be made to satisfy both factions. The President authorized the proposed emigrants to explore and settle in the country on the Arkansas and White Rivers, "and the higher up the better, as they will be longer unapproached by our settlements, which will begin at the mouths of those rivers." The United States agreed to take in exchange a "just portion of the land they had left." The boundaries of the tract selected by the Cherokees were only loosely defined, and bad feeling arose between the Indians and the white settlers who encroached upon what was regarded as an Indian reservation. In October 1815, the aborigines appealed to President Madison that they be given a definite tract of land and that action be taken by the Federal government to prevent white people from coming among them, but it was not until July 8, 1817, that a treaty was made effecting those ends. By the terms of that agreement, the United States, in exchange for lands of equal extent received and to be received from the Cherokee Nation east of the Mississippi, gave the Arkansas Cherokees an exactly defined tract of land north of the Arkansas River and west of the White, embracing all land that is now Johnson, Newton, Pope, Searcy, and Stone Counties and parts of the present Franklin, Marion, Van Buren, Conway, Boone, Cleburne, Crawford, and Madison Counties. (Herndon, Centennial History, I, 63.) Thus the Cherokees gained ownership of nearly all of Northwest Arkansas. On May 6, 1828, they ceded this territory back to the United States in exchange for 7 million acres in the Indian Territory (ibid., I, 71).

It has been said that it was while the Cherokees occupied Arkansas that their Chief Sequoyah completed his alphabet for the tribe's language and taught others of the tribe the mystery of the "talking leaf." It is known that four, including Sequoyah, of the seven chiefs who signed the treaty of 1828 wrote their signatures in the characters invented by Sequoyah. (Charles C. Little and James Brown, Treaties Between the United States and the Indian Tribes, ed. Richard Peters, Boston, 1846, VII, 311.) In what is now Cleburne County, the Cherokee possession

included the land north of a line drawn from the northeast corner downward to a point on the western boundary about six miles above the southwest corner, or about half the area of the county (G. B. Sandage and Ben F. Allen, map, Cleburne County, Heber Springs, Ark., 1923, in surveyor's office, Cleburne County courthouse).

The first deed of record affecting title to land which obviously was in what is now Cleburne County was made between William Stanley and his wife, Catherine, of the one part, and William Drope, of the other. This instrument, which may be found in the Pulaski County courthouse, was executed on June 8, 1820. In conveying title, and power of attorney, to Drope, it sets forth that the property was first settled, inhabited, and cultivated by John Stanley, Sr., that it was "a certain improvement containing about thirty acres of cultivated land with houses" on the Little Red River at a point west of the site now occupied by Heber Springs on the road, or trace, from Cadron, on the Arkansas River, to Poke Bayou, on the White River. The deed declared that Stanley had occupied and cultivated the land prior to April 12, 1814, and had continued to reside in the Territory of Missouri, which included what is now the State of Arkansas, until after that day. In effect, Stanley was a squatter, his land having been obtained merely by the process of occupation, but this, by provisions of acts of Congress, gave him or his legal representative preference in becoming purchaser of the land and its improvements from the United States. The Stanley-Drope deed and power of attorney conveyed to Drope Stanley's pre-emption right. The consideration given by Drope was $1,500. ("Deed Record", vol. A, 129-133, Pulaski County courthouse.)

The Stanley farm must have been unusually fertile and highly improved, to bring this price merely for the right of purchase. Either that, or there soon was a considerable fluctuation in land values, for we find in a deed made in 1825 that a military bounty tract of 160 acres was relinquished by the owner for $2.40, the amount of delinquent taxes accrued over a three-year period. ("Deed Record", vol. E, 169 ff., Pulaski County courthouse.)

One of the first buyers of land in the area was James Miller of New Hampshire ("Deed Record", vol. E, 29, Pulaski County courthouse), who later was appointed governor of Arkansas (Jim B. Higgins, Biennial Report of the Secretary of State, 1925-26, Arkansas, Russellville, Ark., n. d., 121). The land Miller bought was the military bounty of a veteran of the War of 1812. A deed executed March 11, 1824, in Maine by William Elwell, Jr., "late a private in Marston's company of the Thirty-first Regiment of Infantry in the late Army of the United States", in consideration of the payment of $50 gave Miller title to 160 acres, described as the northeast quarter of section 12 of township 10 north in range 11 west ("Deed Record", vol. E, 29, Pulaski County courthouse).

The history of Cleburne County, and of Heber Springs, the county seat, is, to a considerable degree, part of the biography of Max Frauenthal, a man the creators of Cleburne had in mind, no doubt, when they mentioned in the law "any person or persons who have promised buildings" (cf. "Record of Official Bonds", vol. 1, 29-32; see entry no. 72).

Historical Sketch (First entry p. 52)

Frauenthal, an immigrant from Germany, where he served an apprenticeship in the furrier's trade, landed at New Orleans in 1851. During the Civil War he served in the Confederate Army of Northern Virginia, in which he was cited for "gallant and meritorious service" and rose from the ranks to a colonelcy. In 1871 he settled in Conway, Faulkner County, Ark., where he became wealthy as a cotton buyer and general merchant. In 1880, before there was any town at what is now Heber Springs, Colonel Frauenthal, whose military title still clings to his name, purchased a tract of nearly 700 acres in Van Buren County and the following year began laying out the town that became, first, "Sugar Loaf", and then "Heber Springs." (Fay Hempstead, Historical Review of Arkansas, 3 vols., Chicago, 1911, III, 1653, 1654.) In this venture he had a few associates, whom he soon bought out, but he contributed more than half of the $10,000 paid the owner ("Transcription of Deeds Van Buren County", vol. 2, 374-376; see entry no. 52). The tract was on the Little Red River, two miles west of imposing Sugar Loaf Mountain and approximately 56 miles north of Little Rock, the state capital (Arkansas Highway Commission, Official Highway Service Map, Little Rock, 1937).

Besides planning the town, the laying out of which was completed in 1883, Colonel Frauenthal busied himself with mustering support for the creation of the new county of Cleburne. When the latter object was consummated Colonel Frauenthal donated to the county a courthouse and a jail, together with the land on which they stood. He retired from the mercantile business in 1900, and in 1909 he built a residence at Heber Springs (Hempstead, Historical Review, III, 1653, 1654), where he lived until his death on March 8, 1914 (Arkansas Gazette, Little Rock, March 10, 1914). The mineral springs on the land, which he believed to be highly valuable for their medicinal properties, were what interested Colonel Frauenthal in promotional activities there (Hempstead, Historical Review, III, 1653).

These springs, in what is now known as Spring Park, are on land which belonged to John T. Jones of Phillips County when Colonel Frauenthal and his associates made their purchase in 1880 ("Deed Record", vol. 7, 275-280; see entry no. 53). Jones, together with two associates whose shares he later obtained, bought the land with the object of establishing a spa. "The Arkansas White Sulphur Spring Company, in Van Buren County", which then consisted of Jones and his two fellow landowners, was incorporated by an act of the General Assembly in 1838. The legislators averred that the promoters' object of making the locality "a convenient and healthy resort for the good citizens of Arkansas" was laudable and described the projected development as a "healthful, commodious, and elegant watering place." The act provided that the capital stock of the corporation should consist of 500 shares of $100 each and gave the directors the power to increase the number of shares to 1000. (A. Ark., 1838, 42, 43.)

Jones acquired the last of his partners' holdings in 1851 ("Deed Record", vol. 7, 275-280; see entry no. 53) and, finally abandoning his project, sold his 680 acres, with the reservation of an acre near the springs and the right for himself, his family, and legal representatives to the free use of the waters, in August 1881 to Max Frauenthal ("Transcription of Deeds Van Buren County", vol. 2, 362-364; see entry no. 49).

Historical Sketch (First entry, p. 52)

Heber Springs was named after Heber Jones, son of the John T. Jones mentioned above. The original name, Sugar Loaf, was inspired by the proximity of nearby Sugar Loaf Mountain, which is capped by a striking, rectanglar mass of stone. This name was discarded in 1910 when it was learned that it had already been given to a town in the western part of the state ("County Court Record", vol. 5, 429, 430, order dated April 4, 1910; see entry no. 5).

With the abolition of slavery, the Negro population of Cleburne County diminished. Almost all residents are white and of native parentage (Fifteenth Census of U. S., Population, III, 214). Early landowners in what is now Cleburne County included William E. Woodruff, of New York State, founder of the Arkansas Gazette, the state's oldest newspaper; Joshua Cox, of Alabama ("Deed Record", vol. I, 332, Pulaski County courthouse); William Russell, of Missouri ("Deed Record", vol. B, 63, Pulaski County courthouse); Sam H. Duffy, of North Carolina ("Deed Record", vol. E, 89, Pulaski County courthouse); Asa Fifield, of Sault de Ste. Marie, Territory of Michigan ("Deed Record", vol. E, 32, Pulaski County courthouse), and Nicholas Peay, of Little Rock ("Deed Record", vol. E, 380, Pulaski County courthouse).

The population is predominantly Protestant. By 1890, there were 18 Methodist, 10 Missionary Baptist, four Cumberland Presbyterian, and one Christian Churches in the county (Hempstead, Pictorial History, 1182).

Cleburne County, in the north central part of the state, bounded on the north by Stone and Independence, on the east by Independence and White, on the south by White and Faulkner, and on the west by Van Buren Counties, and situated in the southern foothills of the Ozarks, has a generally rugged terrain. Elevations range from 284 feet above sea level, in the extreme southeast corner of the county, to 1,360 feet, in the northwest corner. Arkansas mountains occupy a triangle in the northwestern half of the state such as would be formed by a line drawn from a point somewhat north of the southwestern corner to another point slightly west of the northeast corner, with a progressive incline from southeast to northwest, and Cleburne's hills and mountains rise in parallel. (Arkansas Geological Survey, Topographic Map of the State of Arkansas, Showing Highways, Mineral Industries, Power Transmission Lines, and Oil and Gas Pipe Lines, Little Rock, 1930.) The elevation at the courthouse at the center of Heber Springs is 354 feet; two miles north on Highway 25, it is 560 feet (Arkansas Geological Survey, Elevations in Arkansas, 9 vols., Little Rock, 1936, VII, 56, 57). The Little Red River, too shallow for navigation, with several small tributaries, flows through the county from the northwest to the southeast (Arkansas Geological Survey, Topographic Map).

The section of the state including Cleburne, Van Buren, and White Counties is subject to severe though rare windstorms. An early emergency relief appropriation of the state was made following a tornado there in 1903. In the act appropriating $7,500 for the relief of victims of the storm, this account is given: "On the 7th day of April, 1903, a destructive tornado swept across the counties of Van Buren, Cleburne and White in this State, killing some and injuring a great number of people, and destroyed houses and farm buildings, leaving a great number of people

destitute" (A. Ark., 1903, 263). Tornadoes struck the county again in 1916, when 21 persons were killed (Arkansas Democrat, Little Rock, June 6, 1916), and in 1926, when there were 15 fatalities (ibid., November 26, 1926).

Though the county is half mountainous and one-fourth hilly, Cleburne has fertile, alluvial lands in its valleys (Hempstead, Pictorial History, 1182). The river bottom soil is a rich, sandy loam; the limestone soil of the uplands produces comparatively well. Principal crops include cotton, corn, and hay, and farmers also derive a considerable part of their income from stock raising and from the growing of fruits, such as apples, peaches, pears, and strawberries (D. Y. Thomas, Arkansas and Its People, 4 vols., New York, 1930, II, 681; WPA Project No. 4520-9 and Arkansas Department of Education, An Educational Survey, Present and Proposed Schools, Cleburne County, Little Rock, 1937, 6.)

Mineral resources of the county include lead, zinc, coal, silver, and iron ore, none of which has had any important exploitation. Hardwood lumbering has been and remains a chief industry. Some of the timber is processed in the county, principally at Heber Springs, where it is converted into lumber. Construction of a $100,000 creosoting plant, expected to employ more than 100 men, was to be started at Heber Springs in December 1938. Timber was to be cut within a 30-mile radius of the town and converted into creosoted pilings, bridge timbers, poles, and similar products. (Arkansas Gazette, December 15, 1938.) The county has 84 miles of crushed stone highways and 35.3 miles of railroad line (WPA Project No. 4520-9 and Arkansas Department of Education, Educational Survey, 7, 8). The rail line is that of the Missouri & Arkansas Railway, which has a station at Heber Springs and crosses the county roughly parallel with the Little Red River. The road, completed in 1909, runs from Helena, Ark., to Joplin, Mo. Edgemont and Higden are other chief towns on that part of the line crossing Cleburne County. (Sandage and Allen, map, Cleburne County; O. T. Gooden, The Missouri & Arkansas Railroad Strike, New York, 1926, 18.) There are no Federal highways, or paved roads of any kind. Of the county's area of 381,440 acres, 49.6 per cent was in farms in 1934. Farm lands have increased from 160,684 acres in 1929 to 189,072 acres in 1934, or 17.6 per cent, while the value of farm property fell from $3,052,583 to $2,428,551, or 20.4 per cent. During the same period the number of farm owners increased from 975 to 1207, or 23.8 per cent, and the number of tenant farmers, from 612 to 822, or 31.3 per cent. (WPA Project No. 4520-9 and Arkansas Department of Education, Educational Survey, 7, 8.) Assessed valuations dropped, however, from $2,355,814 to $1,102,520, or more than 50 per cent, between 1931 and 1934 (Arkansas Gazette, December 15, 1938).

Educational facilities in Cleburne County are comparatively modest, though the county has a higher percentage of school enrollment among children between the ages of 6 and 20 than the average county in the state; it has 80 per cent, as compared to the average of 73.9 per cent (Arkansas Gazette, December 17, 1938). The total number of pupils in public schools in the 1934-1935 year was 2,231, for whom there were 98 teachers. School terms ranged from four months, the term attended by 491 pupils, to nine months, the term of 37 pupils. (WPA Project No. 4520-9 and Arkansas Department of Education, Educational Survey, 20.)

Historical Sketch (First entry, p. 52)

Quitman College was founded at Quitman by the Rev. G. W. Stewart as a private venture in 1870 and was given over to the control of the Methodist Episcopal Church, South, the following year. Beginning its work in a small frame building, it became successful and well known and finally acquired brick quarters. In erecting this last building, however, the college mortgaged its property, an overconfident action which led to the dissolution of the institution in 1896. (Arkansas Historical Association, Publications, ed. John Hugh Reynolds, 4 vols., Fayetteville, Conway, Ark., 1906, I, 148.)

In 1889 the General Assembly passed an act prohibiting the sale of alcoholic beverages within three miles of Sugar Loaf Academy, the public school at Heber Springs. This act was repealed in 1899. (A. Ark., 1889, 62, 63; ibid., 1899, 16, 17.)

Heber Springs is set in a landscape of wild and picturesque beauty. The air is pure and bracing and carries the scent of pine forests. It is not surprising that plans to make the town an outstanding resort recur persistently. In 1891, Arkansas's state geologist wrote: "The principal objection to Heber Springs as a health resort is its distance from railway accommodations; Searcy, the nearest station, being about 30 miles away"(Arkansas Geological Survey, The Mineral Waters of Arkansas, Little Rock, 1891, 87). This objection has, of course, been overcome with the running of the Missouri and Arkansas Railway through Cleburne County and the establishment of a station at Heber Springs (Arkansas Gazette, November 20, 1919). Hempstead, one of the historians of Arkansas, wrote in 1911 that "an immense sanitarium has been projected to bring the benefits of the water and the location within the reach of invalids"(Hempstead, Historical Review, I, 371, 372), but this institution was never built. The springs are within the city limits, in Spring Park, which occupies an area of about 10 acres (Thomas, Arkansas, II, 681-683). The six principal springs in the park are known as "arsenic spring", "black sulphur spring", "chalybeate spring", "eye spring", "red sulphur spring", and "white sulphur spring." Some of the water is used for curative bathing; some is taken internally. The water of white sulphur spring is said to act as a purgative, that from eye spring is used for bathing sores and inflamed eyes. Some of the springs discharge inflammable gas. (Arkansas Geological Survey, Mineral Waters, 88-93.)

Consistent with what appeared to be a general exodus from the county, the population of Heber Springs decreased from 1675 to 1401 between 1920 and 1930 (Fifteenth Census, Population, III, 214, 121, 122). The reason for this might be found in the statement of the historian, D. Y. Thomas, who, in 1930, said that the other chief towns of the county, Quitman, Edgemont, Higden, and Shiloh, all much smaller than Heber Springs, were "somewhat at a standstill from changing conditions in the lumber business" (Thomas, Arkansas, II, 681-683).

The United States census of agriculture of 1935 shows, however, a rapidly increasing rural population in Cleburne County. Between 1930 and 1935, the farm population of the county increased 27 per cent (United States, Department of Agriculture, Farm Security Administration and Bureau of Agricultural Economics, Division of Land Economics, Region VI, Characteristics of Recent Farm Settlement in Arkansas, mimeograph no. 2, Little

Rock, 1937, figure 1). Of the estimated 475 new farm families in Cleburne County, 142 were from cities (ibid., 9).

The proper pronounciation of the county's name is a moot question. The inhabitants of the county almost universally pronounce it "Cleeburn", though non-residents more often say "Clayburn", to correspond with the generally-accepted pronunciation of General Cleburn's name (John Hugh Reynolds, Makers of Arkansas History, New York, 1918, 244). That the latter use was intended by those who named the county is indicated by a misspelling in a newspaper account of the introduction in the General Assembly of the bill to establish the county. The reporter evidently spelled the name phonetically, without referring to the actual bill, for the newspaper said, "An Act to establish the county of Claborn." (Arkansas Democrat, January 27, 1883.)

(First entry, p. 52)

2. GOVERNMENTAL ORGANIZATION AND RECORDS SYSTEM

The form of county government in Arkansas is almost entirely English in origin, despite the fact that France and Spain explored, settled, and governed in this domain and England never did.

More than two and a half centuries passed between Hernando de Soto's landing on the western shore of the Mississippi River in 1541, at a point somewhere between the mouth of the Arkansas River and what is now the town of Helena (Josiah H. Shinn, The History of Arkansas, Richmond, Va., 1905, 17), and the establishment of a government for the geographical division that is now the State of Arkansas. The remoteness of this area from the larger early outposts of white civilization in the South and Middle West and its meager population doubtless were the principal causes of this delay. At the time of the Louisiana Purchase in 1803, the present State of Arkansas was a nameless, integral part of the Louisiana Province, and its only permanent settlement was Arkansas Post, sometimes called simply "Arkansas." This place, on the Arkansas River near the Mississippi, was settled in 1686 by followers of Chevalier Henri de Tonti in a seigniory granted De Tonti by Robert Cavalier de la Salle. (Shinn, ibid., 27.)

Following the Louisiana Purchase, Arkansas was governed by the Territory of Indiana, until 1805, then by the Territory of Louisiana, the name of which was changed in 1812 to "Territory of Missouri." Its own territorial government was established by an Act of Congress that became effective July 4, 1819. (L. of U. S., 1804, III, 608; L. of U. S., 1805, as contained in T. L. M., 1824 digest, 6-8; L. of U. S., 1812, as contained in L. A. T., 1835 digest, 24; ibid., 36-40.)

The evolution of county government in Arkansas may be divided into four periods. First, the territorial or formative period, 1804 to 1836, during which many of the present day principles and functions were established. Second, early statehood, or the period from 1836 to 1868, during which county government functioned under the principles laid down by the state's first constitution, adopted in 1836 at the time of Arkansas's admission to the United States. Third, the post-war or Reconstruction period, 1868 to 1874. Fourth, the present period, commencing in 1874.

Territorial Period

During the early part of the territorial period, the form of county government was continually in a state of change. Many of the territorial laws of Missouri were made applicable to Arkansas by the organic act creating the Territory of Arkansas in 1819. Missouri had adopted many of the laws of the Territory of Louisiana, which in turn, had retained some of the statutes from its previous period as the District of Louisiana. Consequently, the laws in effect in Arkansas up to the time of statehood in 1836 were a composite of statutes which had been enacted by the legislatures of three territories. (L. of U. S., 1819, as contained in L. A. T., 1835 digest, 30-40; L. D. L., 1804, ibid., 100; L. L. T., 1810, ibid., 108.) The first attempt to establish a county government

that was distinctly Arkansas's was made in the passage of an act of the legislature of the Territory of Louisiana, June 27, 1806, which created the District of Arkansas, which previously had been a part of the District of New Madrid. Nothing was done to organize the new district, however, until August 23, 1808, when the territorial governor appointed the following officers: Benjamin Foy, Joseph Stillwell, and Francis Vaugine, judges of the court of common pleas; John W. Honey, judge of the probate court, clerk of the court of common pleas, and recorder; Perly Wallis, deputy attorney general for the district; Andrew Fagot, justice of the peace, notary public, and coroner. Benjamin Foy was made a justice of the peace as well as a judge of the court of common pleas. The boundaries of the district were established only a few days previously, by a gubernatorial proclamation which placed the eastern boundary on the Mississippi River, the northern "beginning on the Mississippi River opposite the second Chickasaw Bluff and continuing west indefinitely", and the southern on the thirty-third parallel of north latitude. (Dallas T. Herndon, ed., Centennial History of Arkansas, 3 vols., Chicago, Little Rock, 1922, I, 137.) A western boundary for Arkansas was not established until 1824 (L. of U. S., as contained in L. A. T., 1835 digest, 45).

It was not until 1829, after Congress had authorized the electors of the territory to select their own public officials (L. of U. S., as contained in L. A. T., 1835 digest, 43, 44), that county government in the Territory of Arkansas began to take a definite form, but near the close of the territorial period a structure had been built that is almost identical with the form of county government as it exists today. The county court was the chief administrative office and functioned in the supervision of the poor and insane, building of roads and their maintenance, and the conduct of elections (L. A. T., 1835 digest, 157). In the taxation function, the sheriff was the assessor, collector of taxes, and chief disbursing officer of the county (L. A. T., 1835 digest, 465-472). The county court levied the county tax, audited claims against the county and directed the disbursements (L. A. T., 1835 digest, 157). The judiciary functions were performed by the circuit court, the county court, which had jurisdiction over probate matters, and justice of the peace courts (L. A. T., 1835 digest, 41, 42, 157, 354). The processes of the circuit and county courts were served by the sheriff and, in some instances, the coroner, and those of the justice courts by the constables (L. A. T., 1835 digest, 135, 136, 129).

Records of the functions of the circuit and county courts were kept by the circuit clerk, who was ex-officio clerk of the county court. Justices of the peace kept their own records. (L. A. T., 1835 digest, 127, 159.) The recording function was the duty of the county recorder, an office which also was filled by the circuit clerk in an ex-officio capacity (L. A. T., 1835 digest, 454, 455). Law enforcement was delegated to the sheriff, coroner, and constables (L. A. T., 1835 digest, 135, 136, 129). Investigations and inquests were conducted by the grand jury and the coroner, respectively (L. A. T., 1835 digest, 193, 136). A prosecuting attorney, elected in each judicial circuit, represented the state and county in all criminal and civil cases (L. A. T., 1835 digest, 453). The functions of the surveyor were far more important and in greater demand

in territorial days than at present. He was the authority, provided by the county, through whom settlers located their homesteads and by whom property disputes were settled. He had an important part in the establishment of boundary lines of his county and its political subdivisions. (L. A. T., 1835 digest, 538, 539.)

Early Statehood

Only one major activity was added to the functions of county government during the period of early statehood beginning with Arkansas's admission to the Union in 1836 and ending in 1868. This was in the field of education and grew out of the establishment of a system of public schools throughout the state. The administration of this system at first was made the direct responsibility of the townships, by a law passed in 1843 providing for the election by popular vote of a board of three trustees in each township and assigning each board the general supervision of schools within its township. (A. Ark., 1843, as contained in Digest of the Statutes of Arkansas, 1848, 930.) The township board was replaced in 1850 by a township commissioner (A. Ark., 1850, 74), and the county took supervisory control of the schools within its boundaries three years later when the General Assembly provided for the election of a common school commissioner in the county (A. Ark., 1853, 143).

The other functions of county government remained virtually the same as they were prior to Arkansas's attainment of statehood. Public improvements, such as the construction of a courthouse and jail and construction and maintenance of roads; the conduct of elections; the supervision of the poor, and the apprenticeship of minors were functions performed by the county court, which continued as the chief administrative office in the governmental structure (Rev. Stat., 1838, 209; ibid., 701; ibid., 349; ibid., 605; A. Ark., 1840, 87). The sheriff and constables were required to investigate and report to the county court all cases of indigent families whose circumstances came to their attention. The assessment function was performed by the sheriff (Rev. Stat., 1838, 674), the county tax was levied by the quorum court (Const. 1836, art. VI, sec. 9), and the state and county taxes, both ad valorem and special, were collected by the sheriff (Rev. Stat., 1838, 678). The fiduciary functions were assigned to the county treasurer, an office which was created by the Constitution of 1836 (Const. 1836, art. VI, sec. 17), and the county court (Const. 1836, art. VI, secs. 1, 9). The treasurer was the custodian of the county funds and the chief disbursing officer (Rev. Stat., 1838, 223). The court audited claims against the county, and authorized and directed their payments (Rev. Stat., 1838, 223, 226). Justice was administered by the circuit court, the county court, the probate court, which was established as a separate tribunal by the Constitution of 1836, and courts of justices of the peace (Const. 1836, art. VI, secs. 1, 10). The sheriff was the chief ministerial officer of the three higher courts (Rev. Stat., 1838, 728), and the constables served in the same capacity in the justice courts (Rev. Stat., 1838, 184, 185). The circuit clerk filled the offices of clerk of the county court and clerk of the probate court in an ex-officio capacity (Rev. Stat., 1838, 177). The law enforcement function was performed by the sheriff and the coroner and constables

(Rev. Stat., 1838, 728, 194, 184, 185). The system of investigation and indictment by grand juries was continued in effect, and inquests of violent deaths were held by the coroner (Rev. Stat., 1838, 482, 194). A state's attorney, selected for each judicial circuit by the General Assembly from 1836 until 1848, after which he became an elected officer, functioned as the legal representative of the county in criminal and civil cases (Rev. Stat., 1838, 35; Const. 1836, amend. of 1848, sec. 2). The recording function was performed by the county recorder, an office which also was filled in an ex-officio capacity by the circuit clerk (Rev. Stat., 1838, 654). The county surveyor continued to hold a place of prominence in matters relating to land titles, public roads, and the boundary lines of the county and its political subdivisions (Rev. Stat., 1838, 212, 219, 220). The county, as an agent of the state, functioned chiefly in the collection of taxes (Rev. Stat., 1838, 678).

There were no radical changes in the county governmental structure or its functions caused by the adoption of the Constitution of 1861 and the Constitution of 1864. The significance of these documents principally was the pledging of allegiance to the Confederate States, in the former, and the re-pledging of allegiance to the United States, in the latter.

Reconstruction

At the close of the Civil War in 1865, the civil authorities were dominated by the military in a manner that assisted the encroachments of the carpetbaggers and lead to the adoption of the Constitution of 1868. In addition to disfranchising most of the native white Arkansans, this constitution introduced a centralization of state and county government which was characteristic of the Reconstruction period. The functions of county government remained essentially the same. The administration was, however, largely under the domination of the state government. None of the then existing agencies of county government were perpetuated by the terms of the constitution except those constituting the judiciary and the office of county clerk, which was to be filled by election for a term of four years (Const. 1868, art. VII, secs. 1, 19). The legislature of 1868 passed laws sustaining the offices of county clerk, sheriff, coroner, surveyor, and treasurer (A. Ark., 1868, 326), created the office of county assessor (A. Ark., 1868, 262), and established a county board of registration, which was appointed by the governor and passed upon the qualifications of citizens to vote (A. Ark., 1868, 50). The county clerk was made ex-officio clerk of the circuit court, clerk of the county and probate courts, and county recorder (A. Ark., 1868, 326).

Administrative functions during the earlier part of the Reconstruction period were carried on by the county court. This was changed by an act of the General Assembly of 1873, which abolished the county court, the quorum court, and the probate court and provided for administration by a board of county supervisors, which was created by the terms of the act (A. Ark., 1873, 54). The county began to take a more active part in public works. It was authorized by various statutes to incur debt for the purpose of erecting public buildings, constructing levees, building a more elaborate system of roads, and aiding in the construction of railroads. (A. Ark., 1873, 467-469.) The judiciary functions were performed by the

circuit court; the county court, until it was abolished in 1873; the "criminal courts", which were established in 1871; the probate court, which was abolished and its jurisdiction absorbed by the circuit court in 1873, and courts of justices of the peace (Const. 1868, art. VII, secs. 1, 5; A. Ark., 1871, 100-105; ibid., 1873, 54). The sheriff served the higher courts as a ministerial officer, and the constable, in a like capacity, served the justice courts (A. Ark., 1868, 326). The grand jury continued to act as the chief inquisitorial body, and inquests were conducted by the coroner (A. Ark., 1871, 256; ibid., 1868, 326). The legal representative and advisor of the county was the prosecuting attorney (Const. 1868, art. XV, sec. 6). During the early part of the Reconstruction period, the educational function was taken away from the county and placed directly under the supervision of the state government. The office of common school commissioner was abolished. (A. Ark., 1868, 52.) The county assumed jurisdiction in this function in 1873 following the creation of the office of county superintendent of public instruction (A. Ark., 1873, 130).

The first step toward the return of control of governmental affairs in Arkansas to the representative majority of the state's people came in 1873 when article VIII of the Constitution of 1868 was amended by popular vote. The provisions of the original article VIII prohibited most native white residents of the state from voting. It provided that all persons who had served in the army of the Confederate States or had furnished supplies to or aided in any manner the cause of the Confederacy were denied the right to vote in any election or to hold any public office within the state. This inhibition was removed by the amendment. Sentiment against this disfranchisement was so strong that, in the voting of the amendment, it was provided further that the original article VIII be stricken from the body of the constitution and the amendment inserted in its place. This is the only instance of its kind in the constitutional history of the State of Arkansas. The customary practice is to leave the body of the original constitution intact and affix all the amendments in the order of their adoption. All subsequent publications of compiled laws of the state have omitted the original article VIII. It cannot be found in any of the state-maintained archives in printed form but remains, delitescent, in the original handwritten draft of the constitution, which is preserved by the Secretary of State of Arkansas. The adoption of this amendment was followed by a special session of the General Assembly in 1874 which adopted legislation which tended to curb some of the governmental abuses that characterized the times. In rapid order, it passed laws providing for stoppage of the sale of land and personal property for delinquent taxes (A. Ark., 1874, 1-3); for prevention of fraud in the disbursement of public school funds (A. Ark., 1874, 8, 9); for cancellation and destruction of state scrip (A. Ark.,1874, 18-20); for the re-assessment of real estate for 1874 (A. Ark., 1874, 28, 29); for protection of public and private levees (A. Ark., 1874, 29, 30); for nullification of an act of the General Assembly of 1869 that authorized the state to pay interest on certain railroad bonds (A. Ark., 1874, 30-34), and for authorization of the governor to issue bonds to pay for the expense of the legislature (A. Ark., 1874, 37, 38).

The legislature called a state convention to open July 14, 1874, to

frame and provide for putting into force a new constitution. The Constitution of 1874, drafted at this convention, was adopted by a vote of the people on October 13, 1874, marking the end of the Reconstruction period.

The Present

While the Constitution of 1874 in principle was decidedly contrary to the Constitution of 1868 in its decentralization of governmental powers and functions, there has been, during the present era, a trend toward centralization that has become more pronounced in recent years. The county was deprived of its legal status as a municipal corporation in 1879 (A. Ark., 1879, 13, 14). The General Assembly took control of the county election machinery from the county court in 1891 and gave it to the county board of election commissioners, the members of which are appointed by the Arkansas State Board of Election Commissioners (A. Ark., 1891, 32). When the state's system of juvenile courts was established in 1911, the General Assembly, in the creating law, provided that the attorney general of the state should have supervisory control over the courts (A. Ark., 1911, 167). This law was amended in 1937 to provide a state supervisor of juvenile courts in the State Department of Public Welfare and remove supervisory control from the office of the attorney general (A. Ark., 1937, 148). Operation of the county school system is regulated almost exclusively by the state superintendent of public instruction. The county examiner of schools, who is chosen by the teachers of the county and appointed by the county judge, performs his duties according to general and special regulations prescribed by the state superintendent.

The construction of the unified system of highways throughout the state has passed into the hands of the Arkansas Highway Commission. Until this was effected, all work on roads in the state was under the jurisdiction of the county judges of the various counties (Const. 1874, art. VII, sec. 28). The care of the poor, which was made a legally prescribed duty of each county in 1836, is now carried out almost exclusively through the guidance of the Arkansas State Board of Public Welfare, operating through the State Department of Public Welfare, which has established a welfare board in each county of the state to carry out prescribed duties in the local field of operation (A. Ark., 1937, 148). The county farm demonstration agent and the county home demonstration agent now have a less formal relationship to the county government than they had originally, and, in most cases, only the state and the Federal governments pay their salaries and expenses. The quorum court is authorized by law to appropriate county funds, at its discretion, to pay a portion of the salaries of county agents. (A. Ark., 1911, 21; ibid., 1927, 1105.)

The general characteristics of county government during the present era, commencing with 1874, so nearly duplicate the government of Cleburne County, created in 1883 (A. Ark., 1883, 40-45), that a broad discussion of Arkansas's county governments will apply, with few variations, to the special case of Cleburne County.

Governmental Organization
and Records System

(First entry, p. 52)

Status of the County

The county in Arkansas is a quasi-municipal corporation which was, however, created by the General Assembly principally as a political subdivision of the state. This dual nature has become more pronounced in recent years as the development of public services has increased the county's local activities, and as state offices have relied, more and more, upon their agent, the county, to perform legally prescribed responsibilities of the state.

In its capacity as an agent for the state, the county functions in the collection of taxes; the conduct of elections and welfare work; supervision over delinquent, dependent, and neglected children; maintenance of free schools; distribution of free text books and other phases of the educational program; assembling of vital statistics records; maintenance of public health units; enforcement of laws, and maintenance of courts.

As a local governmental unit, the county exercises control in the collection of taxes for its own support; the recordation of instruments that are authorized by law to be made of public record; the maintenance of county penal and eleemosynary institutions; the construction and maintenance of county roads and buildings; the protection of the civil rights of its citizens; the apprenticeship of minors, and in all other matters of local concern which are county-wide in their application. It also exercises intermediate and supervisory control over the various political subdivisions within its boundaries in the collection of taxes; the conduct of elections; the creation and dissolution of towns and cities as corporate bodies; the making of public improvements, and the administration of affairs of townships and matters of education.

The General Assembly of 1837 enacted a law that designated the county as a body corporate and politic, setting forth that the county could file suits in the courts and could be sued. The county was allowed to purchase, own, and sell real estate, and to hold its property exempt from execution to satisfy any judgment against the county. (Rev. Stat., 1838, 206-208.) This was maintained as the law for a long period, the Arkansas Supreme Court definitely stating in an opinion as late as 1878 that the county was a municipal corporation. The General Assembly had the sole authority to create a county, the court declared, and invested it with all its powers except those specifically provided by the constitution. A county does not exist exclusively for the common benefit of the citizens within its boundaries, but rather as an integral part of the state. In tracing the origin and evolution of the county, the state Supreme Court has described it as purely political in character, constituting the machinery and the essential agencies by which the free governments, derived from and modeled upon the representative and popular features of the English Constitution, are upheld, and through which, for the most part, their powers are exercised. The idea of government by means of counties comes from the remotest period of Anglo-Saxon history. It was imported to the American colonies with the common law, and entered, naturally and of course, into the frame of the colonial governments, from whence it passed, by easy transition and necessary consequence, into the governments of the states. None of the constitutions of Arkansas has

provided for the organization of the state into counties. "This division is taken for granted. The idea of counties underlies all American constitutions. They presuppose both the existence and necessity of counties, and starting from that foundation, proceed to base thereon the frames of government, in which the counties act all essential parts. The political power is composed of representatives from counties. Through them justice is administered, the revenue collected and the local police rendered effective." (Eagle et al v. Beard et al, Ark. Rep., 1878, vol. 33, pp. 501, 502.)

In 1879, the General Assembly repealed the law of 1837 which gave the county the status of a corporation. This statute of 1879, which is still in effect, provides that a county cannot sue or be sued as a corporation. Suits are filed in the name of the state for the use of the county. Claims against the county are presented to the county court. Appeals from the order of the county court may be carried to the circuit court, where a trial de novo is held. (A. Ark., 1879, 13, 14.)

The Arkansas Supreme Court clarified the status of the county in 1882 with an interpretive opinion in which it was stated that a county is not properly a corporation, but a political subdivision of the state, which, for the more convenient administration of justice, and for some purposes of local self-government, is invested with a few functions of corporate existence (Pulaski Co. v. Reese, Ark. Rep., 1882, vol. 42, p. 54). A second ruling by the court, in 1884, definitely construed that section of the law pertaining to the filing of suits against the county, ruling that the action should start as a claim before the county court (Shaver v. Lawrence Co., Ark. Rep., 1884, vol. 44, p. 225).

General Administration

In matters of general administration of county business there are two characteristics peculiar to Arkansas, though they are not, however, found exclusively in this state. One is the combination of judicial and administrative functions in the same hands, and the other is the tendency toward the centralization of power in the hands of one county administrative agency. (John A. Fairlie and Charles Mayard Kneier, County Government and Administration, New York, London, 1930, 116.)

County Court

Jurisdiction over business affairs of the county is vested in the county court by authority of the Constitution of 1874, which delegates to the court exclusive original jurisdiction in all matters relating to county taxes, roads, bridges, ferries, paupers, and the apprenticeship of minors, and in every other case affecting the internal improvement and local concern of the county. (Const. 1874, art. VII, sec. 28.)

Soon after the adoption of the constitution, the county court was authorized to repair, remodel, or rebuild any county building providing there were sufficient funds available and circumstances required it. In the building of a courthouse or jail, the court appoints a commissioner

of public buildings to supervise the construction. (A. Ark., 1875, 144, 145.) More recent provisions adopted in 1928 and 1938, respectively, authorized the court to construct a courthouse, county jail, or a county hospital through the issuance of bonds. The proposed improvements are submitted to the electors of the county for their approval or rejection. If the project is approved, the court is authorized to contract for the construction work and to issue bonds, using the proceeds from sale of the bonds to defray construction expenses. (Const. 1874, amend. XVII, 1928, secs. 1-8; ibid., amend. XXV, 1938.)

The county court, through its presiding officer, the county judge, is in charge of the county's eleemosynary and penal institutions. The judge supervises the construction of buildings for these institutions (A. Ark., 1851, 99; ibid., 1868, 84), contracts for the services of the inmates of the prisons (A. Ark., 1909, 155), and prescribes rules and regulations governing the conduct and welfare of the inmates of both the penal (A. Ark., 1868, 84) and eleemosynary (A. Ark., 1851, 99) institutions. During the early history of Cleburne County, the county court was responsible for the conduct of elections in the county, being aided to some extent in this function by the county clerk and the county sheriff. This authority was removed from its jurisdiction by the General Assembly in 1891. (A. Ark., 1875, 93-101; ibid., 1891, 33.)

Election Commissioners

The conduct of all general and special elections, other than primary elections, held within the county, for the election of state or county officers, or balloting upon state or local legislation, is conducted by this board. It establishes precincts, adjusting their sizes in accordance with the number of electors within the area; designates voting places at central points within precincts; furnishes all necessary supplies, and canvasses and certifies the election returns. This board operates, as a general rule, as an agent of the state election board, holding an intermediary position between the state board and the precinct officials. (A. Ark., 1891, 32; ibid., 1931, 1118; ibid., 1935, 427.)

Public Works

In the administration of public works, the county not only acts on behalf of its citizenry as a whole but also in a supervisory capacity over its various political subdivisions, including school districts and those improvement districts outside of towns and cities which are organized principally for the financing of projects within the areas affected.

Public Buildings

The county is given the power to purchase and own real estate for its own objects and may dispose of this property. This power is exercised by the county court, usually through a board or a commissioner appointed by the court to discharge the necessary duties. (Rev. Stat., 1838, 207.) The county is required to provide itself a courthouse and

jail and may construct other buildings essential to carrying out its legally prescribed or allowed functions. The maintenance of these buildings is a duty of the county court. (Rev. Stat., 1838, 209; A. Ark., 1873, 111.)

The county court, through its appointee, the county examiner, aids the school districts of the county in their building problems. Plans and specifications for model school buildings, designed to fit varied needs and conditions, are prepared by the Arkansas Commissioner of Education and made available to the school districts through the county examiner. (A. Ark., 1931, 488-489; ibid., 1935, 495.)

Roads and Bridges

At all times during the history of Cleburne County, the county has discharged the function of building and maintenance of roads. Until the state established its own highway commission and commenced the construction of a unified system of highways, the county courts held the sole authority to build and maintain roads. Authority for this activity is still held by the counties, though only with regard to those roads which have not been designated as state highways. (A. Ark., 1875, 138; ibid., 1871, 56.) The county may build bridges (A. Ark., 1891, 14; ibid., 1907, 110), or may take over the maintenance of a bridge that has been constructed by a bridge improvement district (A. Ark., 1927, 202), and may license toll ferries to make a link in the transportation system (A. Ark., 1913, 163). The county judge of Cleburne County has been ex-officio road commissioner of the county since 1921 (A. Ark., 1921, 375). He may assign the county's prisoners to work on the county's highways, bridges, and other public improvements (A. Ark., 1893, 207) and may compel paupers who are supported by the county to work on public projects (A. Ark., 1875, 2).

Improvement Districts

The county functions in a supervisory capacity in matters relating to improvement districts within its boundaries. It creates drainage, bridge, levee, and fencing districts. The county court appoints the commissioners for the drainage, bridge, and fencing districts, and supervises the election of commissioners for the levee districts. (A. Ark., 1879, 117; ibid., 1907, 110; ibid., 1911, 193; ibid., 1921, 391.)

Eleemosynary and
Penal Institutions

Construction and maintenance of various eleemosynary and penal institutions by the county in Arkansas is a function that is allowed by law. The vitalizing statutes do not make this a compulsory function, though the county is required to have a jail (Rev. Stat., 1838, 209). The county may maintain a "house of correction", or county prison farm, for the incarceration of prisoners in addition to the county jail (A. Ark., 1868, 84). It has, for many years, been allowed to establish and maintain a county poor farm (A. Ark., 1851, 99), and, by a more recent constitutional provision, it may establish a county hospital (Const. 1874, amend. XXV,

1938). Cleburne County maintains only a county jail. It established a poor farm in 1896 but abandoned it in 1937.

Recordation

To discharge the function of making a record of written instruments that are subject, legally, to recordation, the county in Arkansas establishes and maintains the office of county recorder, which is filled in an ex-officio capacity by the circuit clerk. This office was established in Cleburne County in accordance with provisions of the Constitution of 1874 and its duties have remained substantially the same during the entire history of the county (Const. 1874, art, VII, sec. 19). The primary purpose of the recording function is to make of public record a complete history of the sequence of ownership of each tract of real property in the county. This record includes deeds, easements, mortgages, liens, and other instruments executed by the respective owners of each tract of land, as well as defeasances and litigations that affect the land title. (Rev. Stat., 1838, 655.) The county clerk and chancery clerk aid, to a limited extent, in this function. The county clerk keeps a record of delinquent ad valorem taxes (A. Ark., 1887, 143), and the chancery clerk a record of delinquent improvement district taxes (A. Ark., 1897, 8). Delinquent taxes have a direct bearing on land titles in Arkansas. The General Assembly has, from time to time, increased the category of instruments that are recorded.

Administration of Justice

Courts

In order that justice may be available to all citizens, Cleburne County maintains a judiciary system which has remained unchanged, with two exceptions, since the county was established. It consists of the circuit court, the chancery court, the probate court, the county court, the juvenile court, and justices of the peace courts. All of these courts were established in accordance with the provisions of the Constitution of 1874 (Const. 1874, art. VII, sec. 1), except the chancery court, which was established in 1903 (A. Ark., 1903, 314, 315), and the juvenile court, established in 1911 (A. Ark., 1911, 167). The courts stand as a protection against oppression of the citizens within their jurisdiction. Any unjust official act by an administrative or enforcement officer may be halted by injunction proceedings. An official may be compelled to do his duty by mandamus proceedings and unlawful imprisonment is prevented by habeas corpus proceedings. All of the courts, except those of justices of the peace, have original jurisdiction in these cases, and may grant temporary or permanent relief as the facts justify. (Const. 1874, art. II, sec. 11; ibid., art. VII, sec. 37.)

Debts are settled and disputes over possession of property are decided by the courts, their jurisdiction being determined by the value of the property involved and the nature of the case. The circuit court has

jurisdiction to try civil cases and criminal cases where the offense charged is either a felony or a misdemeanor (Const. 1874, art. VII, secs. 11, 14, 27). The chancery court has jurisdiction over all cases in equity (Const. 1874, art. VII, sec. 1; A. Ark., 1903, 314, 315). The county court has been deprived of virtually all its judicial functions. It retains jurisdiction in election contests in which certain county officers are involved and in bastardy cases (Const. 1874, art. VII, sec. 28). The estates of deceased persons, the persons and estates of minors, incompetents and insane are protected through the functions of the probate court (Const. 1874, art. VII, sec. 34). The county judge served as presiding magistrate of the probate court until January 1, 1939, after which these duties were imposed upon the chancery judge (Const. 1874, art. VII, sec. 34; ibid., amend. XXIV, adopted 1938, effective January 1, 1939; A. Ark., 1939, act 3). The juvenile court, a quasi-judicial tribunal, deals exclusively with the problems of the underprivileged or delinquent child and is presided over by the county judge (A. Ark., 1911, 167). The jurisdiction of justices of the peace is limited to specified civil cases and criminal misdemeanor cases. The jurisdictions of the justices of the peace and the county courts are co-extensive with the county (Const. 1874, art. VII, sec. 40). The jurisdictions of the circuit and chancery court are co-extensive with their respective circuits, which are designated by law (Const. 1874, art. VII, sec. 13; A. Ark., 1903, 315). The circuit court holds appellate jurisdiction over the court of the justices of the peace and the county court (Const. 1874, art. VII, sec. 14). Appeals from rulings of the circuit court, the chancery court, and the probate court are carried to the Arkansas Supreme Court (Const. 1874, art. VII, sec. 4; A. Ark., 1939, act 3).

Clerks of Court

The clerk of the circuit court, or circuit clerk, is the chief accounting and recording officer of Cleburne County, filling in an ex-officio capacity the offices of county clerk, probate clerk, and chancery clerk. He holds all of these positions in counties of less than 15,000 population, of which Cleburne is one. In counties of larger size, the office of county clerk becomes separate and elective, and the office of probate clerk is filled in an ex-officio capacity by the county clerk (Const. 1874, art. VII, sec. 19). It is the duty of the clerks to attend all sessions of their respective courts, either in person or by deputy, and carefully record and preserve a record of all proceedings of the courts in the manner prescribed by law (Rev. Stat., 1838, 178). Justices of the peace are required to keep their own records.

Ministerial Officers

The sheriff is the chief ministerial officer of all courts of record in Cleburne County. It is his duty to attend, either in person or by deputy, all sessions of those courts. He must obey the orders and directions of the courts and serve, execute, and return all the processes, warrants, writs, orders, and decrees that are legally directed to him. (Rev. Stat., 1838, 728.) Justices of the peace are served in a similar capacity by the constable (Rev. Stat., 1838, 186).

If the sheriff is disqualified to serve papers in any case, the coroner of the county acts in his stead (Rev. Stat., 1838, 194). If the coroner, in turn, is disqualified, a constable is required to execute and return all processes directed to superior offices (A. Ark., 1846, 86). Any officer who is authorized by law to serve the processes of other courts is required, when called upon, to serve the processes of the juvenile court in counties such as Cleburne, where the juvenile court has not appointed a probation officer (A. Ark., 1911, 167).

When the sheriff, coroner, or constable has reason to believe that he will meet with resistance in the service of processes, he may command as many male inhabitants of his county and any unit of the state militia stationed in the county to assist him if he thinks their aid is necessary (A. Ark., 1869, 337, 338).

Investigations and Inquests

The grand jury, whose sessions are generally held at each term of the circuit court, is authorized by law to investigate all criminal cases, either of felonies or misdemeanors, that come to its attention. If its investigation reveals sufficient evidence to establish a reasonable presumption of guilt by any party, an indictment is returned by the jury. The grand jury, in addition, has broad powers in the investigation of the official conduct and records of public officials, the personnel and the management of public institutions, and, aside from returning indictments, may recommend reforms in the general administration of offices or institutions, so long as that which they recommend is in compliance with existing laws. (A. Ark., 1869, 284; ibid., 1871, 266; ibid., 1881, 92; ibid., 1927, 1185.)

A preliminary examination of any defendant may be held before a justice of the peace for the purpose of determining his or her probable guilt or innocence. The defendant may be remanded to jail, admitted to bail if the offense is bailable, or released, depending upon the findings of the examining court. (A. Ark., 1871, 258.)

Inquests to discover the cause of violent deaths are conducted by the coroner. He summons the jury before whom the hearing is conducted. Witnesses are called, and every effort is made to establish the cause and manner of death and the criminal liability, if any, of any person or persons. The jury may name one or more persons in their verdict as having been implicated in the death, and the persons' names are noted for further investigation by a grand jury or before an examining court. (Rev. Stat., 1838, 195.)

Prosecutions

The prosecuting attorney is the legal representative of all the counties constituting the circuit which he is elected to serve. He represents the counties in all actions, either civil or criminal, that originate or may be pending in any court. He aids the grand jury in its investigations, and gives legal advice to the county officers, when requested. The office of prosecuting attorney is a constitutional office. (Const.

1874, art. VII, sec. 24.)

Trial by Jury

The constitutional right of trial by jury is granted in all the courts of the county government (Const. 1874, art. II, sec. 7). In the circuit court, jury commissioners are named for each term of court to select petit jurors (A. Ark., 1871, 264). In the other courts of record, where trial by jury is requested, the sheriff is directed by the judge to summon prospective jurors from among the bystanders. In justice of the peace courts, this latter function is performed by the constable. (A. Ark., 1873, 433.)

Enforcement of Law

The sheriff is the chief law enforcement officer in the county in Arkansas (Rev. Stat., 1838, 728). The constables, although they are township officers, hold county-wide jurisdiction and have the same powers as the sheriff in the discharge of this function (Rev. Stat., 1838, 184, 185). The coroner also has enforcement powers (Rev. Stat., 1838, 195). A peculiar provision in Arkansas law designates the coroner as the only official in the county who can arrest the sheriff should that officer be charged with a law violation. The law under which the prosecuting attorney conducts investigations gives him implied authority to enforce the law (Rev. Stat., 1838, 194). In cases of unlawful assembly, the sheriff, a constable, or any two justices of the peace may summon any unit of the state militia stationed within their county to aid in its suppression (Rev. Stat., 1838, 278, 279). These officials and the coroner may deputize private citizens and compel them to aid them in emergencies of a less serious nature (Criminal Code, sec. 362).

Finances

In the handling of finances in an Arkansas county, there is a definite correlation of activities of several county offices that results in a close relationship between the taxation and fiduciary functions. All of these processes are subject to the control of the county court as they pass through the hands of the county clerk, who in his capacity as a ministerial and recording officer of the court serves as a clearing agent in these functions.

Taxation

The assessment of property throughout the history of Cleburne County has been a function of the county assessor, a constitutional officer (Const, 1874, art. VII, sec. 46). In the absence of any attempt by law to place an arbitrary valuation upon property value for tax purposes, the appraisal has been left to the discretion of the assessor, subject to the approval of the county board of equalization, from 1883 until 1917, and from 1927 to the present. From 1917 until 1927, assessments were made jointly by the assessor and members of the then existing township boards of assessment and valuation. (A. Ark., 1883, 245; ibid., 1917, II, 1238;

ibid., 1929, 869.)

After the completion of the assessment books, the amount of the county levy is set by the quorum court, after which the court levies all ad valorem taxes against property within the county, whether the tax be for state, county, city or town, township, or school purposes. The minutes of these levies and the assessment books are given to the county clerk, who computes the amount of taxes accrued against each item of real and personal property. This detail completed, the clerk passes the books to the tax collector, who proceeds with the work of collecting the taxes. (Const. 1874, art. VII, sec. 30; A. Ark., 1883 199.) Specified periods in which taxes were required to be paid have been designated from time to time by the General Assembly to aid in the collection function. A penalty of 25 per cent for non-payment within the specified period was assessed in 1883. This was reduced to 10 per cent in 1911. The time for payment of annual taxes was extended from March 1, which was the final due date commencing in 1883, to April 10 in 1887, and to October 1 in 1933. (A. Ark., 1883, 245; ibid., 1887, 167; ibid., 1911, 361; ibid., 1933, spec. sess., 61-66; ibid., 1935, 777-782.) Both real and personal property are seized and sold by the county for non-payment of taxes (A. Ark., 1883, 199; ibid., 1887, 143; ibid., 1893, 230; ibid., 1935, 777). In the tax collection function, the county serves the state as well as its own political subdivisions (A. Ark., 1883, 199).

In the taxation function, the records are cleared from office to office through the county clerk. After completing his work, the assessor turns the assessment record over to the county clerk. This officer passes the record to the equalization board, which returns it to the clerk. By the same process the record comes before the quorum court, is passed on to the collector, and finally returned to the clerk for him to preserve as a permanent record.

Fiscal Control

The county treasurer, county court, and quorum court perform the fiduciary functions in county finances in Cleburne County. The status of the treasurer, a constitutional officer, has remained unchanged since the establishment of the county (Const. 1874, art. VII, sec. 46). He receives all funds collected in the form of county taxes from the collector, and fees, fines, and forfeitures from other officers (Rev. Stat., 1838, 223). County funds are apportioned by appropriation by the quorum court for the use of the various county offices (Const. 1874, art. VII, sec. 30), from which appropriations they are disbursed by warrants which the treasurer draws when ordered to do so by the county court (Rev. Stat., 1838, 225).

All claims against the county are examined by the county court in quasi-judicial proceedings conducted by the county judge before they are approved for payment and the treasurer directed to issue a warrant. The treasurer keeps a warrant register, upon which he enters a complete descriptive record of every warrant issued. The county court, through its recording officer, the county clerk, keeps a record of each appropriation, the warrants drawn against, and the balance remaining in, each fund.

Governmental Organization and Records System

(First entry, p. 52)

(A. Ark., 1873, 57; Rev. Stat., 1838, 227; A. Ark., 1879, 115.)

Education

Free Public Schools

Arkansas's system of free public schools, the only major concern of government instituted in the state during the Reconstruction period (Const. 1868, art. IX) that has been retained, was still in the experimental stage when Cleburne County was created in 1883. In administering the school system, the county acts as the agent of the state, exercises some of the powers of local self-government, and, at the same time, holds supervisory control over its political subdivisions, the school districts. The public schools outside of incorporated towns and cities in the county have been under the direct supervision of the county government throughout the history of the county. This is a function of the county court, operating through an appointive ministerial officer, the county examiner of schools. The office of county examiner, already in existence in 1883, was abolished in 1907. The office of county superintendent of schools was established as an elective office. The county court was deprived of its authority in educational matters in 1919 with the creation of the county board of education, which, at the same time, was given the power to appoint the county superintendent of schools. This function was performed by these officials until 1933 when the county board of education and the office of county superintendent of schools. and their powers and duties were re-assigned to the county judge and county examiner, an appointee of the county court, respectively.

The county functions in the formation of school districts or the changing of boundaries of existing districts. It levies and collects the taxes for the schools; conducts school elections; is custodian of the common school funds, which it disburses by warrants drawn by the school district authorities; aids the districts in the selection of competent teachers; enforces the rules and regulations of the Arkansas State Department of Education, and furnishes the state department with necessary statistical data concerning the county school system. The county judge and the examiner of schools, aided by the county treasurer, compose the county text book board, supervising the distribution of free text books to the schools.

County Library

A new function in the field of education was made possible for the counties in Arkansas when, in 1927, the General Assembly passed a law which authorized counties to establish free county libraries. In this function, a library board is appointed by the county judge and is given full authority to employ a librarian and direct the affairs of the institution. The county may elect to operate a library in conjunction with adjoining counties or with any municipality within its boundaries.

County Demonstration Agents

Educational work conducive to more intelligent farming and better living conditions in the farm home is provided by the county in cooperation with the state and United States governments through the functions of the county farm agent and the county home demonstration agent. This program is designed to affect both the adults as well as those of school age in the farm home.

Public Services

Public Welfare

The care of its own poor was the legal responsibility of the county in Arkansas long before the establishment of Cleburne County (Rev. Stat., 1838, 605). The performance of this duty has been one of the responsibilities of the county court. The administration of direct relief, the investigation of applicants for Confederate pensions, and the maintenance of a poor farm were the chief activities during the early history of the county in this connection. (Const. 1874, art. VII, sec. 28; A. Ark., 1846, 84; ibid., 1901, 86-88; ibid., 1851, 99.) Through its county board of public welfare, the county, as an agent of the state and the United States governments, has functioned since 1935 in the administration of old age assistance and other forms of direct relief (A. Ark., 1935, 56; ibid., 1937, 897).

The county has long been cognizant of the problem of the underprivileged child, and, more recently, the delinquent child. Under an act of 1840 and the Constitution of 1874, the county judge has the right to investigate the circumstances of any orphan in the county and may, according to an obsolescent act of 1840, apprentice the child to a master or mistress who is made responsible for the child's welfare and education. (A. Ark., 1840, 87; Const. 1874, art. VII, sec. 28.) This custom, while still authorized, has been abandoned in recent years in favor of the procedure of the juvenile court which was established to cope with the problems of dependent and delinquent children (A. Ark., 1911, 167).

Public Health

The state public health agency, at first administered exclusively by the state government (A. Ark., 1881, 178), extended the scope of its activities until it enlisted the aid of the state's agent, the county (A. Ark., 1903, 46). The county health officer is responsible for the health of the inmates of the county-maintained institutions and, in addition, is the agent of the state in all efforts to further the prevention and suppression of disease (A. Ark., 1913, 354, 355). The county in Arkansas, singly, or jointly with one or more neighboring counties, may maintain a health unit which functions within its designated jurisdiction in the carrying out of the public health program (A. Ark., 1925, 1061).

Vital Statistics

The assembling and recordation of vital statistics is a function of the state government carried out by the Arkansas State Board of Health, which is aided, in some respects, by the county. The county health officer aids the state board in this duty, upon request. The chancery, probate, and county court clerks report pertinent facts concerning divorces, marriages, and adoptions to the state board. (A. Ark., 1913, 348; ibid., 1923, 496; ibid., 1917, 802; ibid., 1935, 393, 394.)

County Surveyor

The office of county surveyor has become a less important one in the county governmental structure in more recent years. This officer's duties remain virtually the same as those of his predecessors. He aids in the establishment of new roads, and in designating public and private boundary lines. (Rev. Stat., 1838, 219.) He was named ex-officio timber inspector by a law passed in 1901 (A. Ark., 1901, 202).

Coordination of Functions

The outstanding operations of the county court and the county clerk, aside from the legally prescribed duties peculiar to their respective offices, are the coordination of the functions of county government. The chief example of this coordination is the manner in which the county clerk enters into the processes of taxation and finance, operating his office as the hub of the various offices that have specific duties to perform in connection with these important functions. The county court receives the financial reports of the county officers, approves the disbursements of county funds, and purchases supplies for all offices. Through this system there may be attained a uniformity in the records system of the county. As between counties, however, there is a lack of uniformity in records systems. There is adequate legislation for the preservation of old records.

In counties of Arkansas, the system of recording instruments pertaining to land titles is slightly confusing. There is a lack of uniformity both in the form of records, the classification of instruments recorded, and the indexing systems. Each instrument which is filed has a title which indicates its contents. All deeds conveying full title or mineral rights are recorded in deed record books. A deed that retains a lien is recorded also in the deed record book. Mortgages are recorded in a mortgage record book. Oil and gas leases may be recorded in a separate book kept for that purpose but sometimes are found recorded in deed record or mortgage record books. Chattel mortgages are filed and indexed, or may be recorded in the mortgage book if the person filing the instrument requests it and pays a recording fee.

The instrument indexes are both direct and reverse, by the names of the grantor and the grantee. A separate index is kept for each book. These indexes are either contained in the record volume or bound separately

The tax assessment records reflect the current ownership of each tract of land in the county to a reasonable degree of accuracy. However, a person who sought to investigate the chain of title of any tract of land for the purpose of ascertaining any clouds or inconsistencies in the title would find the task difficult and confusing, unless he were highly trained and long experienced in that work.

The business of each court is recorded by the clerk of the court, each clerk following a similar system. Each case instituted is given a number, and all papers filed in connection with it from its inception until it is closed, either by dismissal or final judgment or decree of the court, are kept in a separate jacket and filed in numerical order in filing boxes. The case is assigned a page in a docket book, separate docket books being kept for civil and criminal cases in courts having jurisdiction in both kinds of cases. A direct index, and in some instances a reverse index, by names of litigants is kept in each docket book. Inventories of file boxes show many papers out of their proper places and some missing. Many old court papers are tied in bundles, with little or no attempt at classification or segregation, and stacked in out-of-the-way corners.

The system found in smaller counties of the state by which most of the records find their way to the office of the circuit clerk, who, in an ex-officio capacity, is clerk of the other courts and the recorder, has merit. This places the responsibility for a greater portion of the county records on one individual. Records are available to the public in a single office or group of offices, and unnecessary duplication of records and indexes may be avoided. This system is also, of course, more economical.

The Historical Records Survey of Arkansas, near the conclusion of its present survey of county archives, will prepare and present a report recommending specific changes in the laws concerning county records.

General Laws Affecting County Offices

Constitutional Provisions

The state constitution makes several provisions which are general in their application to county offices. All county and state officers are required to take an oath of office, the same for all offices, as one of the necessary steps in qualifying for office. (Const. 1874, art. XIX, sec. 20.)

All county officers who are accused and convicted of incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, and nonfeasance in office may be removed from office by the circuit judge, whose court has jurisdiction to try these cases (Const. 1874, art. VII, sec. 27).

Judges of the circuit courts and the chancery courts and the prosecuting attorneys are removed from office by the governor following

conviction in impeachment proceedings instituted by the state House of Representatives and tried before the Senate. These officers are subject to removal from office for "high crimes and misdemeanors and gross misconduct in office." (Const. 1874, art. XV, secs. 1-3.) All vacancies occurring in county offices are filled by special election, unless the vacancy occurs within six months prior to a general election. In this event, the vacancy is filled by appointment by the governor. (Const. 1874, art. VII, sec. 50.) All county officers hold their respective offices until their successors are elected and qualified (Const. 1874, art. XIX, sec. 5). When any office becomes vacant and no other method for filling the vacancy is provided, the governor fills the vacancy by granting a commission which expires when the person who is elected at the next general election to fill the office is qualified (Const. 1874, art. VI, sec. 23).

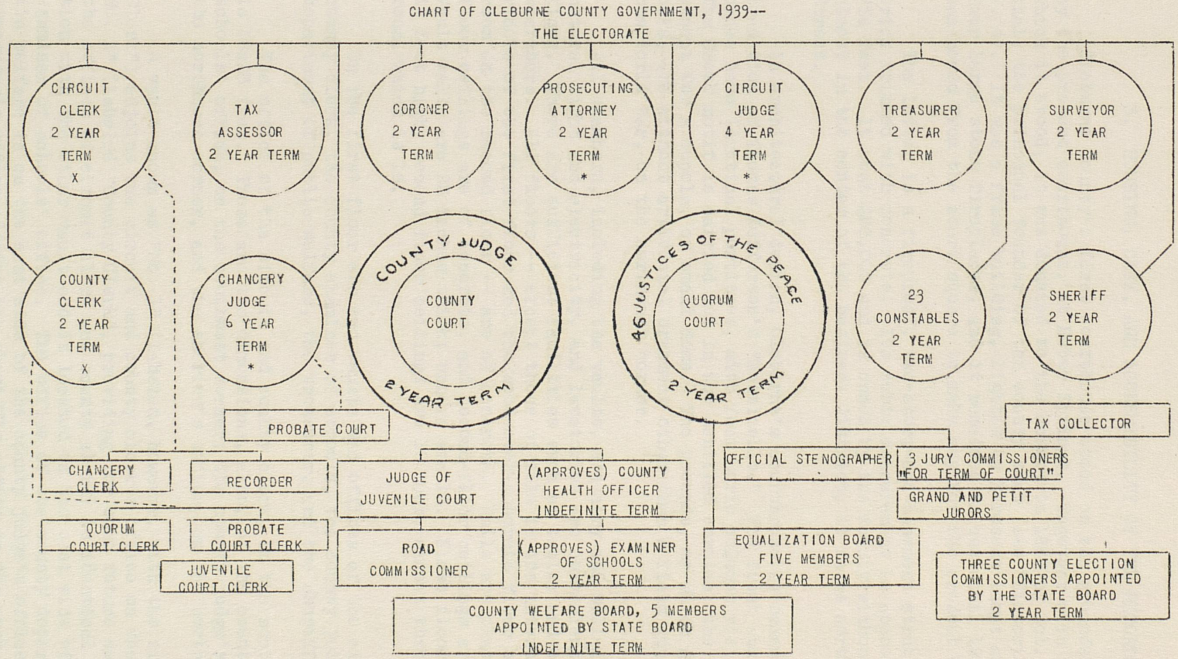
In addition to other qualifications peculiar to the offices they hold, all county officers must be qualified electors. To be a qualified elector, a person must be of sound mind, must be 21 years old, and must have been a resident of the state for one year, the county six months and the voting precinct one month preceding any election in which he proposes to vote, and must have a poll tax receipt, unless he has become of legal age since the last date for paying poll taxes preceding the election. No soldier, sailor, or marine is allowed to establish legal residence in the state by being stationed in the state on duty. (Const. 1874, art. XIX, sec. 3; ibid., art. III, secs. 1, 5, 7; ibid., amend. V, app. 1913.) The judges of all courts, including justices of the peace, are disqualified to preside in the trial of any case in which they are materially interested, in which they have been counsel for either party, in which they have previously presided as judge of an inferior court, or in which they are related to either party within the fourth degree of consanguinity or affinity (Const. 1874, art. VII, sec. 20; Rev. Stat., 1838, 233).

Statutory Provisions

The General Assembly has passed laws in more recent years with reference to the bonds of county officials that are general in their application to the offices. The amount of bond required to be executed by each official is set by a state board, consisting of the attorney general, the state auditor, and the state treasurer. (A. Ark., 1929, 1000, 1001.) Another act, that became effective January 1, 1939, requires that all officials execute surety bonds (A. Ark., 1937, 1243, 1244). The cost of premiums on bonds of county collectors and county treasurers is prorated among the various branches of government whose funds they handle, in proportion to the amount of money of each subdivision that passes through their hands. Premiums on the bonds of other county officers are paid by the county. (A. Ark., 1927, 229.)

Citizens of Cleburne County passed an initiated measure in 1932 which regulates the salaries and some of the duties of the county officers. This measure, known as Initiative Act No. 1 of Cleburne County, is printed in full in the appendix.

CHART OF CLEBURNE COUNTY GOVERNMENT, 1939--



LEGEND

○	AND SOLID LINE: ESTABLISHED AND MADE ELECTIVE BY CONSTITUTION
▭	AND DOTTED LINE: EX-OFFICIO BY CONSTITUTION OR STATUTE
▭	AND SOLID LINE: APPOINTIVE BY STATUTE
*	ELECTED BY AND FOR RESPECTIVE CIRCUIT AND CHANCERY COURT CIRCUITS AS ESTABLISHED BY STATUTE
X	CIRCUIT CLERK AND COUNTY CLERK ARE COMBINED OFFICES IN COUNTIES OF LESS THAN 15,000 POPULATION, OF WHICH CLEBURNE IS ONE.

CLEBURNE COUNTY IS IN THE 14TH JUDICIAL CIRCUIT. THE FOLLOWING COUNTIES COMPOSE THE CIRCUIT: CLEBURNE, NEWTON, BOONE, VAN BUREN, SEARCY AND MARION.

CLEBURNE COUNTY IS IN THE 8TH CHANCERY CIRCUIT. THE FOLLOWING COUNTIES COMPOSE THE CIRCUIT: CLEBURNE, STONE, IZARD, FULTON, SHARP, INDEPENDENCE, LAWRENCE, RANDOLPH AND JACKSON.

(First entry, p. 52)

3. HOUSING, CARE, AND ACCESSIBILITY OF THE RECORDS

Cleburne County's first courthouse stood on the grounds now occupied by the present courthouse, at Heber Springs. Together with the land on which it stood, it was donated to the county in 1883 by Col. Max Frauenthal, the principal founder of the county seat (see "Historical Sketch", p. 4). It was a frame building, lighted by kerosene lamps and heated by four large stone fireplaces, and it remained in use until 1914, when it was moved from the court square to make way for the present building.

The latter is a fireproof, two-story-and-basement structure of buff brick trimmed with concrete. Its cubic measurement is approximately 188,-734 feet. It cost $65,000 and is owned by the county without encumbrances. Almost in the center of the business district, it faces north on Main Street.

In architectural design, Cleburne's courthouse is somewhat in the tradition of Thomas Jefferson's "Monticello." The front and the rear facades have identical porticoes, with four Doric columns rising two stories. The Greek motif is carried out in the dentiled cornice; the roof is flat, except for a cupola, or small dome. The grounds, on which grow several oaks, are without artificial ornament other than a field gun, a relic of the World War, on the northeast corner.

All chambers, including the vaults, are airy and well-lighted by natural light and electricity, and lavatories are convenient to most offices. There are sufficient facilities such as tables and chairs for researchers. All floors -- except those of tile in the intersecting corridors of the first floor and the wood-over-concrete floor of the courtroom on the second floor -- are of concrete. Walls are plastered; first floor ceilings are of concrete, and second-floor ceilings are of metal. Vault walls are 23 inches thick; others are 13. First floor ceilings are 12 feet high; second floor ceilings are 10 feet, except that of the courtroom, which is 16.

On the first floor are two vaults and offices of the circuit and county clerk, the county examiner of schools, the county judge, the county department of public welfare, the treasurer, and the sheriff.

The office of the circuit and county clerk, in the southeast corner, is 18x23 feet. These are the dimensions, also, of the county examiner of schools' office, on the southwest corner; the county judge's quarters, on the northwest corner, and the sheriff's office, on the northeast corner.

A vault known as "No. 1" (labeled, however, with the sign "Circuit Clerk") adjoins the circuit and county clerk's office on the west. "Vault No. 2" (labeled "County Clerk", providing for some future separation of the offices of circuit clerk and county clerk) is identical in construction with the other vault and is located on the east side of the county examiner of schools' office. The office of the county department of public welfare is on the east side of the county judge's offices, and the treasurer's office adjoins the sheriff's office on the west. The two vaults are 15x17 feet, and the two offices, 16x19 feet.

Housing, Care, and Accessibility of the Records (First entry, p. 52)

Some record volumes and a considerable number of file records are kept in the circuit and county clerk's office. Many of the file records there are court papers of recent origin which are not kept in file boxes but are stacked in a wooden bookcase temporarily. There is not sufficient vacant space in the office's 36 metal file boxes for them. Adjoining these file boxes is a wooden file cabinet containing 48 pigeonholes, in which numerous probate court papers are filed. Usually, about a dozen volumes of current use are kept in the circuit and county clerk's office. There is space for additional file boxes, and as many again are needed.

Vault No. 1 contains records of most of the county offices and is crowded. Approximately 17 feet of additional shelving, for which there is room, would relieve the congestion of records. Some of the present shelving, however, is of wood and should be replaced by shelving of steel, roller type, like the remainder. All discontinued or other old records whose present proximity to the county and circuit clerk's office is unnecessary, could conveniently be moved to Vault No. 2, where there is ample room.

Vault No. 2, adjoining the county examiner of schools' office, contains few records except a comparatively small number of "retired" volumes from the No. 1 vault. There are 157 feet of wooden shelving, a large part of which is used by the county examiner of schools for storing the free public school text books for the care of which he is responsible.

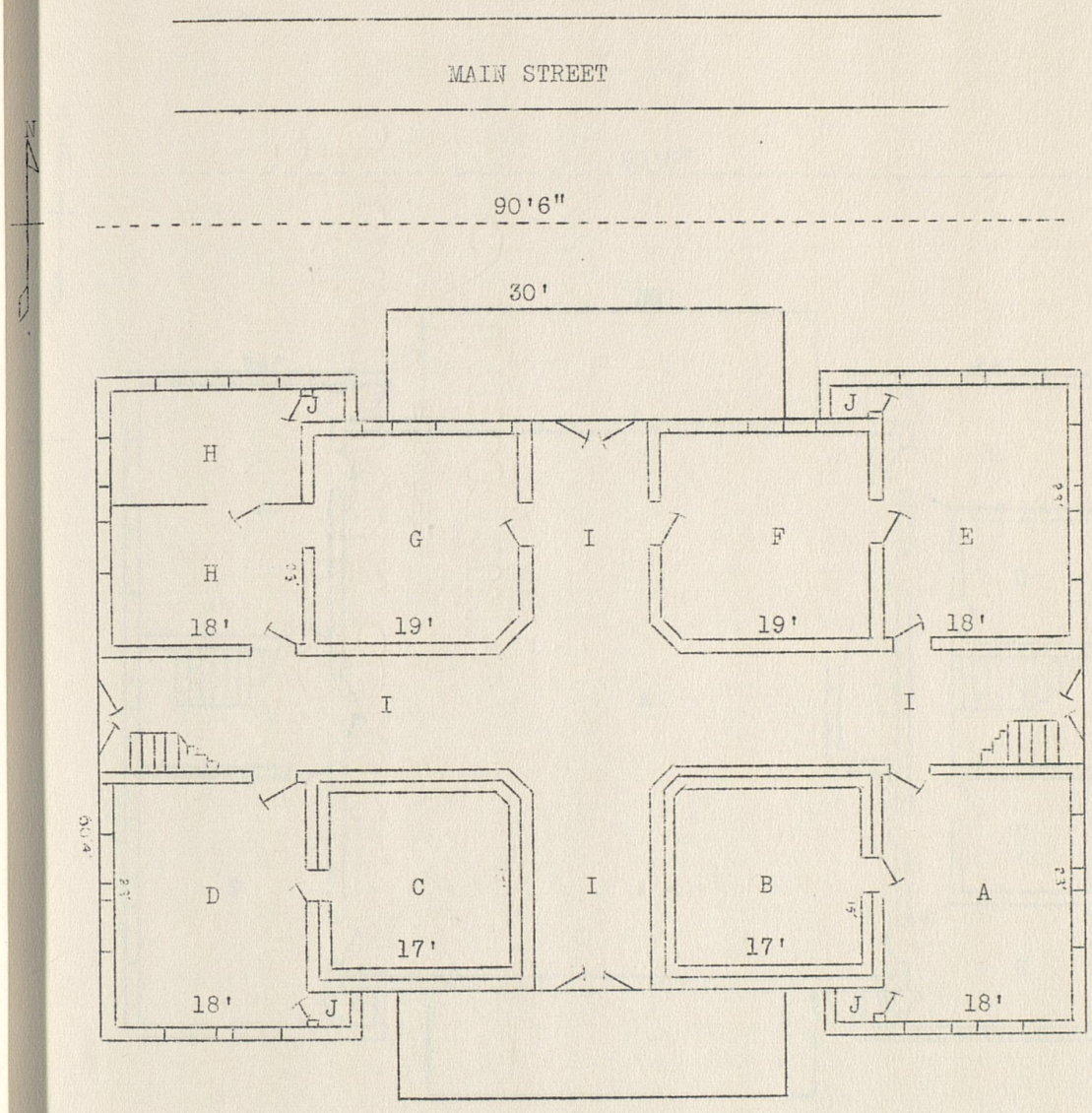
The offices of the examiner of schools, the department of public welfare, the treasurer, and the sheriff each contain a small number of records.

The second floor contains the courtroom; the offices of a deputy state revenue collector, the county health unit, the Farm Security Administration, the county tax assessor, the county surveyor, and the Heber Springs Public Library. Few records are kept on this floor.

The courtroom occupies the central position on the second floor, which is reached by stairways in the north and the west ends of the building. Viewed from the north, the courtroom is 50 feet wide and 45 feet deep.

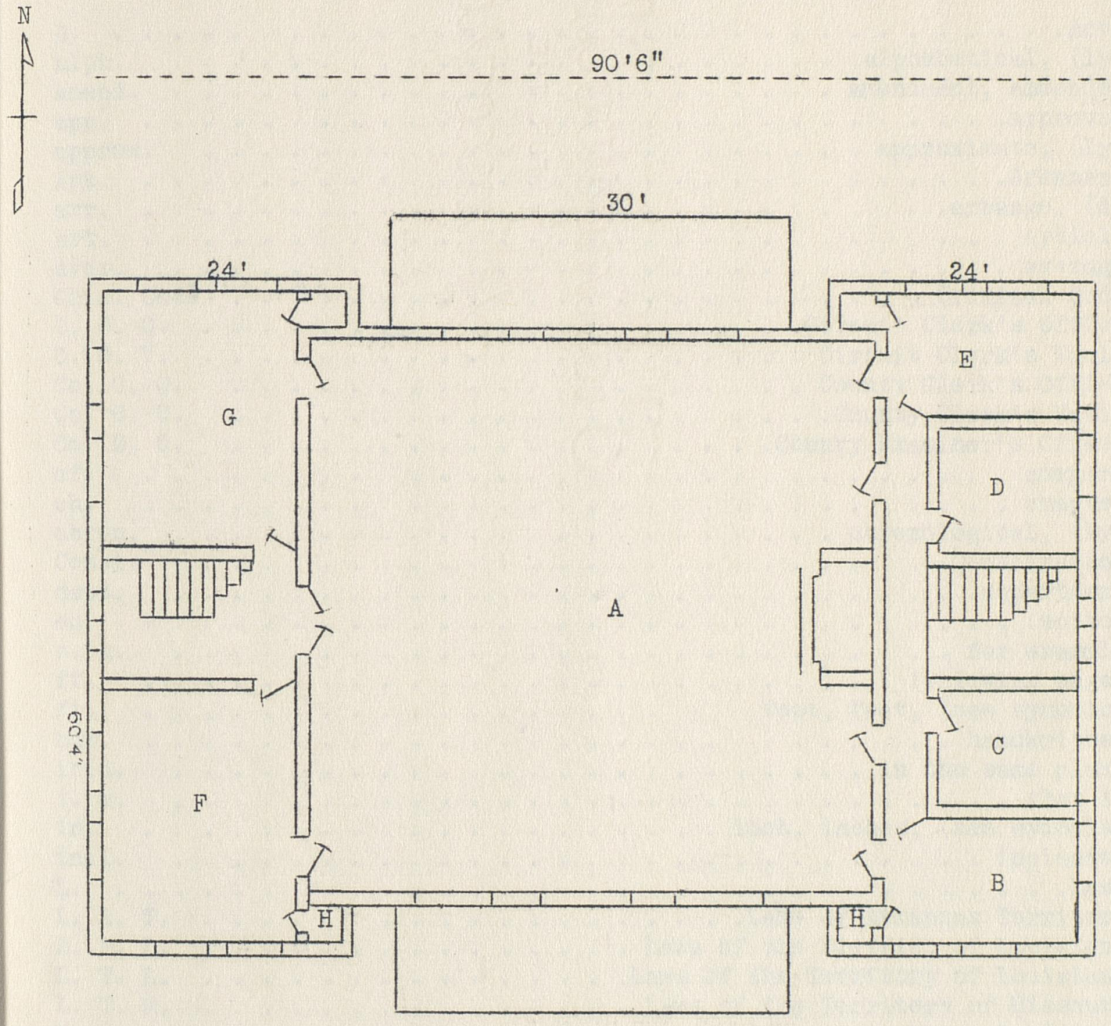
The deputy state revenue collector's office, on the southeast corner, is 20x12 feet, the dimensions, also, of the tax assessor's office, on the northeast corner. Adjoining the revenue collector's office on the north is the county surveyor's office, and adjoining the tax assessor's office on the south is the Public Library. They are of the same dimensions, 14x 12 feet. The county health officer's quarters, on the southwest corner, and the Farm Security Administration's office, on the northwest corner, both are 18x24 feet.

The entire building is heated by steam from a furnace and boiler in the basement.



Cleburne County Court House
First Floor

A. Office of Circuit and County Clerk.
B. Vault No. 1.
C. Vault No. 2.
D. Office of County Examiner of Schools.
E. Office of County Sheriff.
F. Office of County Treasurer.
G. Office of County Board of Public Welfare.
H. Office of County Judge.
I. Corridors.
J. Lavatories.



Cleburne County Court House
Second Floor

A. Courtroom.
B. Office of Deputy State Revenue Collector.
C. Office of County Surveyor.
D. Public Library.
E. Office of Tax Collector.
F. Office of County Health Officer.
G. Office of Farm Security Administration.
H. Lavatories.

ABBREVIATIONS, SYMBOLS, AND EXPLANATORY NOTES

Abbreviations

A. . . . . .Acts
alph. . . . . .alphabetical, (ly)
amend. . . . . amendment, ammended
app. . . . . .approved
approx. . . . . approximate, (ly)
Ark. . . . . .Arkansas
arr. . . . . .arrange, (d)
art. . . . . article
aver. . . . . average
Crim. Code . . . . . Criminal Code
C. C. O. . . . . .Circuit Clerk's Office
C. C. V. . . . . Circuit Clerk's Vault
Co. C. O. . . . . County Clerk's Office
Co. C. V. . . . . .County Clerk's Vault
Co. E. O. . . . . .County Examiner's Office
cf. . . . . compare
ch. . . . . chapter
chron. . . . . chronological, (ly)
Const. . . . . .Constitution
dept. . . . . .department
ed. . . . . .editor
e. g. . . . . for example
ff. . . . . following pages
ft. . . . . foot, feet, (see symbols)
hdw. . . . . handwritten
ibid. . . . . in the same place
i. e. . . . . that is
in. . . . . inch, inches, (see symbols)
incl. . . . . inclusive
L. . . . . .Laws
L. A. T. . . . . .Laws of Arkansas Territory
L. D. L. . . . . Laws of the District of Louisiana
L. T. L. . . . . .Laws of the Territory of Louisiana
L. T. M. . . . . Laws of the Territory of Missouri
La. . . . . Louisiana
Mo. . . . . .Missouri
mi. . . . . mile, miles
no., nos. . . . . number, numbers
numer. . . . . numerical, (ly)
p., pp. . . . . page, pages
par., pars. . . . . paragraph, paragraphs
Rep. . . . . Reports
Rev. . . . . Revised
sec., secs. . . . . section, sections
spec. sess. . . . . special session
Stat. . . . . .Statute, (s)

Abbreviations, Symbols, and
Explanatory Notes

St. V. . . . . Storage Vault
Sher. & Col. O. . . . . .Sheriff & Collector's Office
T. L. M. . . . . .Territorial Laws of Missouri
Tp., Tps. . . . . Township, Townships
trans. . . . . .translator
U. S. . . . . United States
v. . . . . .versus
vol., vols. . . . . volume, (s)

Symbols

-- . . . . . current
' . . . . . foot, feet, (see ft.)
" . . . . . inch, inches, (see in.)
% . . . . . .per cent

Explanatory Notes

If no statement is made regarding the condition of records, it may be assumed they are in good condition.

Volumes and file box dimensions are given in inches in the order of the length, width and thickness. Map dimensions are given in inches.

Exact titles of records are in capitals; assigned titles are in capitals but enclosed in parentheses. An explanatory title added to, or inserted in, an exact title is given with capitalization of initials only.

The records, unless otherwise indicated, are located in the county courthouse and in the office under which they are listed.

Citations to the acts of the General Assembly of the Territory of Arkansas and the State of Arkansas, and to those of the legislative bodies of other territories and states, refer to the page number of the official publications of the laws.

The cross references placed under subject headings to records entries refer to records which may be classified under a different department of the same office, or in another office, but which deal with the same subject. For example, there is the subject heading "Collections" in the county court entries on page 57. Immediately under the heading is the cross reference "(See 'Tax Collector', p. 147)." In the tax collector essay on page 152 will be found such a cross reference to the county court entries pertaining to collections records.

A title line cross reference in an entry is intended to show that the record completes a series, and such a cross reference is complemented by a cross reference in the body of another entry. The entry containing

the title line reference usually is an artificial entry designed to distinguish a record which, though different in character, has been kept and recorded with another. For example, in the title line of entry 6, "Record of Insane", in the county court entries, there is a cross reference to entry 5, "County Court Record." From 1883 to 1914 the record of county court hearings concerning persons declared to be insane was kept in the record entitled "County Court Record", but since 1915 a separate record, entitled "Record of Insane", has been kept for such cases. A cross reference to the entry on the "Record of Insane" will be found in the body of the entry on the "County Court Record."

Where entries are closely related, as, for example, an original instrument, such as a mortgage, and its recorded copy, the third paragraph cross reference is used. These references are intended to demonstrate the records system of offices and the relation between records of different offices.

See pages 22, 33, and 34 for a description of the records system in Cleburne County.

(First entry, p. 52)

I. COUNTY COURT

The county court in English and American jurisprudence is a tribunal of considerable dignity and importance, whose geographical jurisdiction is co-extensive with the limits of the county. County courts are among the most ancient institutions in England.

County courts in the United States exercise both civil and criminal jurisdiction, and, in some of the states, the functions of probate courts as well. They are held by a county judge, who usually is elected by popular vote for a specified term.

The county court in Arkansas is an administrative office with limited judicial functions (Const. 1874, art. VII, sec. 28). The evolution of this court in Arkansas prior to the establishment of Cleburne County can be briefly summarized. The legislature of Arkansas Territory created a system of county courts in the territory with the passage of an act, November 13, 1829, which provided that a county judge was to be elected by the voters of each county for a term of two years (L. A. T., 1829, as contained in L. A. T., 1835 digest, 157, 158). The early county courts of the state were first composed of the justices of the peace of the respective counties who, from their own group, elected the presiding judge of the court for a term of two years (Const. 1836, art. VI, secs. 9, 10). This procedure for the selection of the judge was followed until 1848, after which he was elected by the voters of the county, also for a term of two years (Const. 1836, amend. of 1848, sec. 3). The system of county courts continued in existence until 1873, when it was abolished and its administrative duties assigned to county boards of supervisors, each consisting of three members, elected for terms of two years (Const. 1868, art. VII, sec. 5; A. Ark., 1873, 54) but it was re-established the following year (Const. 1874, art. VII, sec. 1).

The county court of Cleburne County was established in 1883, with the creation and organization of the county (A. Ark., 1883, 40), in accordance with the Constitution of 1874 (Const. 1874, art. VII, sec. 1).

The court in all of its functions is presided over by the county judge, who is elected at the general election for a term of two years, or until his successor is elected and qualified. The county judge also is the presiding officer of the quorum court (Const. 1874, art. VII, secs. 28-30; see also "Quorum Court", p. 130) and in Cleburne County he has been ex-officio road commissioner since 1921 (A. Ark., 1921, 375).

Qualifications established in the Constitution of 1874 require that the county judge be at least 25 years of age, a citizen of the United States, a man of upright character, of good business education, a resident of the state for two years before his election and must reside in the state during his term of office (Const. 1874, art. VII, sec. 29). The county judge takes the oath of office as outlined in article XIX, section 20 of the Constitution of 1874. The oath is administered at the time he takes office by the court clerk, the judge of any other court, or a justice of the peace (A. Ark., 1845, 61).

If the county judge has ever been counsel for, or is related to as

closely as the fourth degree of consanguinity or affinity, any litigant or defendant appearing in his court, or is interested materially in a case, he is disqualified to preside without the consent of the opposing parties (Rev. Stat., 1838, 233). In the event of his disqualification, the fact is certified to the governor of the state by the judge. The governor appoints a special judge to preside in the cases in which the regular judge has been disqualified (Const. 1874, art. VII, sec. 36). The judge is subject to removal from office by the circuit court upon the filing of information or indictment charging incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, and nonfeasance in office (Const. 1874, art. VII, sec. 27). In the event the office should become vacant permanently from any cause, a judge is selected at a special election called by the governor (A. Ark., 1875, 105) unless the vacancy occurs less than six months prior to a general election, in which event the office is filled by appointment by the governor, and the appointee holds office until the end of the regular term of his predecessor (Const. 1874, art. VII, sec. 50).

Regular terms of the county court are held in Cleburne County at the courthouse in Heber Springs, four times each year, commencing on the first Monday of the months of January, April, July, and October and continuing as long as the matters that are pending before the court require its attention (A. Ark., 1874-1875, 138). If the opening of a term of the county court on one of these dates conflicts with the time for holding a term of circuit court in the county, the county court's session is postponed for two weeks (A. Ark., 1887, 198). The judge may hold a special term of the court when, in his opinion, the public good demands it (A. Ark., 1879, 60).

During the latter part of the Civil War when civil authorities in Arkansas were harassed by guerilla bands, a law, which is still in effect, was passed authorizing the county judge to change the place of holding court to any other place in the county deemed necessary for the security and safety of the public records (A. Ark., 1864, 35).

The county judge of Cleburne County is paid $1000 annually and an additional $200 for his services as ex-officio road and bridge commissioner (Initiative Act No. 1, Cleburne County, 1932, sec. 2). He is authorized to order the clerk to issue warrants quarterly for the amount of the salary to which he is entitled by law (A. Ark., 1875, 36).

The county judge now is limited almost exclusively to administrative duties as a result of the passage of a constitutional amendment, November 8, 1938, which transferred jurisdiction in all probate proceedings, which he had possessed as ex-officio judge of the probate court, to the chancery court. This amendment became effective January 1, 1939. (Const. 1874, amend. XXIV, adopted 1938; see also "Probate Court", p. 99, "Chancery Court", p. 91.)

The county court has exclusive original jurisdiction in matters relating to county taxes, roads, bridges, ferries, paupers, bastardy, vagrants, the apprenticeship of minors, and the disbursement of money for county purposes (Const. 1874, art. VII, sec. 28). It also has jurisdiction

(First entry, p. 52)

to try election contests in which the office of circuit clerk, sheriff, surveyor, county treasurer, county assessor, justices of the peace, constable, coroner, or any other county or township office is involved (A. Ark., 1874, 106). In the absence of the circuit judge from the county, the county judge has the power to issue orders for injunctions and other provisional writs and to hear and determine applications for, and issue writs of, habeas corpus (Const. 1874, art. VII, sec. 37).

The county judge is authorized to award a contract to some other county or to some responsible person to maintain prisoners and have the benefit of their labor. The contractor may work the prisoners in any county of the state. (A. Ark., 1899, 179; ibid., 1909, 155.) The contract is awarded to the lowest and best bidder after notice has been given by advertisement in some newspaper of the county (A. Ark., 1893, 207). The contract cannot be made with any person living outside the county unless he is represented by an agent in the county. When its terms are violated, the county judge is authorized to file a suit in the circuit court for its cancellation (A. Ark., 1909, 155). Cleburne County contracted the services of its county prisoners to Pulaski County on February 2, 1937. This contract expired December 31, 1938, and a new one entered into by the county courts of the two counties in January, 1939. By the terms of the latter, Cleburne County receives 75 cents per day for each day's work done by each prisoner, and, in addition, Pulaski County pays the cost of maintenance of the prisoners. The judge, county sheriff, and county clerk constitute a board for the purpose of prescribing rules for the management and control of the prisoners by contractors employing them (A. Ark., 1895, 20). In the making of contracts for the use of county prisoners' labor, by any agency other than the county, the right is reserved for the county judge to employ the prisoners on the county's highways, bridges, levees, and other local improvements (A. Ark., 1893, 207; ibid., 1899, 179). In the event the judge does so employ the prisoners, he appoints some suitable person as superintendent to take charge of them (A. Ark., 1899, 179). Although a "house of correction" (prison farm for confinement of persons convicted of misdemeanors) is not maintained in Cleburne County, the county court, at its discretion, is authorized to purchase in the county a tract of land upon which such an institution may be constructed, provided this action is sought by a petition signed by a majority of the taxpayers of the county. Three discreet persons who are taxpayers of the county and qualified electors may be appointed by the court to select and purchase the land for the house of correction, subject to the final approval of the court. The court then contracts with the lowest bidder for the erection of a suitable building. All persons convicted of petty larceny or other crimes triable by justices of the peace and sentenced to prison are confined in the house of correction, if there is one, instead of the county jail. Where prison farms are maintained, the court appoints a superintendent and fixes his compensation. The superintendent has charge of all lands attached to the house of correction and directs the labor of the convicts. He may be removed by the court for neglect of duty or improper management. Rules and regulations for the discipline of prisoners and control of their labor are prescribed by the court with the advice of the superintendent. The position of superintendent may sometimes be bid for, and the court may lease the farm and the services of the prisoners to the lowest bidder for a period not

exceeding two years. The lessee receives for his own use and benefit all products of the labor of the prisoners. (A. Ark., 1868, 84-89.)

Prior to the establishment of federal emergency relief agencies in 1933, each county in Arkansas was required to support its own poor (Rev. Stat., 1838, 605). Under the authority of an act of the General Assembly of 1851, the county court of Cleburne County established a poor farm in January of 1896. This institution was maintained until March 1937, when it was abandoned and the property was leased to the Civilian Conservation Corps, which now uses it as a camp site. In establishing a county poor farm, the county judge appointed three competent persons to act as commissioners whose duty it was to select the proper site for the inmates' residence, purchase such land as the court directed, and, after the approval of their selection by the court, contract for the building erected in the manner that the court directed (A. Ark., 1851, 99). A contract for the operation of the poorhouse is let to the lowest bidder who is competent to carry out his agreement to superintend the institution and furnish food, clothing and medical attention to its clients. In any county where no poorhouse has been established, the court may contract with the lowest bidder for the housing, clothing, feeding, and medical care of the county's paupers (A. Ark., 1899, 157). When it is regarded as expedient, the county court is authorized to employ any or all county-supported paupers to work on behalf of the county (A. Ark., 1875, 2).

The payment of Confederate pensions in the county is made following investigation by, and upon recommendation of, a county board of pensions. Members of the board of pensions are appointed by the county court and serve without remuneration. The board meets once each year, on the second Monday in July, to hear applications for the state pensions paid Confederate veterans or their widows. The findings of the board in each case are forwarded to the state auditor. (A. Ark., 1901, 86-88.)

Authority to inquire into the circumstances of every orphan within the county is vested in the county court, and if the court finds that minors or orphans have no estate for maintenance and education, the court may, according to a law of 1840, appoint guardians for them and instruct the guardians to bind their wards as apprentices, until they have reached the age of 21 if males, and the age of 18 if females. The master or mistress chosen by the guardian must agree to teach the apprentices a useful art, trade, or business, as well as reading, writing, and arithmetic "to the rule of three inclusive" (the rule of simple proportion). Complaints of apprentices, and of masters and mistresses, are to be heard by the court. (A. Ark., 1840, 87; Const. 1874, art. VII, sec. 28; A. Ark., 1875, 144.)

When removal of the county seat is proposed, the court is not allowed to order an election upon the change unless it is satisfied that good title to the proposed new location for county buildings can be delivered. When one-third of the qualified electors of the county have petitioned the court for removal of the county seat to another place, the court, after ascertaining there are no obstacles in property titles, orders an election to be held at the several voting places in the county so that the proposal may be approved or rejected by the qualified electors. (A. Ark., 1875,

201.)

As a curb on the squandering of public funds which characterized the Carpetbag era of county government, a rigid prohibition against the state and the local governments incurring bonded indebtedness except to retire existing interest-bearing obligations was incorporated in the Constitution of 1874 (Const. 1874, art. XVI, sec. 1). Only a year before the adoption of this constitution, the General Assembly had passed an act which authorized the county board of supervisors (the short-lived substitute for the county court) to issue bonds whose aggregate value, when combined with the county's other bonded indebtedness, could be as high as 10 per cent of the total assessed valuation of taxable property in the county. Bonds could be issued for the purpose of aiding in the construction of railroads or for other projects for internal improvement. They could have 10 per cent interest rate, and the levying of a tax for the payment of principal and interest on an issue could be compelled by the filing of a petition for a writ of mandamus in any court of competent jurisdiction. (A. Ark., 1873, 467, 468.)

Except for the repudiation in 1885 of certain state bonds issued by authority of acts of 1868, 1869 and 1871 for railroad and levee construction, "and for other purposes" (Const. 1874, amend. I, app. 1885), the state continued to honor public debts, including those of counties, incurred during the Reconstruction period and to provide means for their retirement (A. Ark., 1883, 199; ibid., 1895, 168-171).

In 1925, the General Assembly enacted a law which authorized counties to issue refunding bonds to retire treasury deficits then in existence. The same law provided for the removal from office of any county judge who, in subsequent years, contracted for the expenditure of, or authorized the issuance of, warrants for sums totaling more than the county revenue for the fiscal year in which the action was taken. (Const. 1874, amend. X, sec. 1, app. 1925; A. Ark., 1927, 86, 87; ibid., 1935, 240, 241.)

When the county court is of the opinion that the courthouse or jail needs to be rebuilt or replaced or that construction of a county hospital would be justified, it may submit the proposed improvement to the electors of the county for their approval or rejection, either at a general election or at a special election called by the court. The consent of the electors is required not only for the proposed construction but also for the levying of a tax to pay the cost. If the vote is affirmative, the court is to issue bonds to raise funds for the work, provided the tax levy does not exceed one-half of one per cent on the dollar of the assessed valuation of property in the county. (Const. 1874, amend. XVII, secs. 1-8, app. 1928; ibid., amend. XXV, app. 1938.)

The county court may, however, of its own accord repair, remodel, or even build county structures if there are sufficient funds available and the circumstances require it. When a courthouse or jail is to be built, the court appoints a commissioner of public buildings to superintend construction. (A. Ark., 1875, 144 145.)

If the court has been notified by the sheriff that the county jail is inadequate to secure the prisoners held there, and if the jail cannot be repaired immediately and made secure, it may direct the sheriff to employ not more than three guards for the safekeeping of the prisoners (A. Ark., 1877, 72).

The court may appoint a commissioner to dispose of any real estate belonging to the county. The deed of the commissioner approved by the court and properly recorded conveys a clear title to the purchaser. (A. Ark., 1875, 85.) The court may order the sale of school lands and lots within the county at public auction, conducted by the sheriff, when application for the sale is presented by any person desiring to purchase the land. When the sheriff reports the sale to the court, the judge may approve or annul the action. (A. Ark., 1919, 256.)

When a highway bridge is to be built by the county across a navigable stream more than 400 feet in width, the court appoints a commission of two competent persons who are property owners and taxpayers of the county. These commissioners, in conjunction with the county judge, constitute a board which selects the location of the bridge and gives at least 30 days' notice by publication in one or more newspapers published in the county that it is ready to receive plans and specifications for the bridge and bids for its erection. The contract is let to the lowest responsible bidder, the commissioners reserving the right to reject any and all bids. (A. Ark., 1891, 14.) In the construction of a bridge over any stream which divides one county from another, the county courts of the counties join in an agreement to let the contract for construction and for maintenance. The costs are paid by both counties in a proportion agreed upon by their courts. (A. Ark., 1907, 111; ibid., 1935, 352.) Licenses for the establishment of toll ferries across navigable streams are issued by the county court of the county in which the ferry site is to be located (A. Ark., 1913, 163). The rates of toll are subject to the regulation of the court (A. Ark., 1873, 60), which may also make and enforce necessary orders for the establishment of public landings on navigable streams within its jurisdiction (A. Ark., 1909, 917). The court has the authority to take over the maintenance of any bridge constructed in a bridge improvement district under such terms as may be agreed upon by the court and the commissioners of the improvement district in which the bridge is located (A. Ark., 1927, 202).

The court has full power and authority to make and enforce all orders for the establishing and opening of new county roads within the county, for re-routing or vacating any county roads (A. Ark., 1871, 60), and in all other matters relating to county roads and the work of road overseers (A. Ark., 1875, 144).

A landowner may construct cattle guards or gates across any road that is not a state highway transversing his land after obtaining permission of the county court. He must present proof to the court that his land is subject to overflow and that his livestock, in time of floods, need a means of escape to higher ground. (A. Ark., 1937, 1367.)

When it appears to the court that any boundary line of the county is

not clearly defined, the judge may issue an order to the county surveyor directing him to survey and mark the boundary line that is in question. A copy of the order is served upon the county court of the adjoining county that may be affected by the action at least 10 days prior to the time set for making the survey. (Rev. Stat., 1838, 212.)

As the occasion demands, the court may increase the number of townships by subdividing those already established or may otherwise alter township lines (Rev. Stat., 1838, 755).

The county court has the power to approve or reject the appointments of several deputy county officers. These include deputy county treasurers (A. Ark., 1883, 66), deputy county clerks (A. Ark., 1893, 146), and deputy county assessors (A. Ark., 1883, 235). The appointment of deputy circuit clerks may be approved either by the circuit court or county court (A. Ark., 1852, 16).

A quota of 15 students is admitted to the University of Arkansas each year from Cleburne County without charge for tuition. This quota is based on population and is certified to the county by the board of trustees of the University. The county judge names the individuals who shall be beneficiaries. They must be actual residents of the county. (A. Ark., 1895, 187.)

The county court has the power to create school districts and change their boundary lines, transfer children from one district to another, dissolve school districts where the best interests of the students justify it, and annex the territory of dissolved districts to other districts, to transfer funds of one district to another as provided by law and, where vacancies occur, appoint directors for the districts (A. Ark., 1931, 504; ibid., 1935, 495-497). Acting upon a petition signed by 10 per cent of the voters in any school district, the court may call an election within the district so a vote may be taken on the question of changing the district boundaries. The court has the ballots prepared for use in these elections. (A. Ark., 1931, 503; ibid., 1935, 495.) It also provides ballot boxes to be used in all school elections and canvasses the returns, certifies the election of school directors and orders the county clerk to notify each person elected of his or her selection (A. Ark., 1935, 70). The county judge appoints the county examiner of schools, selecting a person who has been recommended to him by a majority of the school teachers of the county (A. Ark., 1933, 779). As chairman of the county text book board, the county judge supervises the distribution of free text books in his county (A. Ark., 1937, 1100; see "County Examiner of Schools", p. 165). The school revenue sent to the county by direction of the state superintendent is apportioned by the county court among the several school districts in proportion to their respective population of persons of school age (A. Ark., 1875, 66).

Application for incorporation of a city or town is heard by the court when a petition of incorporation is presented to it bearing the signature of at least 20 qualified electors. When the court is satisfied that the limits of the proposed town or city have been accurately described, that an accurate map has been made, and the name proposed is sufficiently distinguishable from that of any other town or city in the state, the judge

endorses on the petition an order that the town or city may be organized and delivers the petition, plat, and order to the county recorder. (A. Ark., 1875, 15.)

After a municipal corporation has been dissolved on authority of a majority vote of the people of the municipality, it is the duty of the court to order that the municipal charter be surrendered to the county clerk, who must forward it to the secretary of state. A receiver for the abolished corporation is appointed by the governor for the purpose of collecting back taxes. The receiver's bond must be approved by the county court, which also fixes his compensation. (A. Ark., 1883, 33.)

When three or more landowners petition the county court to establish a drainage district to embrace their property, it is the duty of the court to order an engineer, who has been selected by the petitioners, to make a survey and file with the county clerk a report showing the territory to be benefited by the proposed improvement. After giving notice in some newspaper published in the county, the court conducts a hearing in which all persons owning property within the area may express themselves for or against the establishment of the drainage district. If the court fails to carry out this duty promptly, it may be compelled to do so by any citizen through mandamus proceedings in a higher court. (A. Ark., 1911, 193; ibid., 1921, 303, 304.) If, following this hearing, a petition bearing the signatures of a majority of landowners within the proposed district is presented to the court asking that the improvement be made, it becomes the duty of the court without further inquiry, to make the order establishing the district. If this petition is not filed with the court, it is the judge's duty to make an investigation and, if it is determined that the establishment of the drainage district would be to the advantage of the property owners concerned, the duty of the court to proceed to create the district. (A. Ark., 1911, 193.) The court appoints three landowners to act as commissioners of the district (A. Ark., 1921, 303, 304).

In response to a petition filed by the governing body of a levee road, or drainage district the court may authorize the body to issue funding bonds for the discharge of existing indebtedness. The court prescribes the terms and conditions of the bonds and makes a provision for annual settlements and levies to pay the interest instalments and principal and other expenses. (A. Ark., 1927, 389, 390.)

Each year on the first Monday in July the court receives a full settlement of all funds from the county treasurer. It is the duty of the court to make actual count of the money and other funds appearing by the settlement to be in its hands. (A. Ark., 1873, 357.) After the annual settlement, the judge shall apply all surplus monies to the discharge of the bonded indebtedness of the county, cancel the bonds so retired, and cause them to be burned by the sheriff in his presence (A. Ark., 1875, 96). Where any error is discovered in the settlement of any county officer, the court, within a period of one year from the date of the settlement, reconsiders it in adjusted form (A. Ark., 1927, 1086). When funds belonging to the county have accumulated in the treasury of the state, the court orders the county treasurer to transfer the funds

to the county treasury (A. Ark., 1883, 59, 60).

It is the duty of the court to examine the settlement of the tax collector and approve or reject it. If it is found to be correct, the court orders it recorded in full in the court's records. If the settlement is rejected, the collector is required to submit a substitute report. (A. Ark., 1887, 172.)

The court in its discretion may call in all outstanding warrants of the county in order to redeem, cancel, re-issue, and classify them. The time for presenting the warrants must be at least three months following the date of the order. (A. Ark., 1875, 256.) Upon discovering that a county warrant has been fraudulently or wrongfully issued, the judge must endorse the evidence of fraud upon the face of the warrant and deposit it in the office of the county clerk (A. Ark., 1875, 147).

When any person produces satisfactory proof to the court that he has lost a county warrant and that the warrant has not been paid by the county treasurer, it is the duty of the court to order another warrant to be issued to replace the one lost (A. Ark., 1836, 95).

Fees are paid to the justices of the peace in criminal cases upon approval by the court. It is the duty of the county judge to examine the claims for these fees carefully before authorizing their payment. (A. Ark., 1874-1875, 185; ibid., 1875, 103.) The court must furnish each justice of the peace with substantial leather-bound books to be used as civil and criminal dockets (A. Ark., 1871, 312). The court issues certificates of election to constables (Const. 1874, art. VII, sec. 27), and any constable who fails to perform his legally required duty may be removed from office by the court (Rev. Stat., 1838, 185). It is the duty of the court to make an order that prohibits the running at large of hogs, sheep and goats in all or any part of the county when a petition for such an order has been filed by a majority of the electors residing in the area affected (A. Ark., 1883, 81). The court must provide, at the expense of the county, a pound-lot or stray-pen of sufficient size to confine all stray horses, mules, jacks, or jennies which may be taken up within the county (Rev. Stat., 1838, 368).

The court has no power to change or vacate its judgments or orders after the close of the term during which they are rendered, or to convene again before the time fixed for holding the next regular term (Graham v. Parham, Ark. Rep., 1877-1878, vol. 32, pp. 676, 677). The county judge cannot accept a fee from, or engage as attorney for, any person accused of a crime in his county or in any other county to which the trial may be carried. He cannot be employed as attorney in any civil action in which his county may become involved. (A. Ark., 1913, 1014, 1015.) The county judge must not be materially interested, directly or indirectly, in the building or repairing of any county-owned structure, or in any toll bridge or toll ferry in the county, or in the care, at the county's expense, of any indigent or insane person, or in the purchase for the use of his county of any real or personal property or supplies (A. Ark., 1873, 53). The court is prohibited from granting fees or allowances to any county officer unless they are specifically authorized by the law (A. Ark., 1873, 277).

Full entries of the orders and proceedings of the court of each day are read in open court on the morning of the succeeding day, except on the last day of the term, when the minutes are read and signed by the judge at the close of that day's session (Rev. Stat., 1838, 232). The court is authorized to have transcribed into well-bound books all records contained in books that are found to be unfit for the preservation of the records they contain (A. Ark., 1868, 199). A seal is kept by the county court (Rev. Stat., 1838, 231). This seal makes the same impression as the seal of the state, except that the surrounding words must indicate the court of the county which it represents (A. Ark., 1864-1865, 32). All records of the actions of the county court in all of its functions are to be kept by the county clerk in the manner prescribed by law.

Circuit Clerk as County Clerk

As the circuit clerk has been, since the county's creation in 1883, the ex-officio county clerk or clerk of the county court, probate clerk, and recorder in Cleburne County, as in all other Arkansas counties having populations of less than 15,000 (Const. 1874, art. VII, sec. 19; Fifteenth Census, Population, III, 214), the creation of the office of county clerk in Cleburne County is treated here as being simultaneous with the establishment of the office of circuit clerk. The clerk's manner of selection, term of office, qualifications, and manner of, and cause for, removal from office are discussed fully in the essay on the Circuit Court (see p. 71).

The county clerk may have one or more deputies, who he himself appoints and for whose official conduct he is responsible. The deputies must have the same qualifications as the clerk, must take the same oath of office, and, in the name of the clerk, may perform all the duties of the clerk as prescribed by law. (A. Ark., 1893, 146.) Before entering upon the duties of his office, the clerk must execute a bond for not less than $2,000 nor more than $10,000, guaranteeing the faithful performance of his duties (A. Ark., 1909, 156, 157). He attends all regular or special sessions of the county court and keeps in his office a record of the proceedings of the court (A. Ark., 1873, 55).

When the county court orders outstanding warrants called in for redemption or cancellation, it is the duty of the clerk to deliver a copy of the order to the sheriff, through whom the holders of outstanding warrants are notified of the court order (A. Ark., 1857, 50), and the clerk must keep a record of the amount, number, and date of all redeemed warrants or other evidences of county indebtedness that have been cancelled (A. Ark., 1853, 81). Even if he is directed to do so by the county court, the clerk must not issue any warrant for an amount in excess of any claim (A. Ark., 1875, 51).

The clerk keeps a regular account with the county treasurer, charging him with all money paid to him and crediting him with the amounts he has disbursed in the period following his last settlement with the court. The clerk also is required to keep an accurate account of sums paid into the county treasury by all officials or departments of the county government.

He must file and preserve in his office all vouchers and other instruments pertaining to the settlement of any accounts with the county and issue warrants on the treasury for all payments to be made by the county court, register the warrants and present this record to the court at every regular term. He must balance and exhibit the accounts kept by him when ordered by the court to do so. (Rev. Stat., 1838, 224.) On the first day of the term of county court held after the annual settlement of the treasurer, the clerk must prepare a settlement showing the amount of county revenue received by the treasurer and an itemized statement of all disbursements. This statement must be posted in the clerk's office for the inspection of the citizens of the county. Failure to perform this duty subjects the clerk to a fine of $100 or more and a jail sentence of not more than thirty days. (A. Ark., 1857, 109.)

The clerk charges all officers named in the reports of justices of the peace as collecting fines, penalties, and forfeitures with the amounts turned to them for collection. He may not credit the officer named with any deficit until the officer files with the clerk a receipt from the county treasurer showing the item has been collected, or a certificate of the death of the party against whom the fine or penalty was assessed, or that the party in default has been imprisoned as provided by law. (A. Ark., 1891, 96.)

When a newly elected member of the General Assembly is indebted to the county in which he lives, it is the duty of the clerk to certify to the governor of the state the evidence of this indebtedness as shown by a report from the county treasurer. Failure to perform this duty subjects the clerk to punishment for a misdemeanor. (Rev. Stat., 1838, 322, 323.) When there is a vacancy in office, caused by the failure of a county or township officer to give bond as required by law, notice of the vacancy is certified immediately to the governor by the clerk (A. Ark., 1875, 22). Immediately after the adjournment of the county board of pensions (see "County Court", p. 43), the county clerk must forward to the state auditor the names of all persons whose applications have been allowed by the board. He keeps a record of all proceedings of the board. (A. Ark., 1901, 88.)

Upon receipt of a $3.10 fee, the county clerk is required to furnish a marriage license when application has been made and he is assured that the applicants are entitled lawfully to the license (A. Ark., 1889, 155; ibid., 1915, 98; ibid., 1913, 348; ibid., 1917, 802; ibid., 1933, 486). He must receive and record all certificates licensing doctors, dentists, chiropractors, and nurses to practice in his county (A. Ark., 1903, 26, 336; ibid., 1915, 178, 485; ibid., 1913, 535).

The clerk must keep a record describing each township as established, containing the name and boundaries of the township, the places designated for holding an election and any changes that may be made in the township line (Rev. Stat., 1838, 755). To facilitate the assessment and collection of taxes, he must keep a "land book" or a book of maps of all the townships or fractional townships in his county (A. Ark., 1883, 248).

It is the duty of the clerk to deliver the tax books of the county

to the collector before the third Monday of February in each year, together with written authority to the collector to collect the taxes. He must obtain duplicate receipts for the books and send one of the receipts to the state auditor. (A. Ark., spec. sess., 1933, 62, 63.) He also furnishes the collector a complete list of all lands in the county forfeited to the state for non-payment of taxes, showing the names of the former owners and the date the land was forfeited (A. Ark., 1899, 312).

The clerk has been required since 1887 to certify to the state auditor, every second year, an abstract of the real property in each township of his county. This abstract shows the number of acres exclusive of town or city lots assessed for taxes, the aggregate value of this property, and the number and value of all city and town lots. He must certify to the auditor of state on or before the first Monday in January each year, a statement of the aggregate value of the taxable property in his county, and the total amount of taxes assessed for that year, together with the aggregate value of all personal property. (A. Ark., 1887, 165, 166.)

The clerk must attend all sales of land sold for delinquent taxes. It is his duty to make a permanent record for his office listing all lands subject to sale, the record of the notice of sale, and the names of the purchasers, this record including a copy of the collector's certificate of purchase. He must also list the names of the purchasers upon the tax books. Any tract of land sold for taxes may be redeemed within two years by the original owner, and the clerk must make a record of this transaction. After two years from the date of sale, the clerk is authorized to issue a tax deed to those persons holding purchase certificates. These deeds are recorded in the recorder's office, as are all other real estate conveyances. (A. Ark., 1887, 170; ibid., 1883, 265-269; ibid., 1893, 230; ibid., 1919, 128.) Immediately after the expiration of the two-year redemption period, the clerk issues certificates of sale to the state for all land purchased by the state at the tax sale, has these certificates recorded in the recorder's office, then transmits them to the Arkansas Commissioner of State Lands at Little Rock (A. Ark., 1883, 274). If any previously issued tax deed is lost, it is the duty of the clerk to execute a duplicate deed, if he is satisfied that the original deed has been lost (A. Ark., 1921, 150, 151).

A record is kept by the clerk of all persons who have paid the poll tax. This record is certified to the county election commissioners on the second Monday in July. (A. Ark., 1909, 944.) All ballot boxes used in primary elections are kept by the clerk. Six months after an election, if no contest is pending, the clerk must destroy the ballots in the presence of the chairman and secretary of the county central committee of the political party for which the primary election was held. A certificate, stating that the ballots were destroyed, must be kept as a permanent record in his office. (A. Ark., 1917, 2295.) It is the duty of the clerk to keep a record of the conviction and punishment of all persons committed to the county jail. This must include a correct statement of the time that convicts may be made to serve at labor in the discharge of their sentences. (A. Ark., 1883, 127, 128.)

Money that constitutes the dower of any insane woman, and is derived from the sale of any property sold by her husband is kept in the custody of the county clerk. When directed by the county court, the clerk may lend this money on security approved by the court. (A. Ark., 1905, 795, 796.) It is the duty of the clerk to keep a record of and pay over to the county treasurer all earnings of his office and give an account of these earnings to the county court at each term of court (A. Ark., 1875, 124; ibid., 1883, 286). A record of all matters pertaining to road improvement districts must be kept by the clerk (A. Ark., 1899, 352). An act approved in 1837 made it the duty of the clerk to keep a well-bound book in which to record the ear-marks and brands of livestock owned by individuals who ask the clerk to perform this service (Rev. Stat., 1838, 534). He also keeps a record of estray livestock (A. Ark., 1901, 370).

It is the duty of the county clerk to keep a record of the amount due each township in the county from the proceeds of the sale of the sixteenth section of land, which was set aside by the United States at the time of Arkansas's admission to the Union for the advancement of education, after each sale is made (A. Ark., 1885, 162). The clerk keeps a record of real estate and personal property assessments as made by the assessor (A. Ark., 1887, 143; ibid., 1927, 329, 330), and a record of the proceedings of the county board of equalization (A. Ark., 1927, 331, 355), and enters the changes in assessment valuations made by the board (A. Ark., 1929, 866-871). Records of articles of incorporation of private corporations formed in the county, transfer of their stock, and their annual reports are recorded with the county clerk (A. Ark., 1869, 179).

During the Civil War, when portions of Arkansas were occupied by a Union army, the county court was authorized to change the place of holding its meetings to any other place in the county regarded necessary for the safety and security of the public records. At the same time, the clerk was required to remove all books and records of his office to any place designated by the court. The act authorizing this still is in effect. (A. Ark., 1864, 35.) All persons owning pistols were required to register their ownership with the county clerk by a law passed in 1923 and repealed in 1925 (A. Ark., 1923, 379; ibid., 1925, 1047). All records of these offices are kept in the county clerk's vault, unless otherwise specified.

Case Papers
(See also, entries 101, 107, 121)

1. (CASE PAPERS), 1883--. 528 file boxes (1-294, 234 file boxes not labeled), 3 bundles, 1 file drawer, 1 bookcase. Miscellaneous papers of cases heard in county, circuit, chancery, probate, and juvenile courts, giving number and style of case; names of litigants and their attorneys; date of filing with clerk or other action; names of witnesses; offense charged or other cause, and disposition of case. Also contains:

i. (Report of County Judge), entry 129;
ii. (Report of Clerk), entry 130;
iii. (Settlements of County Officers), entry 16;

iv. (Assessment Lists), 1900-18, entry 17;
v. (Abstract of Tax Books), 1918--, entry 23;
vi. (Election Returns), 1913--, entry 27;
vii. (U. S. and State Land Certificates), 1910-36, entry 31;
viii. Redemption Certificates, and Treasurers Receipts, 1910--, entry 33;
ix. (Marriage Certificates), 1883-1935, entry 36;
x. (Estray Notices), 1918--, entry 41;
xi. (Deeds), 1910--, entry 52;
xii. (Real Estate Mortgages), 1911-29, entry 56;
xiii. (Federal Crop Mortgages), 1914--, entry 59;
xiv. Chattel Mortgages, entry 63;
xv. (Liens), 1910-36, entry 67;
xvi. (Official Bonds), 1910--, entry 71;
xvii. (County Stenographer's Notes), 1914-35, entry 77;
xviii. (Bail Bonds), entry 78;
xix. (Coroner's Inquisitions), entry 84;
xx. (Indictments), 1884-1923, entry 89;
xxi. (Executions), 1918--, entry 94;
xxii. (Stay Bonds), 1918--, entry 96;
xxiii. (Fee Bills), 1911-29, entry 97;
xxiv. (Report of Sheriff), entry 131;
xxv. (Report of Treasurer), entry 132;
xxvi. (School Directors' Papers), 1900-18, 1937--, entry 145;
Arr. chron. by date of filing. For index to court papers in file boxes, see entry 2. Hdw. and typed. File boxes, 16 x 13 x 6, 13 x 11 x 5, 10 x 5½ x 5; bundles, 15 x 10 x 3; file drawer, 20 x 18 x 3; bookcase, 34 x 12 x 9.

2. INDEX TO COURT CASES, 1884--. 2 vols. (1, 2).
Index to court papers in file boxes, giving names of litigants and number and style of cases. Arr. alph. by names of parties and chron. thereunder by term of court. Hdw. 242 pp. 18 x 12 x 1½.

3. COUNTY CLAIMS, 1914-33. 116 file boxes.
Original Claims filed by various persons for moneys due them from the county for services rendered or supplies furnished, giving name of claimant; date of filing; amount claimed; whether approved or disapproved, and judge's signature. Arr. chron. by date of filing. No index. Hdw. 10 x 4 x 2.

Docket

4. COUNTY COURT DOCKET, 1905-34. 4 vols. (1-4). 1883-1904 in County Court Record, entry 5.
Docket of cases heard at terms of county court, giving names of litigants, claimants, and petitioners; number and style of case; character of claim or other matter before the court; fee charged; date of filing, occasionally, and space for orders of court, in which dates of orders sometimes are given but not the orders. Arr. chron. by term of court and numer. thereunder by case no. Indexed alph. by name of claimant. Hdw. Aver. 200 pp. 16 x 12 x 2.

Proceedings

5. COUNTY COURT RECORD, 1883--. 14 vols. (A, 2-14).
Record of proceedings and orders of county court, giving names of litigants, petitioners, or claimants; attorneys; number and style of case; cause of action, petition, or claim; date of hearing; names of witnesses; verdict, judgment, or penalty; orders of custody of persons, and prayers for new trial. Also contains: Appropriation Record, 1913--, entry 127; (Record of Proceedings of Quorum Court), entry 128; County Court Docket, 1883-1904, entry 4; Record of Insane, 1883-1914, entry 6. Arr. chron. by term of court. For index, see entry 2. Hdw. Aver. 320 pp. 16 x 11 x 1½.
For judgments, see entry 93; for executions, see entry 95.

6. RECORD OF INSANE, 1915--. 1 vol. (A). 1883-1914 in County Court Record, entry 5.
Record of hearings at which persons have been adjudged insane by county court and ordered to be transmitted to the Arkansas State Hospital for Nervous Diseases. Gives names of persons filing statements alleging insanity and doctors examining patient. Signed by county judge and county clerk or deputy clerk. Arr. chron. by date of filing. Indexed alph. by name of insane person. Hdw. 400 pp. 16 x 12 x 2.

Financial

County General

7. CLERK'S COUNTY ACCOUNTS, 1883--. 5 vols. (A, 1, 2, 2, 3). Title varies: County Accounts, 1883-1910.
Record of county clerk's accounts with county general funds, giving total amount of county revenue received into the treasury from all sources; manners of disbursement, with amounts paid out, to whom, and to what funds credited. Arr. chron. by date of filing. Indexed alph. by name of account. Hdw. Aver. 200 pp. 18 x 12 x 2.

8. REGISTER OF COUNTY WARRANTS ISSUED, 1883--. 11 vols. (A, 2-7, four vols. not labeled).
Record of warrants issued to pay claims against the county, giving name of person to whom issued; when issued; amount; register number; fund upon which issued; date of issuance, and to whom delivered. Arr. numer. by warrant no. No index. Hdw. Aver. 200 pp. 18 x 14 x 1.

9. REGISTER OF WARRANTS REDEEMED, 1883--. 3 vols. (A-C).
Record of warrants redeemed or canceled, giving number of warrant; to whom issued; on what account; amount of warrant; date of warrant; when paid; to whom paid, and remarks. Arr. numer. by warrant no. No index. Hdw. Aver. 200 pp. 18 x 12 x 1.

10. ABSTRACTS OF APPROPRIATIONS AND ALLOWANCES, 1884--. 2 vols. (1, 1). Title varies: Abstracts of Appropriations, Allowances and Warrant Register, 1927-35.
Abstracts of appropriations for various county departments and allowances made against each, giving name of county department; when issued; register

number of warrant, and fund upon which warrant was drawn. Arr. numer. by warrant no. No index. Hdw. 200 pp. 18 x 14 x 1.

For appropriation record by quorum court, see entry 127.

11. CLERK'S FEE BOOK (Ledger), 1919--. 4 vols. No prior records. Record of fees received by county clerk, giving title or style of action, proceeding, or service for which fee was collected; name of person paying; purpose for which charge was made; date when paid, and amount. Arr. chron. by date of filing. Indexed alph. by name of person paying fee. Hdw. Aver. 186 pp. 12 x 8 x 1½.

12. RECEIPTS, 1915-29. 1 vol. No prior or subsequent records. Clerk's book of duplicate receipts given for fees collected by him for services rendered. Arr. numer. by receipt no. No index. Hdw. 100 pp. 16½ x 10 x 1.

Roads

13. ROAD WARRANTS, 1903--. 5 vols. (1-1000, 1-1100, 1096-2095, and two unlabeled).
Record of road warrants issued, giving number of warrants; to whom issued; on what district; amount of warrant; date of warrant, and date paid. Arr. numer. by warrant no. No index. Hdw. Aver. 242 pp. 14 x 9 x 1.

14. REGISTER OF HIGHWAY WARRANTS, 1924--. 2 vols. No prior records. Highway warrants issued on funds other than three mill road tax, giving number of warrant; to whom issued; on what district; amount of warrant; date of warrant, and date paid. Arr. chron. No index. Hdw. 250 pp. 18 x 12 x 1½.

Schools

15. REGISTER OF SCHOOL WARRANTS, 1899--. 2 vols. (A, 1). No prior records.
Record of school warrants issued and paid, giving number of warrant; to whom issued; on what district; amount, date issued, and date paid. Arr. numer. by warrant no. Indexed alph. by name of person to whom issued. Hdw. 248 pp. 15 x 9 x 1.

Settlements

16. (SETTLEMENTS OF COUNTY OFFICERS), 1883--. In (Case Papers), entry 1-iii.
Record of quarterly settlements of the various collecting officers, giving name of the official; itemized amount and the sources of collections made; period of time the settlement covers, and disposition of the moneys collected.

Assessments
(See Tax Assessor, p. 134)

17. (ASSESSMENT LISTS), 1900-18. In (Case Papers), entry 1-iv.

Original assessment lists, giving name of owner; description of property, total value of real estate as equalized; part of section, section, township, and range in which property lies; area; numbers of town or city lots and blocks; numbers of school districts.

18. REAL ESTATE ASSESSMENT, 1883--. 29 vols. (Dated).
Record of real estate assessments, giving name of owner; description of property; total value of real estate as equalized; part of section, section, township, and range in which property lies; area; numbers of town or city lots and blocks; numbers of school districts. Also contains: Equalization Board Record, entry 20. Arr. by sec., twp., and r. Indexed alph. by name of owner. Hdw. Aver. 400 pp. 18 x 12 x 2.

19. PERSONAL ASSESSMENT, 1883--. 56 vols. (Dated).
Records of personal property assessments, giving name of owner; description of property; value; counties, cities, and school districts in which located. Also contains: Equalization Board Record, entry 20. Arr. alph. by twp. Indexed alph. by name of owner. Hdw. Aver. 150 pp. 18 x 12 x 2.

Equalization
(See Board of Equalization, p. 142)

20. EQUALIZATION BOARD RECORD, 1929-30. 1 vol. (1).
1883-- also in Real Estate Assessment, entry 18;
Personal Assessment, entry 19.
The county clerk keeps a record of the proceedings of the county board of equalization for adjustment of taxes, giving name of owner, address; parts of sections, section, lots, townships, blocks, ranges, surveys, additions where property lies; valuation by assessor; valuation as equalized by board; actions by board on hearings; final equalized values of personal property and dates equalized by the board. Arr. by twp. No index. Typed. 400 pp. 18 x 12 x 3.

Taxation
(See Tax Assessor, p. 134; Board of Equalization, p. 142; Tax Collector, p. 147)

21. REAL ESTATE TAX BOOKS, 1883--. 54 vols. (Dated).
Record giving name of owner; descriptions of real and personal property; part of section, section, township, and range; number of school district; number of road district; rate of school taxes; amount of taxes extended; state, county, district, and city taxes; total taxes, and amount of taxes collected or delinquent. Arr. by sec., twp., and r. No index. Hdw. Aver. 326 pp. 18 x 12 x 2.

22. PERSONAL ASSESSMENT TAX BOOK, 1883--. 57 vols. (Dated).
Record of Personal Assessments, giving number of receipt book and number of receipt; name of property owner; address; date paid; description of personal property; valuation of various items of personal property; total

valuation; penalty assessed for delinquency, if any; valuation as equalized; number of school district; number of road district; state, county general, road, school, and total taxes. Arr. alph. by name of owner and alph. thereunder by name of twp. No index. Hdw. Aver. 140 pp. 17 x 15 x 1½.
1935-- in Co. Assessor's O.

23. (ABSTRACT OF TAX BOOKS), 1918--. In (Case Papers), entry 1-v. Abstract of tax books of collector in account with state, county, city, and county general accounts, and statement by county clerk certifying correctness.

Collections
(See Tax Collector, p. 147)

24. TAX RECEIPT RECORD, 1884--. 184 vols. (Dated).
From November 11, 1884 to 1913, a record of tax receipts was kept, giving name of collector; year for which taxes was paid; number of receipt; to whom issued; legal description of property (part of section, section, township, and range); valuation of real estate; valuation of personal property; total value of real and personal property; payments in currency, state and county scrip; special school tax; corporation tax; total taxes; date receipt issued. Beginning in 1915, the record of tax receipts was in the form of duplicate receipts, giving year for which taxes were paid; number of receipt; name of collector; total valuation of real estate; total valuation of personal property; total valuation of real and personal property; legal description of land; numbers of school and road districts; levy; remarks (giving breakdown of taxes); total taxes; name of person to whom receipt was issued; signature of collector. With 1933, the record of duplicate receipts has also included special tax for Cleburne County bridge and as a result of special law allowing taxes to be paid on instalments, three duplicate forms at the bottom of each page for the three payments. Arr. numer. by receipt no. No index. Hdw. Aver. 100 pp. 17 x 16 x 3. 1930-38 in C. C. V.; 1938-- in S. O.

25. BLANK POLL TAX RECEIPTS, 1932-34. 10 vols. (First two vols. not labeled, 174-179, 181, 182).
Gives name of county; number of receipt; date of issuance; name of voter; color; residence; post-office address; voting precinct; school district, and signature of collector or deputy. Arr. numer. by receipt no. No index. Hdw. Aver. 50 pp. 16 x 9 x ½.

Voters

26. RECORD OF VOTERS, 1899--. 3 vols. (1-3). Title varies: Order Book, 1899. No prior records.
Record giving names of persons who have paid the poll tax and specifying the townships in which they are eligible to vote. Arr. alph. by name of person and alph. thereunder by twp. and ward. No index. Hdw. 300 pp. 16 x 12 x 2.

Elections

27. (ELECTION RETURNS), 1913--. In (Case Papers), entry 1-vi. Filled-in forms for abstracts of votes cast by the voters of the county. Forms, copies of which are mailed to the Secretary of State at Little Rock, provide space for giving total number of votes upon poll books, this being sometimes blank; offices, candidates, and legislative issues voted upon; precincts and numbers of votes cast in each; "absentee votes" cast for each candidate or legislative proposal; total number of votes cast for each person or proposal, and certificate of correctness of abstract, signed by the County Board of Election Commissioners.

28. S. E. LEDGER (BOARD OF ELECTION COMMISSIONERS), 1904. 1 vol.
Minutes of proceedings of boards of election commissioners, giving date of meeting; place of meeting; names of members of commission; names of appointed judges and clerks, and of sheriff serving at election; and fees paid officials for services at elections. Arr. numer. by twp. Hdw. 196 pp. 12 x 8 x ½.

Delinquent Lands

29. RECORD OF LIST AND NOTICE OF SALE OF DELINQUENT LANDS, 1884--. 5 vols. (1-5).
Record of lands subject to sale by the collector to individuals or the state because of delinquency in tax payments, giving name of original owner; legal description of property, according to section, or part of section, township, and range; assessed valuation; tax levies on property; school and road district numbers; total taxes and penalties due, and date of sale. Arr. by sec., twp., and r. No index. Hdw. Aver. 200 pp. 17 x 15 x 2.

Land Sales

30. RECORD OF DELINQUENT LANDS SOLD TO STATE, 1884--. 4 vols. (A-D).
Record of lands of which the state gains possession because of the failure of individuals to bid, at collectors' public auctions, the amount of taxes delinquent, plus penalties and costs. Gives years from which taxes are delinquent; acreage and legal description of tract; taxes, penalties, and costs due. Arr. by sec., twp., and r. No index. Hdw. 320 pp. 18 x 12 x 2.

31. RECORD OF DELINQUENT LANDS SOLD TO INDIVIDUALS, 1884--. 1 vol.
Record of lands on which tax payments have become delinquent, and which have been sold to individuals at public auctions. Gives years from which tax payments are delinquent; area and legal description of tract on which taxes are delinquent; what part was sold; amount of taxes, penalties, and costs due, and to whom sold. Arr. by sec., twp., and r. No index. Hdw. 149 pp. 17 x 14 x 1½.

Certificate of Purchase

32. (U. S. AND STATE LAND CERTIFICATES), 1910-36. In (Case Papers), entry 1-vii.

Certificate of lands redeemed, giving date redeemed; name of person redeeming; description of land; year forfeited.

33. SHERIFF'S (COLLECTOR) CERTIFICATE OF PURCHASE, 1913-29, 1 bundle.

Collector's original certificates of purchase of land taken over by the state for non-payment of taxes and sold at collector's public auctions. Gives date of sale; years from which taxes are delinquent; description of lands; names of buyers; amount of taxes, penalties, and costs attached, and total taxes. Arr. chron. by date of filing. No index. Hdw. 10 x 7 x 4.

Redemption

34. REDEMPTION CERTIFICATES AND TREASURER'S RECEIPTS, 1919-35. 2 bundles. 1910-36 also in (Case Papers), entry 1-viii.

Redemption certificates made out by clerk in triplicate; give names of owners redeeming lands on which tax payments were delinquent; date of redemption; description of property; date of sale; amount of taxes due, penalties, and costs; distribution of taxes. Treasurer's receipts, attached to and a part of the redemption certificates, give amount received; dates of receipt, and signature of treasurer, made in triplicate, one copy to clerk, one to treasurer, and one to person redeeming land. Arr. chron. by date of filing. No index. Hdw. 10 x 8 x 8.

Tax Deeds

35. RECORD OF CLERK'S DEEDS, 1903-36. 1 vol. (18). 1883-1902, 1937-- in Deed Record, entry 53-i.

Record of deeds issued by county clerk upon lands sold for taxes, giving name of purchaser; legal descriptions of land; area; years from which taxes are delinquent; amount for which sold; acknowledgments, giving name of grantor, date of acknowledgment, and signature and seal of notary public. Arr. chron. by date of recording. Indexed alph. by name of grantee. Hdw. 400 pp. 18 x 12 x 3.

School Lands

36. SIXTEENTH SECTION RECORD, 1899-1901. 1 vol. (A). No prior or subsequent records.

Record of lands set aside by the Federal government to be sold, or otherwise used, for the benefit of the free school system. Gives legal description; date of sale, and acreage. Arr. by sec., twp., and r. No index. Hdw. 320 pp. 18 x 12 x 3.

Marriages

37. (MARRIAGE CERTIFICATES), 1883-1935. In (Case Papers), entry 1-ix.
Original certificates of marriage, giving names of person performing ceremonies; date of marriage; date of signing certificates; county record where credentials of person performing ceremony are recorded; names of parties contracting marriage.

38. MARRIAGE RECORD, 1883--. 13 vols. (1-13).
Marriage record consists of original bond for marriage license, affidavit of application for marriage license, copies of marriage licenses, copy of certificate of marriage, and the certificate of recording. Bond for marriage license, gives names of principals and securities, date of bond, names of contracting parties, signatures of the principals and their bondsmen; affidavit of application for marriage license, giving name of man applying for marriage license, county and state in which he resides, his age, name of woman he intends to marry; her age; date of affidavit; signature of county clerk; copy of marriage license, giving names, ages, addresses of contracting parties; date of marriage license, seal of county clerk, signature of county clerk; copy of certificate of marriage, giving name of person performing ceremony; date ceremony was performed; date of signing of certificate; signature of person performing the ceremony; county record in which his credentials are recorded; certificate of record, giving name of the county clerk, names of the contracting parties; date of recording; volume and page of marriage record in which recorded; signature of county clerk or his deputy; seal of the county clerk. Arr. chron. by date of recording. Indexed alph. by names of contracting parties. Hdw. Aver. 580 pp. 16 x 12 x 3.

Corporations

39. RECORD OF INCORPORATIONS, 1902--. 2 vols. (1, 2).
No prior records. Last entry 1931.
Record of incorporation papers, giving name of corporation; names of persons subscribing stock; amounts subscribed; place of business; capital stock; amendments to the articles and by-laws of the corporation. Also contains: (Annual Reports of Corporations), entry 40. Arr. chron. by date of recording. Indexed alph. by name of corporation. Hdw. 335 pp. 16 x 12 x 2.

40. (ANNUAL REPORTS OF CORPORATIONS), 1902--. In Record of Incorporations, entry 39. Last entry 1931.
Annual Reports of Corporations submitted to county clerk by the secretary of the corporation, gives amount of capital paid in; cash value of real estate; amount of debits; cash value of personal estates; cash value of credits; names of stockholders and number of shares each owns.

41. RECORD OF TRANSFERS (Bank and Corporation Stock), 1913--. 1 vol. (1).
Record of transfers of bank stock submitted to county clerk for recording by person making transfer, gives name and post-office address of bank; name of president of bank; name of cashier; name of person making

transfer; number of shares transferred; name of person to whom transferred; name of bank official who sighed transfer; date of filing, and clerk's signature. Arr. chron. by date of recording. Indexed alph. by name of person making transfer. Hdw. 478 pp. 16 x 12 x 2.

Livestock

42. (ESTRAY NOTICES), 1918--. In (Case Papers), entry 1-x.
Original notices of estrayed animals that have been taken up by individuals and reported by justice of the peace to the county clerk. Gives description of animal, marks, age, and color; value of animal, and name of person in possession.

43. ESTRAY RECORD, 1883--. 1 vol. (A). Last entry 1925.
1907-20 also in Deed Record, entry 53-ii.
Record of stray livestock taken up by individuals and reported by justices of the peace to the county clerk. Record gives name of justice of the peace; names of group of three appraisers appointed by justice of the peace to determine value of animals; appraised value; total expenses; description of animal; when, where, and by whom animal was taken up, and whether claimed by owner. Arr. chron. by date of recording. Indexed alph. by name of person holding stock. Hdw. 145 pp. 16 x 12 x 2.

44. RECORD OF MARKS AND BRANDS, 1883--. 2 vols. (A, last vol. not labeled). Title varies: Stock register, 1883-1903.
Illustrated description and record of marks and brands of livestock to identify ownership, specifying the earmark and place upon the body the brand is applied; name of owner; township, and date of recording. Arr. chron. by date of recording. Indexed alph. by name of owner. Hdw. 368 pp. 16 x 12 x 2.

Doctors

45. REGISTER OF PHYSICIANS AND SURGEONS (Chiropractors, Optometrists, and Nurses), 1893--. 2 vols. (A, A).
Title varies: Record of Certificates, 1903-9.
Register of physicians, surgeons, chiropractors, optometrists, and nurses practicing in the county, giving data from diploma or certificate issued by recognized authorities; name of person; residence, sex; degrees; names and residences of witnesses, and dates of certificate and registration. Registration of optometrists began in 1915; chiropractors, 1921; nurses, 1925. Also contains: Register of Dentists, 1883-1916, 1927--, entry 46. Arr. chron. by date of recording. Indexed alph. by name of person. Hdw. 150 pp. 16 x 12 x 2.

46. REGISTER OF DENTISTS, 1917-26. 1 vol. (1). 1893-1916, 1927-- in Register of Physicians and Surgeons, entry 45; 1909-11 also in Deed Record, entry 53-iii.
Register of dentists, giving name of dentist; age; address; data from diploma or certificate issued by recognized authorities, and dates of certificate and registration. Arr. chron. by date of recording. Indexed alph. by name of dentist. Hdw. 240 pp. 16 x 12 x 2.

Pistols

47. REGISTER OF PISTOLS, 1923-25. 1 vol. (1).
A state law requiring registration of pistols was passed in 1923 and repealed in 1925. Record gives name of weapon's manufacturer; serial number; name of owner, and date of registration. Arr. chron. by date of recording. Indexed alph. by name of owner. Hdw. 200 pp. 16 x 12 x 2.

Pensions

48. CASH (Pensions for Confederate Veterans and Blind Persons), 1910--. 1 vol. (1). Last entry 1935.
Record of state pension checks issued to Confederate veterans and blind persons, giving name of pensioner; amount of pension; to whom delivered, and date delivered. Arr. chron. by date of recording. No index. Hdw. 251 pp. 16 x 12 x 3.
For old age pensions, see entry 150.

(Next entry 49, p. 65)

II. CIRCUIT CLERK AS RECORDER

The recorder is engaged chiefly in the recording of instruments which affect titles to real and personal property (Rev. Stat., 1838, 656). His office, in all Arkansas counties, is an ex-officio post of the circuit clerk (Const. 1874, art. VII, sec. 19); the Arkansas Supreme Court has held that the offices of the circuit clerk and the recorder, when held by one person, are but one office (Durden v. Sebastian County, Ark. Rep., 1904, vol. 73, p. 305). (See discussion of official bonds, below, for exception.) The required qualifications of the recorder, therefore, are those of the circuit clerk; other things common to the two offices are the manner of selection of the incumbent, the term of office, the compensation, and the official seal (See "Circuit Clerk", p. 71). This essay will be devoted only to those things which are pertinent to the circuit clerk's function as recorder.

Under the laws of the District of Louisiana, the boundaries of which held all the land now in Arkansas, the recorder, who was then an appointed county official, had substantially the same responsibilities he has today (L. D. L., 1804, as contained in T. L. M., 1824 digest, 46). At the time of Cleburne County's creation, February 20, 1883, the office of circuit clerk and ex-officio recorder had long been the combined, elective post it is today (Rev. Stat., 1838, 34, 177; Const. 1874, art. VII, sec. 19).

In addition to the bond he makes as circuit clerk, the circuit clerk must, within 15 days after he receives his commission from the governor and before entering upon his duties as recorder, furnish bond of $2000 to the state as recorder (Rev. Stat., 1838, 654). If he fails to do so, the office of recorder is regarded as separate and vacant (Rev. Stat., 1838, 655), and it may be filled by a special election, unless the vacancy occurs within six months of the next general election. In the latter case, the governor fills it by appointment (Const. 1874, art. VII, sec. 50). The recorder's compensation derives from fees, ranging from 10 cents to $1, which he collects for the filing, witnessing, or recording of instruments brought to him (A. Ark., 1875, 178; ibid., 1933, 479). His office maintenance expenses are paid out of the county treasury, if approved by the county court (Rev. Stat., 1838, 655).

If the recorder refuses or neglects to enter an instrument in his records within a reasonable length of time after the fee for the service is paid, or records an instrument before another previously deposited with him and entitled to be entered first, or fails to keep any of the required indexes, he is liable to a fine up to $500. Further, he is liable on his official bond for all damages sustained by any person injured by his failure properly to perform his duties. (Rev. Stat., 1838, 656, 657.) Besides being subject to removal from office for failure to make bond, the recorder may be discharged from office by the circuit court upon his being convicted of incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office (Const. 1874, art. VII, sec. 27).

The fundamental law on his duties charges the recorder with the recording of all instruments affecting the title of real or personal

property: deeds, mortgages, conveyances, deeds of trust, bonds, covenants, defeasances, or any other written instruments concerning lands and tenements or goods and chattels which are authorized to be recorded in his office (Rev. Stat., 1838, 656). When an instrument authorized to be recorded is deposited in his office, the recorder must enter in a book the names of the persons concerned, the date of execution and nature of the instrument, and the time of its delivery to him. He must also issue a receipt for the instrument, specifying the particulars concerning it. He is required to record immediately every such instrument, with the acknowledgments, proofs, and certificates written on or attached to it. These are to be entered in the order he receives them, and he must make a notation at the foot of each entry of the day, month, and year the instrument was deposited with him. (Rev. Stat., 1838, 655, 656.) The recorder must keep a chattel mortgage index book on all mortgages or liens on personal property that are filed but not recorded. Satisfaction or cancelation of the instruments must be noted in this book. (A. Ark., 1883, 65.) Certificates of sale of land sold to the state for non-payment of taxes and tax deeds issued to individuals who have purchased land at tax sales are recorded in the recorder's office in the same manner that other real estate conveyances are recorded (A. Ark., 1883, 271, 274).

It is the duty of the recorder, when notices of the suits have been filed in his office, to keep an indexed record of suits in equity affecting the title to lands or chattels (A. Ark., 1903, 119). The recorder must keep special records on claims of rights to minerals in the county. The principal record gives the hour and the minute of the filing of each claim. An index to this record is arranged alphabetically in a book which gives the names of claims. Another required record is a plat book showing each claim (A. Ark., 1899, 114). The recorder is required to prepare for the tax assessor an alphabetically arranged list of the names of all persons who have filed or recorded mortgages, timber deeds, mineral deeds, and royalty deeds (A. Ark., 1929, 560). Purchasers of "second-hand oil field materials or equipment" are required to make complete inventories of such property for the recorder, listing the items bought, the names of sellers, the names of persons making the actual delivery, the names of owners of "teams which deliver the same", and the dates of purchases. They are to be made, within 48 hours of the purchase, on blanks furnished for the purpose by the recorder. They are to be filed by the recorder, who must also enter abstracts of them in a special record, alphabetically indexed. (A. Ark., 1925, 377, 378.)

The recorder keeps a register of ministers' credentials which are filed by each minister or priest in the county. When the credentials are filed, the recorder issues a certificate which authorizes the holder to perform marriage ceremonies. (Rev. Stat., 1838, 539; A. Ark., 1873, 2.) Another required record in the office is one of the plats and notes of the county surveyor. It shows all the subdivisions of the county as mapped by the surveyor and is supposed to include an accurate transcript of every note or remark of the surveyor concerning them. (A. Ark., 1887, 243.) The recorder is custodian of all bonds of county officials. In this capacity, he is required to maintain a special record book for an account of the bonds. (A. Ark., 1937, 1243.) He must keep a record of all marriage contracts (Rev. Stat., 1838, 655), and a record of United

States soldiers' and sailors' discharges which are presented for recording (A. Ark., 1919, 232), and a record of old age pension certificates (A. Ark., 1937, 1185).

A "true and complete" record of the expense of maintaining the office must be kept. This account is audited by the county court, which approves or disapproves it. (Rev. Stat., 1838, 655, 656.) The recorder must keep a complete record of all fees and other emoluments he receives, giving the amounts, from whom received, for what reasons, and the kinds of funds given in payment. These entries must be made when the services are performed. On the first day of the quarterly session of the circuit court, the recorder is required to make his quarterly settlement with the county clerk. His account must reflect all fees collected up to and including the last day of the preceding quarter. (A. Ark., 1917, 98, 99.) If he has not been paid the fee allowed him by law, the recorder may refuse to endorse or record an instrument (A. Ark., 1875, 178).

He is authorized to use a system of photographic recording, and photographic copies of records or other documents certified by him are as acceptable as originals when introduced as evidence in court (A. Ark., 1933, 479). The photographic system of recording is not used in Cleburne County. The recorder's records are kept in the circuit clerk's vault, unless otherwise specified.

Real Property

Deeds

49. TRANSCRIPTION OF DEEDS FROM VAN BUREN COUNTY, 1847-83. 3 vols. (1-3).

Transcription of deeds from Van Buren County records concerning lands lying in the territory taken from Van Buren County and given to Cleburne County at the latter's creation. Also contains: (Record of Wills) 1871-83, entry 109. Arr. chron. by date of recording. Indexed alph. by names of grantor and grantee. Hdw. Aver. 400 pp. 18 x 13 x 2.

50. TRANSCRIPTIONS OF DEEDS - WHITE COUNTY, 1838-83. 1 vol. (4).

Transcription of deeds from White County records concerning lands lying in the territory taken from White County and given to Cleburne County at the latter's creation. Arr. chron. by date of recording. Indexed alph. by names of grantor and grantee. Hdw. 449 pp. 14 x 9 x 1½.

51. TRANSCRIPTION OF DEEDS AND MORTGAGES FROM INDEPENDENCE COUNTY, 1851-69. 1 vol. (8).

Transcription of deeds and mortgages from Independence County records concerning lands lying in the territory taken from Independence County and given to Cleburne County at the latter's creation. Arr. chron. by date of recording. Indexed alph. by names of grantor and grantee. Hdw. 353 pp. 18 x 13 x 2.

For other mortgages, see entries 56, 57.

52. (DEEDS), 1910--. In (Case Papers), entry 1-xi.
Original deeds, giving names of grantor and grantee; description of property; date of deed; consideration of deed, and signature of grantor; acknowledgments by notaries public, giving name of grantor, date of acknowledgment, and signature and seal of notary public; certificate of record, giving name of recorder, date of filing, where recorded, by volume and page, and signature and seal of recorder or his deputy.

53. DEED RECORD, 1883--. 51 vols. (A, B, 7, 9, 10-14, 16, 19-22, 25-31, 33-47, 49-63). Title varies: Warranty Deed Record, 1884-1915, 1918-19.
Record of deeds, giving name of grantor and grantee; description of property; date of deed; consideration of deed; signature of grantor; acknowledgments by notaries public, giving names of grantors, dates of acknowledgment, signature and seal of notary public; certificates of record, giving name of recorder, date of filing, where recorded, by volume and page, and signature and seal of recorder or his deputy. Also contains:

i. Record of Clerk's Deeds, 1883-1902, 1937--, entry 35;
ii. Estray Record, 1907-20, entry 43;
iii. Register of Dentists, 1909-11, entry 52;
iv. Option Deed Record, entry 55;
v. Real Estate Mortgages, entry 57;
vi. Chattel Mortgage Record, 1883-84, 1912-19, entry 64;
vii. Lis Pendens, 1890-1904, entry 65;
viii. Oil and Gas Lease Record, entry 69;
ix. (Power of Attorney), 1883--, entry 70;
x. Credentials Record, 1895-1911, entry 74;
xi. Record of Wills, 1883-1900, entry 110;
xii. Quit Claim Deed Record, 1884-1919, 1924-26, 1930--, entry 54.

Arr. chron. by date of recording. For index, see entry 58. Hdw. Aver. 640 pp. 18 x 12 x 3.

54. QUIT CLAIM DEED RECORD, 1906-29. 1 vol. (23). 1884-1919, 1924-26, 1930-- also in Deed Record, entry 53-xii.
Record of quit claim deeds, giving name of grantor; consideration; name of grantee; amount of notes; rate of interest; when payable, to whom, where; description of property; date instrument executed, and signature of grantor; acknowledgments by notary public, giving name of grantor, date of acknowledgment, and signature and seal of notary public; certificate of record, giving name of recorder, date of filing, where recorded, by volume and page, and signature and seal of recorder or his deputy. Arr. chron. by date of filing. For index, see entry 62. Hdw. 640 pp. 18 x 12 x 3.

55. OPTION DEED RECORD, 1903-6. 1 vol. (15). 1883-- also in Deed Record, entry 53-iv.
Record of option deeds, giving names of grantor and grantee; amount paid for option; date paid; description of property; date of instrument; signatures of grantor and grantee; acknowledgments by notaries public, giving names of grantor and grantee, name of grantor's wife relinquishing dower, signature and seal of notary public, and date of acknowledgment;

certificate of record, giving name of recorder; date of filing; where recorded, by volume and page, signature and seal of recorder or his deputy, and date of certification. Arr. chron. by date of filing. For index, see entry 58. Hdw. 640 pp. 18 x 12 x 2.

Mortgages
See also entry 51.

56. (REAL ESTATE MORTGAGES), 1911-29. In (Case Papers), entry 1-xii.

Original real estate mortgages, giving names of mortgagor and mortgagee; date of instrument; amount secured; when due; legal description of area.

57. REAL ESTATE MORTGAGES, 1884--. 11 vols. (I, C, D, 5-12). 1883-- also in Deed Record, entry 53-v.

Record of mortgages on real estate, giving date of recording; names of mortgagor and mortgagee; date of instrument; amount secured; when due, and legal description of area. Also contains: Ledger (Power of Attorney), 1893-1903, entry 70. Arr. chron. by date of recording. For index, see entry 58. Hdw. Aver. 638 pp. 18 x 12 x 3.

58. GENERAL INDEX TO DEEDS AND MORTGAGES, 1883--. 9 vols. (1-9).

Index to Deed Records, entry 53; Quit Claim Deed Record, entry 54; Option Deed Record, entry 55; and Real Estate Mortgages, entry 57. Commissioner's Deed Record, entry 111. Index gives names of grantor and grantee; mortgagor and mortgagee; kind of instrument; date of instrument, by month, day and year; when filed; when recorded; where recorded, by volume and page, and remarks. Arr. alph. by names of principals and chron. thereunder by date of recording. Hdw. Aver. 484 pp. 18 x 12 x 3.

59. (FEDERAL CROP MORTGAGES), 1914--. In (Case Papers), entry 1-xiii.

Original Federal crop mortgages of the Federal Land Bank of St. Louis, giving name of mortgagor and post-office address; name of mortgagee and post-office address; complete description of real estate by section, township, range, and acreage; amount of consideration; rate of interest; when due; signatures of the parties; acknowledgment by mortgagee; endorsement of secretary and treasurer of Federal Land Bank; date filed for record; date recorded, and signature of recorder.

60. FEDERAL FARM LOAN MORTGAGE RECORD, 1918--. 2 vols. (1, 2). Last entry 1934.

Record of mortgages of farm property to Federal Land Bank of St. Louis. Record made separately because of special forms used in mortgages concerned, gives names of mortgagor and mortgagee and their respective post-office addresses; complete description of real estate by section, township, range, and acreage; amount borrowed; rate of interest; when due; how payable; signatures of the mortgagor and mortgagee; acknowledgment of the mortgagor; endorsement of secretary and treasurer of Federal Land Bank; date recorded, and signature of recorder. Arr. chron. by date of filing. Indexed alph. by name of mortgagor. Hdw. and typed. 960 pp. 18 x 12 x 3.

Surveys

61. PLAT BOOK, 1884--. 1 vol.
Illustrated description of cities, towns, and villages, according to survey of Cleburne County. Arr. chron. by date of recording. Indexed alph. by names of city, town, or village. Hdw. 402 pp. 36 x 24 x 2.

62. FIELD NOTES, 1854-1909. 2 vols. (1, 2). Copied in 1909.
Surveyors' notes on surveys of county, subdivision, Cherokee boundary line, and exterior lines of Cleburne County. Arr. by sec., twp., and r. No index. Hdw. 650 pp. 15 x 10 x $2\frac{1}{2}$.

Personal Property

Chattel Mortgages

63. CHATTEL MORTGAGES, 1928--. 36 file boxes. 1883-- also in (Case Papers), entry 1-xiv.
Original chattel mortgages filed in office of the recorder, giving names of mortgagor and mortgagee; address of mortgagor; date of instrument; description of property; amount secured, and when due. Acknowledgment of mortgagor, giving name of county; date of acknowledgment; name of mortgagor; date of expiration of commission of notary public; signature of notary public. Arr. chron. by date of filing. No index. Hdw. 10 x 8 x 4.

64. CHATTEL MORTGAGE RECORD, 1884--. 24 vols. (A-D, 6, A, B, B3, CF, E-S). Title varies: Deed of Trust Record, 1884-1913; Mortgage Record, 1889-1913. 1883-84, 1912-19 also in Deed Record, entry 53-vi.
Record of chattel mortgages filed in the office of the recorder, giving date of recording; names of mortgagor and mortgagee; address of mortgagor; date of instrument; amount secured; when due; acknowledgment of mortgagor, giving name of county; date of acknowledgment, name of mortgagor, date of expiration of commission of notary public, signature of notary public, certificate of record by the circuit clerk and ex-officio recorder, giving date and time of recording, volume and page on which recorded, date of certificate, signature of circuit clerk and ex-officio recorder or his deputy. Arr. chron. by date of recording. Indexed alph. by names of mortgagor and mortgagee. Hdw. Aver. 480 pp. 16 x 12 x 2.

Lis Pendens, Liens, and Leases

65. LIS PENDENS, 1899--. 1 vol. (A). 1890-1904 also in Deed Record, entry 53-vii.
Notice of suits pending in courts, giving names of plaintiff and defendant serving notice to all persons that a lien may be declared upon property involved to satisfy judgment of the court; names of persons in possession of property; legal description of property, and its location. Arr. chron. by date of filing. Indexed alph. by name of plaintiff. Hdw. 288 pp. 18 x 14 x 1.

66. NOTICE OF INTENTION TO FILE LIEN, 1913--. 1 vol. (1).
Record of original notices of intention to file liens, giving description of property concerned; amount due; to whom due; name of property owner; date when claimant filed lien. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Hdw. 296 pp. 16 x 12 x 2.

67. (LIENS), 1910-36. In (Case Papers), entry 1-xv.
Original liens, giving name of person laying or imposing lien; amount of lien; name of person against whose property lien is filed, and description of property.

68. RECORD OF LIENS (For Labor), 1884--. 1 vol. (A).
Record of laborer's charges against property for settlement of debts, giving number of lien; name of party filing; against whom filed; amount of lien; date of filing, by year, month, day, and hour; complete description of property concerned; date of satisfaction, and remarks. Arr. chron. by date of filing. Indexed alph. by name of defendant. Hdw. 300 pp. 16 x 12 x 2.

69. OIL AND GAS LEASE RECORD, 1919--. 1 vol. (A). Last entry 1932. 1883-- also in Deed Record, entry 53-viii.
Recorded instruments, giving names of lessor and lessee; legal description of real estate concerned; consideration; terms of lease; and date and acknowledgment before authorized officers. Arr. chron. by date of filing. Indexed alph. by name of lessor and lessee. Hdw. Aver. 640 pp. 18 x 12 x 3.

Powers of Attorney

70. (POWER OF ATTORNEY), 1883--. In Deed Record, entry 53-ix. 1893-1903 also in Real Estate Mortgages, entry 57.
Original instruments conferring powers of attorney, giving name of person conferring power and his address; purposes for which power was conferred; date of execution of instrument; seal and signature of recorder; acknowledgments of notary public, giving place of acknowledgment, names of parties to instrument, seal and signature of notary public, and date of acknowledgment.
For index, see entry 92.

Officials' Bonds and Commissions

71. (OFFICIAL BONDS), 1910--. In (Case Papers), entry 1-xvi.
Original officials' bonds, giving names of principal, sureties, and bonding company; amount of bond, and date of execution; certification of witness to bond, giving date of principal's election or appointment to office; name of office; conditions of bond, and signatures of witnesses.

72. RECORD OF OFFICIAL BONDS, 1883--. 4 vols. (1-4).
Record of officials' bonds, giving names of principal, sureties, and

bonding company; amount of bond; date of execution, and date recorded; certification of witnesses to bond, giving date of principal's election or appointment to office; name of office; conditions of bond, and signatures of witnesses. Arr. chron. by date of recording. Indexed alph. by name of officer. Hdw. 80 pp. 16 x 10 x 1.

73. REGISTER OF COMMISSIONS, 1883--. 1 vol. (A).
Record of commissions of county officers, giving name of officer; name of office; date commission granted; date official qualified for commission; address of officer; fee due Secretary of State for commission; date fee collected; date remitted to Secretary of State, and, occasionally, some remarks. Arr. chron. by date of filing. Indexed alph. by name of officer. Hdw. 80 pp. 16 x 10 x 1.

Ministers

74. CREDENTIALS RECORD, 1912--. 1 vol. (A). 1895-1911 in Deed Record, entry 53-x. No prior records.
Record of credentials issued to minister, authorizing performance of marriage ceremonies, giving name of minister; date credentials were granted; place where credentials were granted; minister's creed, and reference to records of other counties in which credentials are recorded.
Arr. chron. by date of filing. For index, see entry 92. Hdw. 276 pp. 18 x 13 x 1½.

Army and Navy Discharges

75. SOLDIERS' AND SAILORS' DISCHARGES, 1919--. 1 vol. (1). Last entry 1936.
Record containing verbatim copies of discharge certificates and enlistment records of Arkansas citizens who served in military or naval forces of the United States during the World War, giving name of discharged person; reason of his discharge; his place of birth; age at enlistment; civilian occupation; physical description; commanding officer's certificate of discharge; date of discharge; enlistment record, giving details including name; grade; whether enlisted or inducted; length of service; rank; skill in marksmanship and horsemanship; engagements in which he served and wounds he received; physical condition; maritial status; character; name of discharged person and commanding officer. Record concludes with date of filing and signature of the recorder or deputy. Recording of these papers is made optional by state law. Arr. chron. by date of filing. Indexed alph. by name of soldier or sailor. Hdw. 252 pp. 18 x 13 x 3.

76. RECORDS RETIRED TO OTHER VAULT LISTED, 1937--. 1 vol. (1).
For convenience, this book is used to list all records which have been removed from "Circuit Clerk" vault to "County Clerk" vault. Arr. chron. by date of listing. No index. Hdw. 82 pp. 15 x 12 x 1. C. C. V.

(Next entry 77, p. 81)

III. CIRCUIT COURT

A circuit court, termed "superior court" at the time of its origin, was established and assigned jurisdiction in what is now the State of Arkansas by an Act of Congress which was passed January 27, 1814, while the "district" of Arkansas was under the government of the Territory of Missouri (L. of U. S., 1814, as contained in L. A. T., 1835 digest, 33, 34). Three "superior court judges" were provided for in the organic act that created the Territory of Arkansas in 1819. Each judge had jurisdiction in circuits which were geographically defined by the territorial legislature, and the judges, sitting as a group, composed the appellate or supreme court of the territory. An act of Congress added an additional judge to this group in 1828. (L. of U. S., 1819, 1828, as contained in L. A. T., 1835 digest, 38, 39, 41-43.) The circuit courts were made a part of the governmental set-up provided in the state's first constitution, adopted in 1836 (Const. 1836, art. VI, sec. 1), and were continued by subsequent constitutions (Const. 1861, art. VI, sec. 1; Const. 1864, art. VII, sec. 1; Const. 1868, art. VII, sec. 1; Const. 1874, art. VII, sec. 1). When Cleburne County was created in 1883 it was made a part of the sixth judicial circuit. In 1893, in a re-assignment of circuits, it became a part of the fourteenth circuit. (A. Ark., 1883, 40; ibid., 1893, 84.)

The court is presided over by the circuit judge. The circuit clerk and sheriff, as servants of the court, are required to attend all its sessions in their respective counties, either in person or by deputy. (Const. 1874, art. VII, sec. 13; see also "Sheriff", p. 118.) A candidate for the circuit judgeship must be a citizen of the United States who is at least 28 years of age, of good moral character and learned in the law, who has lived in the state two years or more and has practiced law six years or has had a combined experience of six years upon the bench of a court or courts of record and in the practice of law (Const. 1874, art. VII, secs. 13, 16; see "Governmental Organization and Records System", p. 12). The judge is elected by the qualified electors of the counties in the circuit for a term of four years and takes an oath of office prescribed for all state and county officers (Const. 1874, art. VII, sec. 17; ibid., art. XIX, sec. 20).

The circuit judge may be impeached and tried by the General Assembly, which may remove him from office upon convicting him for misdemeanors, high crimes, or gross misconduct in office, but the judgment may go no farther than removal from office and disqualification from holding any state office of honor, trust, or profit in the future. An impeachment proceeding, regardless of its outcome, is no bar to an indictment. The House of Representatives of the General Assembly has the sole power to prefer charges in impeachment, but trials are conducted by the Senate. A two-thirds concurrence of the members of the Senate is necessary to obtain a conviction. (Const. 1874, art. XV, secs. 1, 2; for disqualification of the judge, see "Governmental Organization and Records System", p. 12.) A permanent vacancy, caused by the removal from office, death, or resignation of the circuit judge is filled at a special election called by the governor, unless the vacancy occurs within nine months of the next general election. In this event, the

office is filled for the remainder of the regular term by appointment by the governor. (Const. 1874, art. VII, sec. 50.) Whenever the office of circuit judge is vacant at the commencement of a term of court and no action has been taken by the governor to fill the vacancy, or the judge fails to attend court, the regular practicing attorneys attending the court may meet at 10 a. m. on the second day of the term and elect a judge to preside until the regular judge appears, or for the duration of the term if the judge does not appear. If the regular judge is prevented by his sickness or death from continuing to preside at a term once it has begun, or if he has been disqualified from presiding at the trial of any case pending in the court, then the regular practicing attorneys attending the meeting, on notice from the judge or clerk, may elect a judge to try whatever cases are affected. The person thus elected has the same power in the proceedings as the regular judge, but his authority ceases at the end of the court term at which the election was held. The special judge need have no qualifications other than he be a resident of the state and learned in the law. (Const. 1874, art. VII, sec. 21; State, ex rel Attorney General v. Stephenson, Ark. Rep., 1909, vol. 89, p. 31.)

The judge of the circuit court is not strictly bound to his own immediate circuit. He may exchange circuits with the judge of another circuit and hold court for him so long as he conforms to regulations prescribed by law. (Const. 1874, art. VII, sec. 22; York v. State, Ark. Rep., 1909, vol. 91, p. 582; Evans v. State, ibid., 1894, vol. 58, pp. 47, 48.) Whenever a suit or action is brought, or is pending, in a division of any circuit court which has more than one division, and it appears that the presiding judge of the division in which the action is pending is disqualified to hear the case, the suit may be transferred to another division of the court upon motion of either party. The court is not divided in Cleburne County. (A. Ark., 1925, 372, 373.) If it becomes necessary for different judges to preside during the progress of the same trial it is the duty of each to sign a bill of exceptions as to the proceedings before him (Bullock v. Neal, Ark. Rep., 1884, vol. 42, p. 278). Venue in a criminal trial cannot be changed to a county outside of the judicial circuit for any cause (State v. Flynn, Ark. Rep., 1877, vol. 31, p. 34).

The circuit court meets twice yearly in Cleburne County. Terms begin on the eighth Monday after the first Monday in January and the eleventh Monday after the first Monday in July. (A. Ark., 1907, 4.) When the court has convened, it continues in session until all the business pending is disposed of, or until it becomes necessary for the judge to adjourn in order to reach the next court to be held in his circuit. If the judge adjourns the court it cannot convene again until the day regularly set for it to reconvene unless notice is given five days in advance by posting of a notice on the door of the courtroom announcing when the session will be held. In addition to the posted notice, the circuit clerk must notify all interested parties and their attorneys. (A. Ark., 1937, 729.) If court is not held on the first day of the term, then it will stand adjourned from day to day until the evening of the third day. If it still remains unopened at that time, it will stand adjourned until the next regular term, and all cases, civil and criminal, will be continued to the next term of court. (Rev. Stat., 1838, 233.)

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In 1927, the salary of the circuit judge was set at $3600 per year (Const. 1874, amend. XV, app. 1929, sec. 2), which was an increase of $600 annually over the salary previously paid (A. Ark., 1909, 87). The judge is not allowed any fees in addition to his regular salary, nor may he hold any other state or United States office during his regular term of office (Const. 1874, art. VII, sec. 18). When a judge has held his office for as long as 20 years and has attained the age of 70, he is entitled to retire and receive a pension equivalent to one-half of his regular salary, which is paid until his death. His term of service need not have run consecutively to make him eligible for a pension. (A. Ark., 1931, 714.)

The circuit court has original jurisdiction in all civil and criminal cases in which jurisdiction is not assigned to other courts by the terms of the state constitution (Const. 1874, art. VII, sec. 11). In order to prevent any controversy between courts of concurrent jurisdiction in which the circuit court is involved, the matter has been settled by law. The correct method of ascertaining the civil and criminal jurisdiction of the circuit courts is to see what cases, or classes of cases, are confided by the state constitution exclusively to the jurisdiction of other courts; their great residuum belongs, exclusively or concurrently, to the circuit court. In cases of concurrent jurisdiction the court which first exercises rightful jurisdiction controls to the exclusion of the other. (State v. Deven, Ark. Rep., 1879, vol. 34, p. 188.) The circuit court has concurrent jurisdiction with justice of the peace courts in matters of contract in which the amount in controversy is in excess of $100 but does not exceed $300, exclusive of interest. These two courts have concurrent jurisdiction in suits for the recovery of personal property where the value of the property is more than $100 but does not exceed $300, and in all matters of damage to personal property where the amount in controversy does not exceed $100. They also concur in jurisdiction over misdemeanor cases. (Const. 1874, art. VII, sec. 40.) Jurisdiction in equity cases, formerly held by the circuit courts, was transferred in 1903 to the chancery courts (see "Chancery Court", p. 91).

The circuit court exercises a supervisory control and appellate jurisdiction over county, justice of the peace, and municipal courts, and likewise over courts of common pleas where established, and may issue the necessary writs to enforce this control (Const. 1874, art. VII, sec. 14). In all trials de novo, or of appeals to circuit courts from inferior courts, such as justices' courts or police courts, the circuit court has jurisdiction of the subject matter for final judgment in the same manner and to the same extent as though original jurisdiction had been conferred on it by law, whether the amount in controversy may be proven to be less or greater than that found in the court below (A. Ark., 1871, 252). The circuit court has jurisdiction over suits brought to contest the election of state, district, circuit, county, or township officers. The contestant may not proceed with his case, however, until he has posted bond, providing sufficient security, with the circuit clerk. If a judgment is rendered against the contestant, all costs due the defendant and the officers of the court for the amount due them as costs in the case, will be taken from the sureties for the bond of the contestant. (A. Ark., 1879, 12, 13.) The circuit court has the jurisdiction to remove any county or township official from office

when proof of incompetence, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office has been presented to the court (Const. 1874, art. VII, sec. 27). The court may suspend the accused official from office until his trial is completed (A. Ark., 1877, 64). If a person believes that illegal taxes have been levied against him by the quorum court, he may look to the appellate jurisdiction of the circuit court for relief. Where no remedy by appeal is provided by the state revenue law, he may be entitled to relief by writs of certiorari or prohibition. Under these writs the court may revise the proceedings of the quorum court, and if it appears from the record that the lower court has proceeded in a matter outside of, or in excess of, its jurisdiction, the proceedings may be stayed or quashed as to the whole, on certiorari. (Floyd v. Gilbreath et al, Ark. Rep., 1873, vol. 27, p. 675.) The purpose of the writ of prohibition is to restrain an inferior court from proceeding in a matter not within its jurisdiction, but it is never granted unless the inferior tribunal has clearly exceeded its authority (Russel v. Jacoway, Ark. Rep., 1878, vol. 33, p. 191). The court may enforce, by attachment, the return of any writ or other process it issues, and the payment of moneys received by a sheriff, coroner, constable, attorney, or collector on the instrument in his (the agent's) official capacity, and the delivery of papers entrusted to him officially and unlawfully withheld (Rev. Stat., 1838, 233).

The court has the power to punish offenders for criminal contempt in any of the following offenses: first, disorderly, contemptuous, or insolent behavior, committed during the court's sitting and in its immediate view and presence, and directly tending to interrupt its proceedings, or to impair the respect due its authority; second, any breach of the peace, by noise or some other disturbance, directly tending to interrupt the court's proceedings; third, willful disobedience of any process or order lawfully issued or made by the court; fourth, resistance, willfully offered, by any person to the lawful orders or processes of the court; fifth, the rebellious and unlawful refusal of any person to be sworn as a witness, or, if sworn, the refusal to answer any legal and proper question. Punishment for contempt may be by fine or imprisonment in the county jail or both, but the fine may not exceed $50, nor the imprisonment 10 days. (Rev. Stat., 1838, 234, 235.)

According to the circuit court's discretion, it may remove the legal disabilities of minors, giving their acts the same force and effect in law as the acts of persons who are of age (A. Ark., 1869, 44, 45; ibid., 1911, 251). Congress has vested the circuit courts in Arkansas with the power to naturalize aliens (U. S. Statutes, vol. 34, part 1, 596, app. 1906).

When a plea of guilty has been accepted or a verdict of guilty rendered in a criminal case, the trial judge has authority, if he thinks it best for the defendant and not harmful to society, to postpone the pronouncement of final sentence and judgment. He may place the defendant on probation upon restitution of the property involved, if any, and the payment of the costs of the case. The judge also has the power, at any time the court may be in session, to revoke the probation and to

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pronounce sentence and enter final judgment. A suspension of sentence does not remove the liability for payment of costs by the defendant. (A. Ark., 1923, 41.)

Official Stenographer

The appointment of an official stenographer for each of the several circuit courts of the state was authorized by the General Assembly in 1897 (A. Ark., 1897, 64). This act superseded an earlier law which had provided that no court or judge had the authority to appoint a stenographer whose salary or expenses were to be paid out of the state or county funds, or were to be assessed against a party as costs in any proceeding (A. Ark., 1873, 22). The implication is that prior to this time, judges had, or had assumed, the authority to appoint stenographers. Any competent resident of the state may be appointed to the position. The law provides that the appointment is to be made by the circuit judge, whose selection must be the person named in a petition of a majority of the licensed lawyers resident in the circuit. The customary procedure, however, is that the presiding circuit judge makes the appointment without regard to the formality of a petition. The tenure of office of the stenographer, a sworn officer of the court, coincides with the term of the judge who appointed him.

Under the creative act of 1897, the salary of the official stenographer was fixed at $800 per year, to be paid quarterly, from a special stenographer's fund kept separately from other funds, by the treasurers of the various counties composing the judicial circuit. Each county was required to pay its pro rata share, based upon the ratio of its population to that of the entire circuit, as determined by the latest federal census. The periodic adjustments were made by the presiding judge. (A. Ark., 1897, 64.) Since 1917, the salary has been $1600 per year and has been prorated in proportion to the assessed valuation of the property in each county (A. Ark., 1917, I, 218). The stenographer's fund from which the salary is paid is derived from costs assessed in the cases heard before the court and from other fees charged for transcription services. A flat rate of $3 for each case is charged, and the fee for transcription is 5 cents for each 100 words. The presiding circuit judge may remove the official stenographer from office for incompetency, neglect of duty, or misbehavior. (A. Ark., 1897, 64.)

It is the duty of the official stenographer to furnish each litigant in a case with a bill of exceptions (record of testimony and objections), and no litigant is to be denied this bill because of his inability to pay the costs. The litigant need only make an affidavit that he has no property and is unable to pay. The duties of the official stenographer include attendance at all sessions of the circuit court in the district for which he is appointed, the making of a stenographic report of all oral proceedings in a case when requested by either party, the recording of oral instructions of the judge to the jury when directed by the judge or requested by either counsel to do so, and, upon the request of counsel, the making of notes of objections and the judge's rulings on them, and counsels' exceptions to rulings. It is his duty also to furnish the circuit clerk where the trial was held a complete transcript

of proceedings within 20 days following the completion of a trial, when so requested; or within 20 days following a demand made for it by the clerk after the trial. The transcript is to bear a caption showing the style and number of the case, the court in which it was tried, and the date of the trial. It is to be signed, certified, and filed by the stenographer in the office of the clerk of the trial court. (A. Ark., 1897, 64, 65.) The official stenographer is required to file his original stenographic notes in the office of the clerk of the court in which the notes were made. He is privileged, however, to carry them from one court to another, within the circuit until he transcribes them. (A. Ark., 1897, 65.)

Besides selecting the official stenographer, the circuit judge appoints three jury commissioners (see "Jury Commission", p. 87), whose duty it is to select persons for service on grand and petit juries. After the jury commissioners have selected the jury lists, the judge must deliver the list of petit jurors to the circuit clerk in open court and administer the following oath to the clerk, and to the clerk's deputies, if any: "You do swear that you will not open the jury lists now delivered to you until the time prescribed by law; that you will not, directly or indirectly, converse with anyone selected as a petit juror concerning any suit pending for trial in this court at the next term, unless by leave of the court" (A. Ark., 1871, 266). In examining jurors upon their oath for a criminal trial, the court may require any question to be answered which seems to have been asked in good faith in order to determine the competency of the jurors (Sylvester Polk v. State, Ark. Rep., 1886, vol. 45, p. 165).

An important duty of the judge is to give instructions to the jury to aid its deliberations. He may instruct the jury in matters of law, as jurors are not presumed to know the law. In no case, however, has he the right to instruct on matters of fact besides the law or give his opinion on the facts, even though he admonishes the jury to disregard his views. (Hinson v. State, Ark. Rep., 1918, vol. 133, p. 149.) While it is not regarded as commendable practice in criminal cases for the judge to say that certain circumstances tend to prove the charge, the making of such a statement is not regarded as prejudicial (Hogue v. State, Ark. Rep., 1909-1910, vol. 93, p. 323). The judge may not, however, point out for the jury's benefit certain evidence and say that such evidence is sufficient to convict, as the jury must be instructed upon the weight of the evidence (Mitchell v. State, Ark. Rep., 1916, vol. 125, p. 260). Some instructions to the jury may be confusing, especially to those unfamiliar with the law, as in cases of insanity pleas in criminal trials. Therefore, it is the duty of the judge to reduce his charge to writing on request of either party concerned in the case (Const. 1874, art. VII, sec. 23.)

It is the duty of the circuit judge of Cleburne County to forbid "any speech, sermon, lecture, or other public deliverance not immediately connected with the business of the court to be delivered in the room or place where the court is held at any time between the hour of opening of court on the first day and the hour of the final adjournment of that session" (A. Ark., 1913, 674, 675). This local law prevents

the court's time being taken up with the speeches of candidates for office in sessions preceding elections. In an effort to stamp out dishonest practices in elections, the legislature of 1929 made it the mandatory duty of the circuit court to punish persons for illegal issuance of poll tax receipts. The law applies not only to officials or other persons who issue the receipts but also to persons who use them. The offense is classed as a misdemeanor, and offenders, if convicted, are subject to a fine of not less than $100 nor more than $1000. (A. Ark., 1929, I, 380, 381.)

The circuit court is a court of record, and accurate records are kept of all its affairs. Full entries of the orders and proceedings each day are read in open court on the morning of the succeeding day; except on the last day of the term, when the minutes are read and signed at the rising of the court ending the term. In making out transcripts of records, except on writs of error and appeals, the bills of exception are not inserted, unless specially required by the applicant. All writs, processes, and proceedings of the court are recorded in the English language. However, the proper and known name of processes and technical words may be expressed in the language commonly used. They are made out "on paper or parchment in a fair and legible character". Abbreviations, except common ones, are not to be used. Numbers may be expressed in arabic figures or roman numerals in the customary way. (Rev. Stat., 1838, 230.) The circuit court keeps a seal (Rev. Stat., 1838, 230) which presents the same impression as the seal of the state except that the surrounding words give the name of the court for which it is being used (A. Ark., 1864, 32). Records of all proceedings of the circuit court are kept by the circuit clerk in the manner prescribed by law (Rev. Stat., 1838, 178).

Circuit Clerk

The office of circuit clerk originated in Arkansas with the establishment of the first circuit courts, when a part of the court's creative law allowed the judge of the court to name a clerk (L. M. T., 1815, as contained in L. A. T., 1835 digest, 126). The office became an elective one in 1829 when Congress passed a law authorizing the territorial legislature to create, by its own enactments, those offices essential to the establishment of a county government in the several counties of the territory (L. of U. S., 1829; L. A. T., 1829,as contained in L. A. T., 1835 digest, 43, 44, 127). The office was sustained by the state's first constitution, adopted in 1836 (Const. 1836, art. VI, sec. 7), and continued as a constitutional office until 1868, when the General Assembly passed a law making the county clerk ex-officio clerk of the circuit court (Const. 1861, art. VI, sec. 9; ibid., 1864, art. VII, sec. 9; A. Ark., 1868, 30).

The Constitution of 1874 was the fundamental authority for the establishment of the office of circuit clerk in Cleburne County (Const. 1874, art. VII, sec. 19). The county was created in 1883, three months before the general election, and during that interim the circuit clerk's duties were performed by those holding the office in Independence, Van

Buren, and White Counties, the parent counties of Cleburne (A. Ark., 1883, 40). The first circuit clerk of the county was T. J. Andrews (Jim B. Higgins, Biennial Report of the Secretary of State, 1925-26, Russellville, Ark., 389). For a more detailed treatment of the early history of this office, see the Inventory of The County Archives in Arkansas, No. 71.

In order to qualify as a candidate for circuit clerk, a person must be a qualified elector in the county in which he seeks office (Const. 1874, art. VII, sec. 19). The circuit clerk's office remains an elective one, and the incumbent's term of office is two years, or until his successor is elected and qualified. In addition to his duties as circuit clerk, this official, in Cleburne County, has the functions of the county, probate, and chancery clerks, and ex-officio recorder. The circuit clerk has these additional responsibilities in all Arkansas counties of less than 15,000 population. (Const. 1874, art. VII, sec. 19; see also "County Court", p. 40, "Probate Court", p. 99, "Chancery Court", p. 91, and "Recorder", p. 63.)

After he has been elected and has received his official commission from the governor, and before entering upon the duties of his office, the circuit clerk executes a surety bond in an amount set by the Arkansas Official Bond Board and takes the same oath of office prescribed for other county and state officials (A. Ark., 1929, II, 1000, 1001; ibid., 1937, 1243, 1244; Const. 1874, art. XIX, sec. 20). Prior to January 1, 1939, the clerk was authorized to execute a personal bond in a sum not more than $15,000, the amount being set by the circuit judge, or by the county judge, whose action is subject to the final approval of the circuit judge. The purpose of the bond is to assure delivery to the clerk's successor of all records, books, papers, seals, furniture, and any other items belonging to the office, in good condition. Failure to make bond in the time specified by the court may cause the office to be declared vacant. (A. Ark., 1868, 20; ibid., 1875, 192.) Should the circuit court at any time decide the bond of the clerk is insufficient, a new bond must be made within 15 days, or the clerk will be subject to removal from office (Rev. Stat., 1838, 178). A willful failure to perform the duties of his office subjects the clerk to prosecution for a misdemeanor and removal from office. The circuit court may order that the clerk be removed from office if, after a trial before the court, he is found guilty of neglect of his duty, incompetence or habitual drunkeness. The court, acting upon its own knowledge or upon the sworn statement of others attacking the integrity of the clerk, directs the prosecuting attorney to prefer charges against the clerk, suspends him from office temporarily, and appoints an acting clerk who serves until the final determination of the trial. If the clerk is found guilty, he is removed from office, and the vacancy is filled in the manner required by law. (Rev. Stat., 1838, 179, 180.) The laws governing the manner of and causes for the clerk's removal from office and the manner in which his successor is selected in the event of a permanent vacancy in the office are the same as those affecting other county officers (see "Governmental Organization and Records System", p. 12).

The clerk maintains his office at the seat of justice of the county

for which he is clerk, keeps there all records, papers, seals, and property belonging to his office and transacts his official business there (Rev. Stat., 1838, 178). The circuit clerk of Cleburne County is paid $2400 per year, providing the fees of his office total that amount. If they do not, he is paid only the amount of the fees collected. (A. Ark., 1931, 1105; Initiative Act No. 1, Cleburne County, 1932, sec. 2, see appendix, p. 191.) The clerk may appoint one or more deputies, for whose official conduct he is responsible. Such an appointment must be approved by the circuit or the county court in term time or the judge of either in vacation, and evidence of this approval must be endorsed upon the document of appointment. After the endorsement has been attached the appointment is recorded in the county recorder's office. A deputy must possess the same qualifications and take the same oath as his principal. In the name of the clerk, the deputy clerk is empowered to perform the same duties as his principal. (Rev. Stat., 1838, 178; A. Ark., 1852, 16.)

The duties of the clerk in general are to record the judgments, rules, orders, and other proceedings of the circuit court; make an alphabetical index to this record; issue and attest all processes for which he is made responsible by law; keep a perfect account of all money coming into his hands and accruing to the county or state in the form of taxes, fines, or otherwise; make proper settlement with the court at each stated term and pay over all money he has collected to the proper authorities on the first and fifteenth days of each month (Rev. Stat., 1838, 178; A. Ark., 1935, 781).

Within 20 days before the commencement of each term of court, it is the duty of the clerk to post in some convenient place in his office a list of cases to be tried at the coming term, stating the day on which each case is to be tried. He must keep the list displayed until the end of the term for the inspection of the litigant parties and their attorneys. (Rev. Stat., 1838, 639.)

It is the duty of the clerk, when an indictment has been found and reported by the grand jury and the person indicted has been arrested to record the indictment in a book kept by him for that purpose (A. Ark., 1881, 106). When an indicted party is not in custody, the clerk must not enter his name upon the record. It is sufficient in such a case to identify the record entry by a number. An indictment endorsed with the same number and date is sufficiently identified as the one filed until the arrest has been made. (Ferguson et al v. Fargason, Ark. Rep., 1882 vol. 38, p. 238.)

It is the duty of the clerk to prepare every bond to be taken by or given before him or his court. He may refuse any surety offered in a bond to be taken by him which is, in his opinion, insufficient. (Civil Code, secs. 553, 554.) It is the clerk's duty to endorse every paper filed in an action on the day it is filed, and upon every order for a provisional remedy and every bond taken he must note the day of its return to his office. He must, on the return of every summons served, enter upon the docket the name of the defendant or defendants summoned and the day of the service upon each one. This entry is evidence of service in case the summons becomes lost. (Civil Code, secs. 770, 553.)

Upon approval of an application for a change of venue, the clerk must send a transcript of the record of proceedings and original papers in the case, authenticated by his official seal, to the court to which the case is removed. Without this authentication of the transcript, the court to which it is sent can take no jurisdiction over the case. The clerk may be compelled to perform such a duty as this by a writ of mandamus. (Sumner v. Gray, Ark. Rep., 1842, vol. 4, p. 469.) In all cases in which an affidavit has been filed with the clerk alleging partiality or prejudice on the part of the sheriff or his deputy, or setting forth some other legitimate reason for their disqualification to serve processes in a civil suit or criminal proceeding, it is the duty of the clerk to direct the processes to the coroner (A. Ark., 1917, I, 1122; see also "Coroner", p. 123, and "Sheriff", p. 118). The clerk must, on demand and on payment of the legal fee, issue subpoenas for witnesses to appear and testify on the day for which the case concerned is set (Rev. Stat., 1838, 639).

At the close of each term of the circuit court, the clerk must make an official abstract of all fines, penalties, and forfeitures adjudged against defendants during the term of court, giving in the abstract the style of each case, the full names of the parties and amounts of fines, penalties, and forfeitures separately (A. Ark., 1883, 291, 292). Immediately after the rendition of any judgment or decree by the court, the clerk must make an entry on the subject in the judgment book, which must be alphabetically indexed and cross-indexed according to the surnames of the plaintiffs and defendants (A. Ark., 1909, 26, 27). The clerk must keep a correct record of all jurors' certificates, which are vouchers issued to pay jurors' fees, and at the first term of the county court held after the close of each term of circuit court, certify to the county court the amount of the certificates issued for the preceding term. These certificates are valid and may be received by the collector in the same manner as county warrants that have been regularly issued by order of the county court. (A. Ark., 1877, 42.)

The clerk must maintain, at the expense of the county, a file designated and labeled "Medical, Nursing, and Hospital Liens", and an appropriate book, properly labeled, in which he records and indexes the liens which have accrued through the furnishing of hospitalization and medical care. The purpose of obtaining such liens is to establish a claim upon any funds that may be derived by an injured person through the prosecution of a personal injury suit. The clerk must make a record of these liens in the book entitled "Notices of Liens Filed", in the order of their receipt noting in the book the names and addresses of patients, practitioners, nurses, hospitals, and other persons or establishments on whose behalf a notice of lien has been filed, and also the names of the defendants and their insurors. On the presentation of a release of a lien, the clerk will note on the file and in the record the date when the release was filed, and note on the release the fact that it has been recorded. Either the original document of release or the record in the clerk's office are prima facie evidence of the release of the lien. (A. Ark., 1933, 389.)

It is the duty of the circuit clerk to file in his office all waivers

of landlords' liens on crops, whether for rent or cash advances, or both, or any waiver affecting the interest of the landlord in the crop. The waiver is filed in the county where the land lies. In counties having two judicial districts the waiver must be filed in the district in which the land is situated. The lien must be filed in accordance with these conditions or it will not take priority over a subsequent lien. (A. Ark., 1935, 74, 75.) If any business firm fails to pay the privilege or excise tax, the state commissioner of revenues may declare the tax delinquent and certify the amount to the circuit clerk of the county in which the business is located. It is then the duty of the clerk to file the certificate of record and enter it upon the judgment docket of the circuit court under the procedure prescribed for filing transcripts of judgments. The clerk then issues an execution directed to the sheriff, who will levy on any property, assets, or effects of the delinquent business firm against which the tax has been assessed. (A. Ark., 1933, 834.)

The clerk has the power to administer such oaths as may be required in matters that come before him (A. Ark., 1845, 61), and to take acknowledgments to deeds and other instruments of writing (A. Ark., 1873, 78).

If it should happen that there is danger from an invading enemy, it is the duty of the clerk to remove the records, papers, and other things belonging to his office to some secure place until the danger passes. Together with his records, the clerk must preserve his official seal. (Rev. Stat., 1838, 178.) Immediately after the Civil War, a law was passed which authorized the county court to direct the circuit clerk, if it thought the circuit court records would thereby be better preserved, to have existing records transcribed into well-bound books. After the clerk had transcribed the part or parts directed to be copied, he submitted his transcription to the court. If the court approved it, such a copy became as valid and binding, both in law and equity, as the original. (A. Ark., 1867, 69.) Records of the naturalization proceedings in the circuit court are kept by the circuit clerk (U. S. Statutes, vol. 34, part 1, 596, app. 1906). All records are kept in the circuit clerk's vault, unless otherwise stated.

Case Papers
(See also, entry 1)

77. (OFFICIAL STENOGRAPHER'S NOTES), 1914-35. In (Case Papers), entry 1-xvii.
Stenographic report of all oral proceedings in circuit court, including testimony of witnesses and instructions of the court, giving style of case; number of case; term of court in which tried; date of trial; signature and certificate of stenographer.

78. (BAIL BONDS), 1883--. In (Case Papers), entry 1-xviii.
Bonds given for bail by defendants in cases, giving names of principals; offense charged; amount of bail; names of sureties and their addresses; name of court in which trial is to be held; term of court; date set for trial; signatures of witnesses, and date of bond.

Dockets

79. CURRENT DOCKET CIVIL, 1883--. 4 vols. (A-D).
Title varies: Judge's Civil Docket, 1883-1912;
Disposed of Docket Civil, 1913-27.
This record contains brief notes of circuit court judge which are consulted by the circuit clerk in writing up full account of the court's proceedings, giving style of case; writs issued, their dates of issue and dates of return; dates of filing bills of particulars or other pleadings; motions to continue; names of jurors sworn in; at whose request; jury's verdict; court's judgments or penalties; motions for new trial; prayers for appeal, and time granted to perfect. Also contains: Chancery court (Docket), 1883-1902, entry 102. Arr. numer. by case no. Indexed alph. by name of plaintiff. Hdw. Aver. 151 pp. 16 x 11 x 1½.
For civil docket, 1891-93, 1932-36, see Combination Civil and Criminal Docket, entry 81.

80. JUSTICE OF PEACE DOCKET, CRIMINAL AND CIVIL, 1890--.
5 vols. (1-3, last two vols. not labeled).
Docket of cases appealed to circuit court from justice of the peace court, giving names of attorneys; names of justice; names of litigants; date of hearing, and costs. Arr. chron. by date of trial. Indexed alph. by name of defendant. Hdw. Aver. 320 pp. 16 x 11½ x 1½.
For docket of cases appealed to circuit court, 1891-93, 1932-36, see Combination Civil and Criminal Docket, entry 81.

81. COMBINATION CIVIL AND CRIMINAL DOCKET, 1891-93, 1932-36.
2 vols. Title varies: Judge's Docket, Criminal and Civil, 1891-93.
Criminal and civil docket, with penciled notations made by the judge during the trial, giving number of case; offense charged; cause of action; names of parties to suit, and names of their attorneys; date of trial; court orders of previous and present terms, and disposition of case. Arr. chron. by date of recording. Indexed alph. by names of plaintiff and defendant. Hdw. 175 pp. 16 x 12 x 2.
For other dockets, see Current Docket Civil, entry 79; Justice of Peace Docket, Criminal and Civil, entry 80; Current Criminal Docket, 82.

82. CURRENT CRIMINAL DOCKET, 1883--. 6 vols. (A-C, C2, two vols. not labeled). Title varies: Disposed of Cases, 1919-28; Judge's Criminal Docket, 1883-1918.
Judge's minutes of criminal proceedings, giving name of defendant; number of case; date of filing information; offense charged; date warrant issued; when delivered; date of arrest; arraignment and plea; date of trial; names of witnesses; names of jurors and attorneys; motions and demurrers;court rulings; jury's verdict; court's judgment and sentence; commitments issued; bonds filed, and any other papers filed in the case. Arr. numer. by case no. Indexed alph. by names of defendants. Hdw. Aver. 425 pp. 16 x 12 x 2. 1918-28 in C. C. V.; 1937-- in C. C. O.
For criminal docket, 1891-93, 1932-36, see Combination Criminal and Civil Docket, entry 81.

83. BAR DOCKET (Criminal, Civil, and Chancery), 1883-1919. 4 vols. (A-D). Discontinued.
Docket prepared from the judge's docket for the use of attorneys, giving title of action; writs issued and their dates of issue and return; names of parties in the case and their attorneys; kind of case; causes of action; date of trial; names of witnesses and jurors; jury's verdict; court's judgment and sentence; motion for new trial; prayer for appeal; time granted to perfect. Arr. chron. by court term and numer. thereunder by case no. No index. Hdw. Aver. 200 pp. 16 x 12 x 2.

Inquisitions

(For essay on coroner, see p. 123)

84. (CORONER'S INQUISITIONS), 1883--. In (Case Papers), entry 1-xix.
Coroner's inquest papers, giving name of deceased person; date of death; date and place of inquisition; list of witnesses; material testimony of witnesses; signatures of witnesses; certificate of examining physician; list of jurors; verdict of jury; signature of foreman of the jury; coroner's signature, and remarks.

Juries

85. (LIST OF JURORS, GRAND AND PETIT), 1920-29. 2 vols.
List of grand and petit jurors, giving townships in which they reside; term of court at which they were subject to serve; whether accepted or excused, and the verdicts. Arr. chron. No index. Hdw. 140 pp. 16 x 8 x ½.

86. (GRAND JURY CERTIFICATES), 1929--. 2 vols.
Certificates authorizing issuance of warrants for service on grand jury, giving name of circuit clerk; name of county; amount due; name of juror; number of days in attendance; term of court; allowance for tolls paid; date executed, and signature and seal of circuit clerk. Arr. chron. by court term. No index. Hdw. 50 pp. 9 x 7 x ½.

87. (PETIT JURY CERTIFICATES), 1923--. 2 vols.
Certificates authorizing issuance of warrants for service as petit jurors, giving name of circuit clerk; name of county; amount due; name of juror; number of days in attendance; term of court; allowance for tolls paid; date executed, and signature and seal of circuit clerk. Arr. chron. by court term. No index. Hdw. 50 pp. 9 x 7 x ½.

88. GRAND JURY MINUTES, 1897--. 19 vols. Title varies: Order Book, 1918, 1919, 1923-33; Day Book, 1897-98; Ledger, 1920-22.
Minutes of grand jury, giving term of court; signatures of witnesses who have testified before the jury, and signature of jury foreman; and including report of evidence presented. Arr. chron. by dates of meeting of grand jury. No index. Hdw. Aver. 50 pp. 12 x 8 x ½.

Indictments

89. (INDICTMENTS), 1884-1923. In (Case Papers), entry 1-xx.
Original indictment papers, giving style of case; crimes defendant is charged with, and date and place of alleged crime.

90. INDICTMENT RECORD, 1883--. 5 vols. (A, B, 1-3).
Recorded copies of true bills or indictments voted by grand jury and filed with circuit clerk for recording after apprehension of person charged with violation of law. Record gives style of case; crime defendant is charged with, and date and place of alleged crime. Arr. chron. by date of filing indictment. Indexed alph. by name of person indicted. Hdw. Aver. 241 pp. 18 x 12 x 1½.

Proceedings

91. CIRCUIT COURT RECORD, 1883--. 8 vols. (A, B, 3-8).
Record of proceedings in civil and criminal actions, giving term of court; case number; style of case; date of trial; offense charged or other cause of action; plea of defendant; names of witnesses; names of jurors; jury's verdict; court's judgment and penalty; order of custody of person or property, and prayer for new trial. Arr. chron. by term of court and numer. thereunder by case no. For index, see entry 92. Hdw. Aver. 585 pp. 18 x 13 x 3.
For judgments, see entry 93; for executions, see entry 95.

92. LEDGER - CIRCUIT COURT RECORD (Index), 1883--. 1 vol.
Index to (Power of Attorney), entry 70; Credentials Record, entry 74; Circuit Court Record, entry 91, giving name of person conferring power of attorney and attorney in fact; names of ministers; names of litigants and numbers and styles of cases. Arr. alph. by names of parties and chron. thereunder by dates of recording. Hdw. 18 x 12 x 3.

Judgments

93. JUDGMENT DOCKET, 1884--. 3 vols. (A-C).
Record of judgments rendered by county, circuit, and probate courts, giving names of attorneys; parties to suit; person against whom judgment is rendered; amount of judgment and costs; date of judgment; by what court rendered; volume and page of court record where case recorded; rate of interest, and receipts for satisfaction. Arr. chron. by date of filing. Indexed alph. by name of parties. Hdw. 500 pp. 16 x 12 x 2.
For county, circuit, and probate court proceedings, respectively, see entries 5, 91, and 119; for executions, see entry 95.

Executions

94. (EXECUTIONS OF COURT ORDERS), 1918--. In (Case Papers), entry 1-xxi.

Original execution orders issued by clerks of courts to enforce judgments of the courts, giving number of case; names of plaintiff and defendant; date of judgment and its nature; date of execution order; amount of damages and costs assessed, and officer and county to which order is issued.

95. EXECUTION DOCKET (To Enforce Payment of Judgments), 1884--. 1 vol. (A).
Record of execution orders issued by clerks of courts to carry out judgments of the courts. Record is an abstract, giving number of case; names of plaintiff and defendant; date of judgment or decree and its nature; date of execution order; amount of damages and costs assessed; to what officer and county execution order was issued, and what return was made. Arr. chron. by date of filing. Indexed alph. by names of plaintiff and defendant. Hdw. 151 pp. 16 x 11 x 1½.
For county, circuit, and probate court proceedings, respectively, see entries 5, 91, and 119; for judgments, entries 93 and 105.

96. (STAY BONDS), 1918--. In (Case Papers), entry 1-xxii.
Bonds given to stay executions and guaranteeing satisfaction of judgments, give names of principal and sureties; name of plaintiff; amount specified by execution; date execution was issued; amount of damages; rate of interest; amount of costs; amount of sheriff's commissions; total amount payable; signatures of principal and sureties, and date of signing.

Financial

97. FEES (Fee Bill), 1919--. 30 bundles. Title varies: Fees Earned and Collected, 1927-29. 1911-29 also in (Case Papers), entry 1-xxiii.
Criminal, civil, and chancery fee bills, giving name of county; style of case; name of defendant; itemized list of sheriff's fees and total amount; itemized list of clerk's fees and total amount; name of clerk; volume and page of fee book in which recorded; name of defendant liable for payment; date of fee bill, and signature and seal of the clerk. Arr. chron. by date of filing. No index. Hdw. 18 x 10 x 2, 6 x 5 x 3.

98. CLERK'S FEE BOOK, 1886--. 3 vols. No prior records.
List of fees received by the clerk in civil and criminal cases, giving amount collected; name of person paying; purpose for which charge was made; date paid, and number and style of case. Arr. chron. by term of court. Indexed alph. by name of person paying fee. Hdw. 176 pp. 14 x 9 x 5.

99. WITNESS CLAIM DOCKET, 1909-17. 1 vol. (1). No prior or subsequent records.
Original claims filed by various persons for moneys due for service as witness, giving term of court; kind of case; names of witnesses; style of case; cause of action; signatures of witnesses; mileage; costs, and names of attorneys. Arr. chron. by term of court. Indexed alph. by names of plaintiff and defendant. Hdw. 200 pp. 18 x 13 x 2.

Naturalization

100. DEPARTMENT OF COMMERCE AND LABOR - DIVISION OF NATURALIZATION - RECORD OF DECLARATION OF INTENTION, 1906--. 2 vols. (1, 1). Last entry 1920. Prior records kept by the district clerk of Federal court at Batesville, Arkansas. They are kept locked up except during term of Federal court.

Record of declaration of aliens of their intention to become citizens of the United States, giving name; age; occupation; personal description; place of birth; last foreign residence and allegiance; date of arrival in this country; in some cases name of vessel; present place of residence in the United States; oath of intention to renounce allegiance to any government other than that of the United States and in good faith to become a citizen of the United States and permanently reside therein. Arr. chron. by date of filing. Indexed alph. by name of alien. Hdw. 75 pp. 16 x 12 x 1.

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IV. JURY COMMISSION

The jury commission came into existence in Cleburne County at the first term of the circuit court held after creation of the county in 1883. The commission is composed of three residents of the county, either men or women, who, the law requires, must be possessed of "good character, proved integrity, sound judgment, and reasonable information" (A. Ark., 1871, 264; ibid., 1881, 92). No person may serve as jury commissioner who has held the same office within a period of four years prior to the current time of selection (A. Ark., 1933, 492).

Commission members are appointed by the judge of the circuit court and serve from the time of their appointment until the end of the term of court for which they select jurors. At the time of their selection, they are administered the following oath by the circuit judge: "You do swear faithfully to discharge the duties required of you as jury commissioners; that you will not, knowingly, select any man as a juryman whom you believe unfit and not qualified; that you will not make known to anyone the name of any juryman selected by you and reported on your list to the court until after the commencement of the next term of this court; that you will not, directly or indirectly, converse with anyone selected by you as a juryman concerning the merits of any suit to be tried at the next term of court until after said cause may be tried or continued, or the jury may be discharged." (A. Ark., 1871, 264.)

Upon failure of the court to appoint a jury commission, or upon failure of the commissioners to select panels for the grand and petit juries, the court orders the sheriff to summon a grand or petit jury, the members of which perform their duties as though they had been selected in the ordinary manner (A. Ark., 1871, 269). The commissioners, after they have been assembled and have sworn to the required oath, retire to a jury room or some other apartment designated by the judge. They are kept free from intrusion of any person, and do not separate or adjourn, without special permission of the court, until they have completed the duties required of them. (A. Ark., 1871, 265.) The county pays each jury commissioner $3 per day for his services (A. Ark., 1891, 2).

The commissioners select from among the electors from all parts of the county 16 persons, whose legally required qualifications are the same as those of the commissioners, to serve at the next term of court as grand jurors. When directed by the court to do so, they select not to exceed nine additional persons of the same qualifications for alternate grand jurors. (A. Ark., 1881, 92.) The list of grand jurors is sealed, so that the contents may not be seen. On the outside of the container is written "list of grand jurors", with the designation for which term of court the jurors are to serve. The endorsement is signed by the commissioners, and the lists are delivered to the judge in open court. (A. Ark., 1871, 266.) The commissioners also select, at the direction of the court, not to exceed 24 petit jurors, who also are required to have the same qualifications prescribed for jury commissioners and are to serve at the succeeding term of circuit court. If the court

orders them to do so they select not to exceed 12 additional persons as alternate petit jurors. The two groups of names are certified to the court separately, as regular and alternate jurors. They are placed under seal, endorsed as "lists of petit jurors" and delivered to the court. The commissioners select separate lists of jurors for each two weeks of the term of court unless the term shall exceed four weeks, in which event separate lists are chosen for each four weeks or fractional part of that period. At the discretion of the court, the commissioners are instructed to select a list of not less than 25 qualified persons for use in all cases when the regular panel is exhausted. This list shall be placed in a separate box, each name being written on a separate slip of paper. The box is sealed and cannot be opened except in open court and upon an order of the judge. If this list is exhausted, bystanders may be summoned by the sheriff. (A. Ark., 1891, 111.)

Failure of a commissioner to perform his required duties subjects him to a fine of $25, unless he has a reasonable excuse (A. Ark., 1871, 265). The records of the acts of the jury commissioners are kept by the circuit clerk, the record consisting of the lists of names composing the grand jury and petit jury panels selected at the direction of the court (A. Ark., 1871, 265, 266; ibid., 1881, 92; ibid., 1891, 111).

Grand and Petit Juries

Grand and petit juries are summoned for distinctly different purposes. A grand jury is one summoned to examine and determine whether evidence presented by the state against a person accused of crime warrants his indictment. A petit jury is the trial jury, drawn in the usual way, for the actual trial of either civil or criminal cases that may come before a court. The grand (accusing) jury had its origin in England as a part of the ecclesiastical courts in 1164, during the reign of Henry II (Sir Frederick Pollock and Frederick William Maitland, History of the English Law, 2 vols., Cambridge, England, Boston, Mass., 1899, I, 642). The grand jury as a part of the system of justice in the county government in Arkansas was created by an act of the General Assembly in 1837 (Rev. Stat., 1838, 481-485). Petit juries served in the territorial days of Arkansas and were provided for when Arkansas became a state (L. A. T., 1835 digest, 353; Rev. Stat., 1838, 481-485). Grand and petit juries served in Cleburne County at the first term of circuit court held in the county following the county's creation in 1883 (A. Ark., 1883, 40).

The grand jury is composed of 16 members, and 12 of whom may return an indictment. At the time of selecting the grand jury, the jury commissioners are allowed to select nine alternate jurors. (A. Ark., 1881, 92.) Twelve members of the petit jury panel are required to sit as jurors in all cases in which trial by jury is given, after they have been questioned as to their qualifications to serve as members of the jury (A. Ark., 1881, 92). The court appoints one of the members of the grand jury as foreman of the group, and the jurors select their own clerk, unless the circuit judge requires that the official stenographer

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serve as clerk and make a transcript of the proceedings (A. Ark., 1871, 256; Rev. Stat., 1838, 295).

It is required that a person who serves as grand juror must be a qualified elector and citizen of the county and be "temperate and of good behavior" (A. Ark., 1871, 265). No person is allowed to serve as a petit juror who is related, within the fourth degree of consanguinity, to either party to a suit (A. Ark., 1919, 400). The General Assembly of 1909 decreed that no physician, practicing attorney, minister, officer of a court, ferry-keeper, or any person over 65 years of age could be compelled to serve on a grand or petit jury. The same law empowered the court to excuse from service on either jury any person more than 60 years old, overseers of roads, school directors, or constables who did not wish to serve. (A. Ark., 1909, 148.) Undertakers or embalmers may be excused from jury service by showing their license or registration card (A. Ark., 1919, 380). Women are not compelled to serve on grand or petit juries, but they must make their refusals at the time they are notified of their selection and not at any later date. No woman, however, is prevented from serving on a jury is she qualifies and desires to serve. (A. Ark., 1921, 418.) Any dentist may be excused from jury duty by making his objections known to the court prior to being sworn in as a juror (A. Ark., 1921, 358). No person is compelled to serve as a grand or petit juror more than one term of court in any one year (A. Ark., 1871, 269).

Within 30 days before the opening of a term of court, the clerk (who has custody of the lists of jurors selected by the jury commissioners at the last previous term of court) is required to open the envelopes containing the lists of jurors selected and give a copy of each list to the sheriff. At least three days prior to the opening day of the term of court, the sheriff is required to summon the persons named as grand jurors to appear on the first day of court and the persons named as petit jurors, or petit jury alternates, to appear on the days designated. If no day for the appearance of the petit jurors has been fixed by the court, then they are instructed to appear on the second day of the term of court. Notice to serve is given by a personal call, by leaving a note at the juror's residence, (A. Ark., 1871, 266.) or by telephone (A. Ark., 1907, 606).

In the event the jury commissioners fail to select a grand or petit jury, or the panel selected is set aside, or the list lost or destroyed, the court orders the sheriff to summon a jury of the proper number which is to serve as if it had been regularly selected (A. Ark., 1871, 266). If there is not a sufficient number of competent grand jurors or alternates present on the opening day of court to form a grand jury, the court is authorized to compel the attendance of the absentees or to enlist bystanders to complete the jury, and if there are not enough petit jurors and alternates present to form a panel of 24, absentees or bystanders may be called in the same manner as grand jurors (A. Ark., 1871, 267).

The following oath is administered to the grand jurors by the presiding judge of the court: "Saving yourselves and fellow jurors, you

do swear that you will diligently inquire of and present all treasons, felonies, misdemeanors and breaches of the penal laws over which you have jurisdiction, of which you have knowledge or may receive information" (A. Ark., 1871, 268). Petit jurors take the following oath: "You, and each of you, do solemnly swear that you will well and truly try each and all of the issues, inquisitions and other matters submitted to you respectively as jurors, at the present term of this court, and a true verdict render according to law and evidence, unless discharged by the court or withdrawn by the parties" (A. Ark., 1871, 266).

Grand and petit jurors receive as compensation $3 per day for each day actually served in court and in addition are allowed 5 cents a mile for each mile traveled between their homes and the court and all toll bridge or ferry charges incurred in making the trip. After the selection of the juries by the court, all alternate jurors summoned are entitled to receive compensation from the time of their appearance to the time of their discharge, including mileage and toll bridge or ferry expense. (A. Ark., 1911, 59.) If a grand or petit juror, or alternate, fails to appear after being summoned, he is liable to a fine in any amount from $1 to $30 (A. Ark., 1871, 267).

It is the duty of the grand jury to inspect the county jail in the county in which it is serving. It must inquire into the treatment of the prisoners, making a report of its finding to the court, and recommend any repairs it thinks necessary to put the jail in good condition. (Rev. Stat., 1838, 472.) It must investigate the condition of roads in the respective districts of the road overseers of the county, the individual cases of all persons held in jail or released under bond on a criminal charge, except where an indictment already has been returned, and all public officers of the county, and must disclose corrupt conduct in office (A. Ark., 1871, 66, 67). It is the duty of any individual member of the grand jury to report to the group, as a whole, any knowledge he has of a public offense. It then becomes the duty of the jury to investigate the report. (A. Ark., 1881, 92.) The grand jurors are required to return an indictment against all persons who, according to the evidence before them, they think would be convicted when tried in open court. Through the clerk of the court, they may summons any person to appear before them and may compel that person to testify or suffer punishment for contempt of court. (A. Ark., 1881, 92.)

The jurors may deliver to the prosecuting attorney a transcript of the minutes of their proceedings and the evidence taken. Minutes of the proceedings of the grand jury are made by the individual member who has been chosen as clerk. (Rev. Stat., 1838, 295.)

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V. CHANCERY COURT

The term "chancery court" as used in this essay refers to one of those state tribunals, established in Arkansas by authority of the Constitution of 1874 (Const. 1874, art. VII, sec. 15), which are concerned with the administration and enforcement of those unwritten and extra-legal (or extra-common law) remedies which have been created and recognized as "judge-made" or "chancellor-made" law (William Mack and William Benjamin Hale, Corpus Juris, 76 vols., New York, London, 1920, XXI, 24 footnote 39c).

The spirit and purpose of early equity jurisprudence was expressed by King James when, speaking in the Star Chamber, he said, "Where the rigour of the law in many cases will undo a subject, then the chancery tempers the law with equity, and so mixes mercy with justice, as it preserves a man from destruction" (Encyclopaedia Britannica, fourteenth edition, 24 vols., New York, Chicago, London, 1938, III, 223).

The chancery courts of Arkansas are a relatively new addition to the judicial system of the state, having been established in 1903, under authority of the Constitution of 1874 (A. Ark., 1903, 314, 315; Const. 1874, art. VII, sec. 15). Prior to the establishment of the separate courts for them all cases in equity were tried in the circuit courts (Const. 1874, art. VII, sec. 15).

When the General Assembly established the courts, it divided the state into chancery circuits, each embracing several counties, in order that judicial administration might function more efficiently. There are 11 circuits. Cleburne County is in the eighth, (A. Ark., 1903, 314, 315.) and its court meets on the third Tuesday in June and December (A. Ark., 1919, 130).

In order to qualify for the position of chancery judge, usually referred to as "chancellor", a candidate must be a citizen of the United States, at least 28 years of age, of good moral character, learned in the law, a two-year or longer resident of the state, and one who has practiced law six years or whose service upon the bench of any court of record, when added to the time he may have practiced law, is equal to six years (Const. 1874, art. VII, sec. 16).

Chancellors are elected for a term of six years or until their successors are elected and qualified (A. Ark., 1937, 642). The present chancellor of the circuit in which Cleburne County is located, elected at the general election in 1936, will hold office until January 1, 1943. After that date, all chancellors will hold office from the first day of January following their election, till the first day of January six years later and until their successors are elected and qualified. (A. Ark., 1937, 642.) A special chancellor may be elected for the same causes and in the same manner as special circuit judges are elected (A. Ark., 1903, 323; see "Circuit Court", p. 71).

In case the chancellor is absent from the county, any circuit judge or county judge may issue writs of injunction or restraining orders, but

only after the action in question has been commenced (A. Ark., 1903, 323).

By provision of a law of 1929, the present salary of chancellors throughout the state is $3600 a year (A. Ark., 1929, II, 1520). Previous to 1929, the chancellors received $3000 a year (A. Ark., 1903, 323). If a chancellor has held his office for as long as 20 years and has attained the age of 70, he is entitled to receive as a pension until his death one-half of his regular salary. His term of service need not have run consecutively to make him eligible for a pension. (A. Ark., 1931, 714.)

The chancery judge may be impeached and tried by the General Assembly, which may remove him from office upon convicting him of misdemeanors, high crimes, or gross misconduct in office, but the judgment may go no farther than removal from office and disqualification from holding any state office of honor, trust, or profit in the future. An impeachment, however, whether successful or not, is no bar to an indictment. The House of Representatives of the General Assembly has the sole power of impeachment, but the impeachments are tried by the Senate. A two-thirds concurrence of the members of the Senate is necessary to sustain a conviction. (Const. 1874, art. XV, secs. 1, 2.)

Chancery courts have original jurisdiction in all matters of equity as fully now as was once exercised by the several circuit courts of the state. Appeals to the Arkansas Supreme Court may be taken from the orders, judgments, and decisions of the chancery courts in the same manner as appeals from the circuit courts. (A. Ark., 1903, 321; see "Circuit Court", p. 71.) In the general election of 1938, the people of the state adopted a constitutional amendment that made the judge of the chancery court the presiding judge of the probate court, a duty formerly assigned to the county judge. The amendment went into effect January 1, 1939. (Const. 1874, amend. XXIV, app. 1938, secs. 1, 2.) The chancellor in vacation has jurisdiction to hear and determine petitions for writs of mandamus, injunctions, and other actions affecting the submission of any proposed initiated act or measure. All such proceedings and actions must be heard summarily in term time, or in vacation upon five days notice having been given the court in writing, and they must have precedence over all other suits and matters before the court. If any such action or proceeding is filed and the court is not in session, it is the duty of the chancellor, by order made in vacation, to call a special term of court, to convene within 10 days and hear and determine the case. (A. Ark., 1935, 11.) Any insolvent debtor may file a complaint in chancery court of the county in which he resides, in which one or more of his creditors may be made defendants, asking to be declared insolvent and asking for the appointment of a receiver to take charge of his property and distribute it among his creditors. Upon the filing of the petition, the chancery court will appoint a receiver. When a receiver has been qualified, the debtor must give him all his personal property and deed him all his real estate, except the property allowed to him by law as exempt from execution. (A. Ark., 1897, 115.) The chancery court has original jurisdiction in reforming deeds and other instruments of conveyance in case unintentional mistakes have been made in describing the property to a purchaser (A. Ark., 1893, 38). The court may cancel any deeds procured

by fraud (Miller v. State, Ark. Rep., vol. 94, p. 541). The chancery court has full jurisdiction over all matters that involve or affect any alimony, maintenance, allowance, or support to be provided by a husband or father for the benefit of his wife or children. The chancellor may exercise his jurisdiction in vacation as well as in term time. (A. Ark., 1937, 17.)

The chancery court has concurrent jurisdiction with the circuit court in removing the disabilities of minors to allow them relief at law (A. Ark., 1903, 244, 245). Courts of law and chancery have concurrent jurisdiction for the partition of real estate. The chancery court does not have jurisdiction over a suit for partition of lands when the circuit court had previously taken jurisdiction over the same matter. The court which first takes charge of a cause has exclusive right to its jurisdiction, to the final determination of the action and the enforcements of judgments or decrees. (Dunbar v. Bourland, Ark. Rep., 1908-1909, vol. 88, p. 153.)

When a bill in chancery alleges a legal and not an equitable cause of action and the defendants challenge a chancery court's jurisdiction by demurrer, an admittance of the facts but denial there is a cause for the action taken, the case must be reversed and transferred to the circuit court (Rowe v. Allison, Ark. Rep., 1909, vol. 87, pp. 206, 207). Since courts of chancery have to do only with civil and property rights, they have no jurisdiction to interfere by injunction with criminal proceedings. They cannot, for example, stay processes of courts having exclusive jurisdiction over criminal matters, where no civil or property right is involved, and they have no right to issue an injunction restraining the execution of a criminal under a judgment of the circuit court to permit inquiry to be made regarding his sanity. (Ferguson v. Martineau, Ark. Rep., 1915, vol. 115, 317, 318.) Though the legislature has the power to create chancery courts, it cannot enlarge the jurisdiction of a court once it has been established (Gladish v. Lovewell, Ark. Rep., 1910, vol. 95, pp. 620, 621). The chancery court has no jurisdiction over suits brought merely to recover possession of land and to establish a legal title against another legal title in conflict, even though a question concerning the priority of liens is involved (Cole v. Nutte, Ark. Rep., 1899, vol. 65, p. 505), neither does the court have jurisdiction over a suit for partition of lands held adversely by another, nor over a suit to construe a will which bequeaths a legal title only (Head v. Phillips, Ark. Rep., 1902, vol. 70, pp. 432-434). It cannot entertain a contest over a question of the validity of a municipal ordinance, nor restrain prosecutions pending the determination of the question, as the whole matter can be settled in a court of law (Rider v. Leatherman, Ark. Rep., 1908, vol. 85, p. 230).

The trial of election contests and the adjudication of political rights are not matters for cognizance by the chancery court. The court cannot, for instance, interfere with the actions of a political party or its officers, since a political organization is an unincorporated, voluntary association involving no rights of property or personal liberty, and it cannot make an injunction to determine questions of appointment to public office and of title to office, since these are

purely legal matters recognizable only in courts of law. (Walls v. Brundidge, Ark. Rep., 1914, vol. 109, p. 258.)

In counties which have more than one division of the chancery court, this does not affect Cleburne County, when it appears that the presiding judge of a division in which an action is pending is materially interested in the suit or has been a counsel to, or is related to, either of the parties or their attorneys by blood or marriage within the fourth degree, or should for any other reason be disqualified to hear the cause, it is the duty of the judge, upon the motion of either party, to disqualify himself and transfer the case to another division of the court in the county (A. Ark., 1925, 372, 373). Where there is no other division, this difficulty may be resolved by the exercise of the chancellors' right to exchange circuits (A. Ark., 1903, 324).

Whenever a person who holds a life estate in land wishes to lease that land for the production of oil, the court must consider his petition and at its discretion invite such other interested persons as it may think proper to be made parties to the proceedings, and then proceed to determine whether the execution of the lease is advisable. It is the duty of the court also to determine what part of the consideration therefor, the rentals accruing thereunder, and the proportion of the oil, gas, and minerals produced are to be allowed to the life tenant in fee simple as compensation for the damage to his life estate on account of the execution of the lease. If the court, after the hearing, decides that the lease should be executed, it is its duty to enter an order authorizing the life tenant to execute the instrument. (A. Ark., 1929, I, 371.)

It is the duty of the chancellor, while the court is in session, to schedule on the docket, at least 15 days prior to the date set for the trial, any case which is to be determined on oral evidence, provided this 15-day period may be waived by the parties or their attorneys of record (A. Ark., 1925, 1048). In the event there is illness or death in the family of the chancellor or of another officer of the court; or, in the case of an adjourned term, cause for the session ceases to exist; or in case an epidemic of disease or some other obstacle makes it unwise or impossible to open a regular or adjourned term of the court on the date set for it to convene; or if the time set for a term should conflict with a meeting of the Arkansas Bar Association, the chancellor may adjourn the court over to some other date without being personally present at the place fixed for the holding of the court (A. Ark., 1925, 373). The chancery court may adjourn from time to time and hold adjourned terms, so long as they are not in conflict with the regular terms of the circuit court in the county (A. Ark., 1903, 324).

It has the power to adopt such rules as may be found necessary for the proper functioning of business in chancery so long as they conform with the rules and practice governing chancery courts generally (A. Ark., 1873, 122). The chancellor has the power to administer oaths in all cases before him and to take and certify acknowledgments of deeds and other instruments in writing required by law to be acknowledged (A. Ark., 1903, 321). He may also perform marriage ceremonies (A. Ark., 1873, 2).

The chancellor may make an order for the sale of property in the custody of the court, and he may confirm the sale in vacation as well as in term time. In case it is made in vacation, however, the sale cannot be confirmed until all interested parties have been given reasonable notice and have had an opportunity to be present and resist the confirmation. (A. Ark., 1913, 319.) The judge in chancery also has the power to restore validity in a will that has been lost or destroyed. He has the same power to take proof of the execution of the will, and to establish it as he has in the case of lost deeds. (Rev. Stat., 1838, 771.) The court has the power to quiet titles by confirming title in a petitioner, if a notice has been published declaring that intention, and liens may be held by the court to be barred by the statute of limitations (A. Ark., 1899, 134).

The chancellor has the power to appoint officers to carry on or expedite the business of the court, and the officers may receive such fees as may be allowed by law for the services they perform, and if the law does not prescribe the services, the chancellors may prescribe them, and, so long as they are reasonable, the officers must perform them (A. Ark., 1855, 138).

It is within the power of the chancellor to appoint receivers. Anyone appointed as a receiver by the court must take an oath to execute "faithfully, impartially, and diligently" the trust imposed on him. The receiver must also give bond with good security, and the bond must be approved by the court. Additional bonds may be required and must be posted at any time the court thinks it is necessary. (A. Ark., 1856, 164.) Receivers whom it has appointed may be removed by the court at any time it appears they have failed to discharge the duties incumbent on them (A. Ark., 1857, 165).

If an unjust and inequitable judgment has been rendered against a party to a suit who is free from fault and has lost his right of appeal by unavoidable accident (as by the death of the presiding judge before the signing of the bill of exceptions), the chancellor has power to grant him relief by compelling the successful party to submit to a new trial at law (Little Rock-Fort Smith Ry. Co. v. Wells, Ark. Rep., 1895-1896, vol. 61, p. 354). The chancellor has the power to deliver opinions and make and sign decrees in vacation, but consent of the parties affected is necessary. The opinions and decrees are to be entered and recorded on the records of the court in which the case is pending, and they will have the same force and effect as if made, entered, and recorded in term time, and appeals may be had from them as in other cases. If a chancery court overrules a demurrer but does not enter a final order adjudging the rights of the parties, the court may, at a later time, reconsider the demurrer while the case is still pending and change its decision. (Radford v. Samstag, Ark. Rep., 1914, vol. 113, p. 185.)

The court must have a seal, and if it has no seal of its own, it may use the seal of the circuit court (A. Ark., 1897, sp. sess., 92). As the chancery court is a court of record, its clerk must keep and preserve all papers, books, entries, dockets, and records of all proceedings within the court (A. Ark., 1903, 323, 324).

Circuit Clerk as Chancery Clerk

The office of chancery clerk of Cleburne County came into existence in 1903 with the establishment throughout the state of the system of chancery courts (A. Ark., 1903, 315; Const. 1874, art. VII, sec. 1). In Cleburne County, the chancery clerk is one and the same person as the circuit clerk. His manner of selection, salary, manner of and cause for removal from office, and other matters pertinent to his office are the same as pertain to the office of the circuit clerk (see "Circuit Court", p. 71). The chancery court having been assigned certain jurisdiction at the time of its establishment that was previously assigned to the circuit court, regulations of the functions of the court and the chancery clerk are based upon laws which, in some cases, antedate by many years the law creating the court and the office of its clerk.

It is the duty of the chancery clerk to record and index the judgments, rules, orders, and all other proceedings of the chancery court. It is his duty to issue and attest all orders of the court; keep an account of all money coming into his hands, through the collection of fines, and taxes, or from other sources, and make settlement with the court. (Rev. Stat., 1838, 178.) The clerk must endorse and show the date of filing upon every paper filed in an action, and upon every order, bond, or other instrument which may be presented to him. When a summons has been served and returned, the clerk enters it on his docket, showing the name of the person served and the date of the service. (A. Ark., 1869, 109-112.) Twenty days before the opening of any term of court the clerk is required to post in a convenient place, a list of all cases, showing the date each case is to be tried during that term. It is the duty of the clerk to issue subpoenas for all witnesses whose presence in court for the trial of any case is requested. (Rev. Stat., 1838, 639.)

The chancery clerk must list in a book kept for that purpose the legal description of all real property against which there exists unpaid improvement taxes levied by any road improvement, fencing, levee, or drainage district, this record setting forth the penalties and costs that have accrued against each tract of land because of the delinquency in tax payment. This list is certified to the clerk by the collector on or before the second Monday in June each year. From it the clerk must compile his record on or before the first day of July. When an application is made to the clerk for the redemption of land upon which improvement district taxes are delinquent, it is his duty to collect the taxes, penalties, and costs assessed against the land being redeemed and issue a redemption certificate in triplicate. One copy is given to the landowner, another is sent to the secretary of the board of commissioners of the improvement district, and the third is sent to the treasurer or official depository of the improvement district. The tax collected, with accrued penalty and interest, is sent to the treasurer of the district. (A. Ark., 1921, 574-576.)

Except in cases for which the law has provided otherwise, the clerk is required to account for all money he receives and pay it over

to the chancery court. If there is any deficit, the court may compel payment or obtain the money from his bond. (Rev. Stat., 1838, 179, 180.) The clerk is vested with all the powers conferred by law on a master or commissioner in chancery. In this capacity he is the agent of the court in the sale of properties which the court has ordered sold for the satisfaction of its judgments. (A. Ark., 1903, 323.) He is authorized to administer oaths, take affidavits, and prepare bonds to be taken or given before him or his court (A. Ark., 1873, 121, 122).

He keeps a record in "a well bound book" containing descriptions of all tracts of land in his county which are subject to and delinquent in payment of improvement district taxes. In this record, he enters payments received from owners for the redemption of the land on which the taxes are delinquent. (A. Ark., 1921, 574-576.) Records of the chancery court that are kept by the clerk, include the findings in each case, together with all papers, files, seals, books, and other instruments of record. These are kept in bound volumes in the vaults of the courthouse. When he vacates his office, the clerk is required to turn all records over to his successor. (Rev. Stat., 1838, 179, 180.) Some of these records were transferred to the custody of the chancery clerk by the circuit clerk in 1903 when the chancery court was established, and cases then pending before the circuit court in which the chancery court had been assigned jurisdiction were transferred to the latter court for trial (A. Ark., 1903, 324).

Case Papers
(See also, entry 1)

101. DISPOSED OF CASES IN CHANCERY, 1910-36. 60 file boxes. (1-46, last fourteen boxes not labeled).
Original case papers in disposed-of cases heard in chancery court, giving names of litigants and attorneys; number of case; cause of action; names of witnesses; prayer for new trial; motions, pleadings, and petitions, and disposition of case. Arr. numer. by case no. For index, see entry 2. 13 x 11 x 4.

Docket
(See also, entry 83)

102. CHANCERY COURT (Docket), 1903--. 4 vols. (1, 2, two vols. not labeled). Title varies: Judge's Chancery Court Docket, 1903-20. 1883-1902 in Current Docket Civil, entry 79.
Record contains brief notes of chancery judge which are consulted by chancery clerk in writing up full account of court's proceedings, giving style of case; names of attorneys; names of litigants; cause of action; motions to continue; prayer for appeal; time granted to perfect appeal, and judgments. Arr. chron. by term of court. Indexed alph. by names of litigants. Hdw. Aver. 197 pp. 16 x 12 x 2.

Proceedings

103. CHANCERY COURT RECORDS, 1883--. 9 vols. (A-I).
Record of proceedings in chancery actions, giving term of court; case number; style of case; names of attorneys; date of trial; cause of action; names of witnesses; verdict; court's judgment or penalty; order of custody of person or property; prayer for new trial; motions, and pleadings. Arr. chron. by date of term of court. For index, 1886-1930, see entry 104; 1883-85, 1931--, indexed alph. by names of plaintiff and defendant. Hdw. and typed. Aver. 478 pp. 18 x 12 x 3.

104. (INDEX TO WILLS AND CHANCERY COURT RECORDS), 1886-1930. 1 vol.
Index to wills, entry 110, and chancery court record, entry 103, giving names of parties, and volume and page in which recorded. Arr. alph. by names of testators or principals in cases and chron. thereunder. Hdw. 142 pp. 14 x 9 x $\frac{1}{2}$.

Judgments

105. JUDGMENT DOCKET CHANCERY DIVISION OF CIRCUIT COURT, 1884--. 3 vols. (A-C).
Record of judgments of chancery court, giving number and style of case; nature and cause; date and amount of judgment; volume and page of court record where case recorded, and court costs. Arr. chron. Indexed alph. by name of plaintiff. Hdw. Aver. 150 pp. 16 x 11 x $2\frac{1}{2}$.
For executions, see entry 95.

Chancery Commissioner's Deeds

106. COMMISSIONER'S DEED RECORD, 1925--. 1 vol. (48).
1883-1924 in Deed Record, entry 53.
Record of deeds to property sold to satisfy judgments of the chancery court, giving date by month, day, and year, of indenture; names of mortgagor and mortgagee; consideration and description of property; amount of mortgage; date of sale; terms of sale; name of newspaper in which notice of sale was published; date when sale was reported to court; name of chancellor or commissioner, and date recorded. Arr. chron. by date of recording. For index, see entry 58. Hdw. 320 pp. 18 x 12 x 3.

(Next entry 107, p. 103)

VI. PROBATE COURT

The foundation for the system of probate courts maintained in the counties of Arkansas was laid in 1804, when the legislature of the Territory of Indiana enacted a law appointing "one judge of probate in each district." This legislation was authorized by an act of Congress which empowered the Indiana legislature to make laws for the District of Louisiana, of which the area now comprising the State of Arkansas was then a part. (L. D. L., 1804, as contained in T. L. M., 1824 digest, 57.)

Following the creation, later in 1804, of the Territory of Louisiana, of which Arkansas was a part, the legislature of that territory passed a law which authorized its governor to appoint "one judge of probate in each district, county, in this territory, now established"(L. T. L., 1807, as contained in T. L. M., 1824 digest, 105).

The name of the Territory of Louisiana was changed to Territory of Missouri in 1812. Jurisdiction in probate matters was assigned to the circuit courts in 1814, but was re-assigned in 1829 to the county courts.(L. of U. S., 1812; L. M. T., 1814, and L. A. T., 1829, as contained in L. A. T., 1835 digest, 24-32, 47-67, 157, 158.)

When Arkansas became a state in 1836, the constitution adopted that year made a provision for establishing a probate court in the several counties of the state and made the county judge the presiding magistrate of this court (Const. 1836, art. VI, secs. 9, 10). Probate matters remained under the jurisdiction of the county judge, presiding as judge of the probate court, until 1873, when the circuit court was vested with original jurisdiction in probate proceedings (A. Ark., 1873, 120).

Probate matters were returned to the jurisdiction of the county judge by the Constitution of 1874 (Const. 1874, art. VII, secs. 1, 29, 30), but were made the responsibility of the chancery judge on January 1, 1939 (Const. 1874, amend. XXIV, app. 1938). Regardless of which of the judges has been presiding magistrate, the functions, duties, powers, and jurisdiction of the court have remained substantially the same.

The probate court of Cleburne County was created simultaneously with the creation of the county in 1883, in accordance with the provision made in the Constitution of 1874 (Const. 1874, art. VII, sec. 1; A. Ark., 1883, 40). The qualifications, term of office, and salary of the presiding judge of the probate court, the manner of, and causes for, his removal from office, and the filling of vacancies in the office are discussed in "County Court", p. 40 and "Chancery Court", p. 91. The circuit clerk, as ex-officio clerk of the probate court, and the sheriff, constitute the other officers of the probate court (see "Sheriff", p. 118).

The terms of probate court in Cleburne County commence on the third Mondays of January, April, July, and October of each year (A. Ark., 1883, 45). The court remains in continuous session from day to day until the designated dates closing its regular terms so that

it may give immediate attention to any demand that may arise for the performance of its duties (Const. 1874, art. VII, sec. 12; A. Ark., 1933, 310, 311).

The probate court has exclusive original jurisdiction in its own county in the probate of wills and, in general, matters relating to the estates of deceased persons and the affairs of executors, administrators, guardians, minors, and persons of unsound mind (Const. 1874, art. VII, sec. 34), and it has the power, subject, of course, to legal restrictions, to issue whatever writs and orders are necessary for the exercise of its authority (Rev. Stat., 1838, 232). The court has the power to appoint, and retain supervisory control over, guardians for insane persons, habitual drunkards incapable of conducting their own affairs (Rev. Stat., 1838, 456), and minor children. If a minor child has no parents or if his parents are adjudged unfit to care for him, the court may appoint other persons as guardians for those under the age of 14. Those over 14 are allowed to select their own guardians, subject to the approval of the court. (A. Ark., 1873, 187.) The authority which the guardians, thus appointed, have over the persons and estates of their wards is subject at all times to the approval of the court (Rev. Stat., 1838, 456; A. Ark., 1873, 187, 188).

Probate courts are the conservators of the estates of deceased persons, and have the custody of estates through the appointment of administrators or executors for the purpose of settling the debts and performing the contracts entered into by the decedent. It is their duty to administer these estates in the most expeditious and frugal manner consistent with the rights and interests of all concerned. (Arkansas Valley Trust Co. v. Young, Ark. Rep., 1917, vol. 128, p. 42.)

It is the duty of the court once each year to examine the bonds of all guardians, administrators, or executors on file in the office of the probate clerk, to determine if the bonds are still sufficient for the purposes for which they had been given. New bonds must be ordered in place of those that are found to be inadequate. (A. Ark., 1887, 38.) The appointment of a guardian for an insane person who is confined in an asylum outside the state may be made by the probate court in the county of the state in which the insane person most recently was a resident and this does not require the presence of the patient in court (A. Ark., 1937, 396). Any indigent person who has been found by proper proceedings to be insane, must be committed by the probate court to the State Hospital for Nervous Diseases, where support and treatment are required to be given at the expense of the state (A. Ark., 1881, 75, 76). The court may direct the guardian of an insane person to sell any portion of his ward's estate that may be necessary to pay debts of the ward. The sale is made only after 30 days' notice has been given by publication in a newspaper published in the county. (A. Ark., 1905, 198, 199.)

The probate court has the authority to ascertain the amount owed by an estate to the state as inheritance tax. For this purpose, the court in the county in which the deceased person died ordinarily takes jurisdiction over his estate. If the deceased was not a resident of

the state, the court of the county in which he owned real estate or personal property usually is given jurisdiction. However, in probating the estates of non-residents who had owned property in any other county of the state, the state commissioner of revenues may elect to institute proceedings in the probate court of Pulaski County where the state capitol is located, to determine the amount of tax due the state. (A. Ark., 1929, 536.)

The guardian of a minor heir to an estate which is in a solvent condition may apply to the court for an allowance for the maintenance and education of his ward. It is the duty of the court to make an equitable allowance, and when the estate is divided among the heirs, the total thus paid the minor is deducted from his or her proportionate share of the estate. (A. Ark., 1921, 226.) The Arkansas Supreme Court has ruled that the probate court does not have the power to order the lands of a minor exchanged for other lands (Meyer v. Rousseau, Ark. Rep., 1887, vol. 47, 460).

Any person who desires to adopt a child must file a petition for adoption in the probate court of the county in which the child resides. If the court finds it is for the best interest of the child that he be adopted by that person, it may issue a decree of adoption to the petitioner. (A. Ark., 1885, 32.) Among his other powers, the probate judge may perform marriage ceremonies (A. Ark., 1873, 2).

The probate court is required to keep a seal (Rev. Stat., 1838, 231), which must make the same impressions as the seal of state, except that the surrounding words must give the name of the court and of the county in which it has jurisdiction (A. Ark., 1864, 32).

Administrators and executors of estates during the Civil War who received Confederate money on behalf of the estates over which they had been given jurisdiction were not charged with the loss when, at the close of the war, the money became valueless (Jones et al v. Graham et al, Ark. Rep., 1880, vol. 36, pp. 383, 384).

All records of the acts and orders of the probate court are kept by the probate clerk.

Circuit Clerk as Probate Clerk

The office of probate clerk is one of the oldest of the offices that constitute the present system of county government. On October 1, 1804, the legislature of the Territory of Indiana, which was authorized by Congress to make laws for the District of Louisiana, in an act creating the office of "one judge of probate in each district", provided further: "There shall be appointed a clerk of said court of probate who shall be sworn to a faithful discharge of the duties of his office, before he enters into the execution of the duties thereof, and the clerk shall record all sentences and decrees of the court of probate, and make entries and records of all matters proper to be entered and recorded in his office." (L. D. L., 1804, as contained in

T. L. M., 1824 digest, 58.)

The probate clerk of Cleburne County took office along with other county officials after the creation of the new county in 1883 (A. Ark., 1883, 40). The circuit clerk, who is also ex-officio probate clerk, is elected in the same manner as other county officials for a term of two years (see "Circuit Court", p. 71). The circuit clerk of Cleburne County receives all the fees and emoluments of his office up to $2,400 per year (Initiative Act No. 1, Cleburne County, 1932, sec. 2; see appendix, p. 191).

The clerk may be removed from office by the county court upon his conviction of conduct unbecoming an officer or for failure to account for any money paid him which is due the county treasury (Rev. Stat., 1838, 178, 179).

The clerk is required to attend, in person or by deputy, all sessions of the probate court and to keep and preserve a complete and correct record of every proceeding of the court (A. Ark., 1873, 55).

In the event the probate clerk is made, by will or otherwise, trustee of any money belonging to minors upon the settlement of an estate, he is empowered to loan such funds. The loans, however, are subject to the approval of the probate judge. He must obtain the highest legal rate of interest, and the security for each loan must be by mortgage on real estate appraised at more than twice the amount of the loan. He is required to make an annual report to the court on the amount of interest accrued on loans of this type. The court, at its discretion, may require these reports to be made more often. If, during the effective period of such a loan, the court should appoint a guardian for the minor, or the minor should become of age, the loan is immediately recalled. In these events, borrowers are required to make settlements with the court, which in turn, pays the amounts due over to the newly appointed guardians or to the children who have attained their majority. (A. Ark., 1905, 690-692.)

The clerk is required to keep a record of all fees he receives, showing the amount, for what purpose and by whom paid. He must make an annual report to the presiding circuit judge. (A. Ark., 1874-1875, 124.)

The clerk of the probate court is required to make a monthly report to the state registrar of vital statistics showing all adoption decrees, annulments of adoption, and revocations of orders of adoption. This report must contain the name, date, and place of birth of the child, together with the name and address of the parents by adoption, date of the order of adoption, and the court issuing the order. It is also the duty of the probate clerk to notify the juvenile court of the entry of a final order of adoption, and any subsequent revocation order or annulment must also be reported to the juvenile court. (A. Ark., 1935, 393, 394.)

Upon appeals to the circuit court from any orders or judgments of the probate court, the clerk is required to furnish the clerk of the circuit court with all original papers and a transcript of all recorded entries in the case (A. Ark., 1875, 269). Probate clerks are empowered to take acknowledgments to deeds and other instruments of writing (A. Ark., 1875, 58, 59).

The clerk is required to keep a complete record of all proceedings in the probate court and "a just and true account" of all taxes, penalties, fines, forfeitures, and judgments which may be imposed or rendered by the court or which may have accrued upon any suit, process, proceeding, or certificate (Rev. Stat., 1838, 224, 225).

He is required also, to keep records of bonds given by executors and administrators; of letters testamentary and letters of administration (A. Ark., 1889, 50, 51); of inventories, appraisements, and sales bills filed by executors, administrators, and guardians, and of abstracts of claims established and allowed by executors or administrators against estates (Rev. Stat., 1838, 79).

Before each term of the probate court, the clerk is required to prepare a list showing all executors and administrators who have not made final settlement with the court and whose settlement is required at the next term of court. This list is taken from the regular docket upon which the clerk records and keeps all such information. (Rev. Stat., 1838, 86.) All records of clerks of the Cleburne County courts are kept in the vault of the county clerk in the county courthouse unless otherwise specified.

Case Papers
(See also, entry 1)

107. DISPOSED OF CASES IN PROBATE, 1909-25. 8 file boxes. Original case papers in disposed-of cases in probate court, giving name of estate; litigants; attorneys; number of case; cause of action; names of witnesses; prayer for new trial; record of appeal; motions, pleadings, and petitions, and disposition of case. Arr. numer. by case no. For index, see entry 2. Hdw. 13 x 11 x 5.

Dockets

108. PROBATE COURT DOCKET, 1883--. 6 vols. (A, 1-4, one vol. not labeled).
Docket of cases in probate, giving number and style of case; names of estate, and administrator, executor, or guardian; sureties; attorneys; nature of case; date of filing, and court orders and their dates. Record contains brief notes of probate judge which are consulted by probate clerk in writing up a full account of court proceedings. Record is sometimes incomplete and does not give the case number or some other item of information. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. and typed. Aver. 150 pp. 18 x 13 x 3.

For record of claims against estates, see entry 116.

Wills

109. (RECORD OF WILLS), 1871-83. In Transcription of Deeds from Van Buren County, entry 49.

Record of wills kept prior to the creation of Cleburne County and turned over to the county at that time. Gives exact copies of original wills, certified by the clerk and filed with him, giving name of testator and names of witnesses; proof of will, giving name of probate clerk; names of subscribing witnesses to will; name of testator; oaths of subscribing witnesses; date of death of testator; acknowledgment of signature; date of filing; signature of clerk.

For Record of Wills, Cleburne County, see entry 110.

110. RECORD OF WILLS, 1883--. 2 vols. (A, B). 1883-1900 also in Deed Record, entry 53-xi.

Exact copies of original wills, certified by the clerk and filed with him, giving name of testators and names of witnesses; proof of will, giving name of probate clerk; names of subscribing witnesses to will; name of testator; oaths of subscribing witnesses; date of death of testator; acknowledgment of signature; date of filing; signature of clerk. Arr. chron. by date of filing. For index, 1886-1930, see entry 104; 1883-85, 1931--, indexed alph. by name of testator. Hdw. 325 pp. 16 x 12 x 2.

For transcript of wills from Van Buren County, see entry 109.

Bonds and Letters

111. BONDS LETTERS ADMINISTRATORS GUARDIANS, 1883-1918. 1 vol. (A).

Record of administrator's bonds, letters of administration, Guardian's Bonds, and letters of guardianship filed with probate clerk for recording. Bonds of administrators, giving name of administrator; names of sureties; amount of bond; name of deceased person; administrator's statement guaranteeing faithful performance of duties as required by law and true accounting of all property of estate; signature of administrator, sureties, witnesses, and probate clerk; dates of filing and recording; qualifications of sureties; signature of probate judge. Letters of administration, giving name of person who died intestate; date of death; name of administrator, and authority to administrator to take charge of all assets of deceased person and distribute them as required by law; certificate of probate clerk; dates of execution, recording and filing. Guardian's bonds, giving name of guardian; names of sureties; amount of bond; names, ages, and residences of wards; guardian's statement guaranteeing faithful discharge of duties according to law; date of execution; signatures of guardian, and sureties; date of approval by probate court; signature of probate judge attested by probate clerk; qualifications of sureties; date of filing. Letters of guardians, giving name of guardian; names of minors; qualifications and duties of guardian; name and signature of probate clerk;

date of execution, and date recorded. Arr. chron. by date of recording. Indexed alph. by name of administrator or guardian. Hdw. and typed. 448 pp. 18 x 12 x 2.

For administrators' bonds and letters, 1919--, see entry 112; for guardians' bonds and letters, 1919--, see entry 113.

112. LETTERS OF ADMINISTRATION AND BONDS, 1908--. 1 vol. (B). Record of letters of administration and bonds of administrators filed with probate clerk. Letters of administration, giving name of person who died intestate; date of death; name of administrator; court's authorization to administrator to take charge of all assets of deceased person and distribute them as required by law; certificate of probate clerk; date of execution, recording, and filing. Bonds of administrators, giving name of administrator; names of sureties; amount of bond; names of deceased person; administrator's statement guaranteeing faithful performance to duty as required by law and a true accounting of all property of estate; signatures of administrator, sureties, witnesses, and probate clerk; dates of filing and recording; qualifications of sureties, and signature of probate judge. Arr. chron. by date of recording. Indexed alph. by name of administrator. Hdw. 480 pp. 18 x 13 x 3.

For administrators' bonds and letters, 1883-1918, see entry 111.

113. LETTERS OF GUARDIANSHIP AND BOND, 1909--. 1 vol. (C). Record of letters of guardianship and guardian's bonds filed with probate clerk. Letters of guardianship, giving name of guardian; names of minors; qualifications and duties of guardian; name and signature of probate clerk; date of execution, and date recorded. Bonds of guardians, giving ages and residences of wards; statements of guardian guaranteeing faithful discharge of duties according to law; date of execution; signatures of guardian and sureties; date of approval by probate court; signature of probate judge attested by probate clerk; qualifications of sureties, and dates of filing. Arr. chron. by date of recording. Indexed alph. by name of guardian. Hdw. 480 pp. 18 x 13 x 2.

For guardians' bonds and letters, 1883-1918, see entry 111.

Inventory and Appraisement

114. INVENTORY RECORD, 1883--. 1 vol. (A). Original inventories of estates, giving name of deceased person; inventory and value of real and personal property and other assets; oath of administrator or executor; signature and acknowledgment of administrator or executor; date of filing; volume and page in which recorded; signature of probate clerk; date of approval, and signature of probate judge. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. on ptd. forms. 448 pp. 18 x 12 x 2.

115. APPRAISEMENT RECORD, 1883--. 1 vol. (A). Record of original appraisements of estates, giving name of deceased; names of appraisers; qualifications, oaths, and signatures of appraisers; acknowledgment of signatures; description of real and personal property

and other assets and their values; certificate of appraisers; date of filing; volume and page in which recorded; signature of probate clerk; date of examination and approval by probate judge, and signature of judge. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. on ptd. forms. 448 pp. 18 x 12 x 2.

Claims and Sales

116. CLAIMS AGAINST ESTATES, 1883--. 1 vol. (A).
Record of claims against estates of deceased persons, filed with probate clerk, giving docket number; name of estate; names of claimants and their attorneys; items for which claim is made; amount of claim; class of claim, whether of the first, second, third, or fourth class, according to legal definition, and date of filing. Arr. chron. by date of recording. Indexed alph. by name of estate. Hdw. 448 pp. 18 x 12 x 3.
For docket, see entry 108.

117. SALES BILLS RECORD, 1883-1918. 1 vol. (A). 1919-- in Probate Court Record, entry 119.
Record of public sales conducted by auctioneers and clerks appointed by administrators disposing of personal property of estates, giving name of estate; itemized list of articles sold and amounts received; names of purchasers, and administrator's affidavit of correctness of list. Arr. chron. by date of filing. Indexed alph. by name of estate. Hdw. 448 pp. 18 x 12 x 2.

Accounts Current

118. ACCOUNTS ADMINISTRATORS AND GUARDIANS, 1884--. 3 vols. (A-C).
Record of accounts current submitted by the administrator or guardian to probate court for approval, giving date of term of probate court; name of estate; name of guardian or administrator; names of minors; annual settlement, giving itemized account of all property, description and valuation, amount of indebtedness against estate, listing of all cash, stocks, or bonds; oath and signature of guardian or administrator; signature and confirmation of probate judge; date of recording, and signature of probate clerk. Arr. chron. by date of filing. Indexed alph. by name of administrator or guardian. Hdw. and typed. Aver 325 pp. 18 x 12 x $2\frac{1}{2}$.

Proceedings

119. PROBATE COURT RECORD, 1883--. 7 vols. (A-G).
Record of proceedings in probate court, giving case number; name of estate; name of guardian, administrator, executor, or curator; style of case; attorneys; date of trial; cause of action; names of witnesses; judgment of court; orders of custody of persons or property; prayer

for new trial; motions, petitions, and pleadings. Also contains: Sales Bill Record, 1919--, entry 117. Arr. chron. by term of court. Indexed alph. by name of estate. Aver. 663 pp. 18 x 13 x 3.

For judgments, see entry 93; for executions, see entry 95.

Financial

120. LEDGER (PROBATE FEE BOOKS), 1884--. 6 vols. (1-6). Record of fees charged by probate clerk, giving style of case before probate court; service for which fee was charged; name of person paying fee, and date of amount of payment. Arr. chron. Indexed alph. by name of person paying fee. Hdw. Aver. 300 pp. 16 x 12 x 2.

(Next entry 121, p. 110)

VII. JUVENILE COURT

The juvenile court in Cleburne County was established in 1911 under an act of the legislature creating a system of juvenile courts in all counties in the State of Arkansas (A. Ark., 1911, 167). The Arkansas Supreme Court has said that, in establishing the juvenile courts, the intention of the lawmakers was not to confer upon the courts the power to institute proceedings against minors by way of criminal prosecutions or punishment for alleged violation of law. The act, therefore, said the supreme court, should not be construed as one seeking to deprive minors of their personal liberty and the right of trial by jury. "On the contrary, the sole purpose of this act (is) . . . to supply those (minors) who are destitute, homeless, abandoned, wayward or incorrigible . . . with such environments as will conduce to their physical, moral and intellectual well-being. The law undertakes to reclaim and reform, rather than to condemn and punish. For those unfortunate minors, who come within the terms of the act it opens the door of an asylum, but not a jail." (Underwood v. Farrell, Ark. Rep., 1927, vol. 175, 219.) The problem of the underprivileged child was recognized by the legislators of Arkansas as far back as 1840, when the judge of the county court was authorized to inquire into the circumstances of any needy orphan, and, when it seemed advisable, to apprentice an orphan to a master or mistress, who was pledged to teach the child a trade and educate him in reading, writing, and arithmetic "to the rule of three inclusive" (the rule of simple proportion) (A. Ark., 1840, 87).

The duly elected and qualified county judge and county clerk, during their regular terms of office, are the presiding magistrate and clerk, respectively, of the juvenile court. Any officer authorized by law to serve processes issued by any other court in the county may serve the processes of the juvenile court. Sessions of the juvenile court are held in the regular place for convening the county court and may be opened and adjourned from time to time as the presiding judge may regard proper. (A. Ark., 1911, 167.) In Cleburne County, juvenile court sessions are held in the county courtroom at the courthouse in Heber Springs.

The juvenile court has exclusive original jurisdiction over cases concerning dependent, delinquent, and neglected children. A child subject to the care of the juvenile court is any person under the age of 21 years who is destitute, homeless, abandoned by parents or guardians, and dependent upon the public for support; or who does not have proper parental care or guardianship; or who habitually begs and receives alms; or who is found living in a house of ill-fame or with a disreputable person; or who has a home which, by reasons of neglect, cruelty, or depravity on the part of his or her parents, guardians, or custodians, is an unfit place for a child; or any child under the age of ten years found begging, or selling articles upon the streets, or playing a musical instrument for gain on the streets; or who is used in the aid of any person begging on the streets. (A. Ark., 1911, 167, 168; ibid., 1921, 420.)

Juvenile Court (Next entry 121, p. 110)

Any reputable person may file a petition in the juvenile court of his county, setting forth that a certain child within the county is dependent, neglected, or delinquent and that it is for the best interests of the child that it be taken from its parents or custodian and placed under the guardianship of a suitable person to be designated by the court. After the petition is filed the parents or other custodians of the child are summoned to appear before the court, with the child, for a hearing on the allegations in the petition. Failure of the custodians to appear, with the child, in accordance with the summons, subjects them to punishment for contempt of court. When the judge is of the opinion that a summons will not be sufficient to assure the appearance of the child in court, a warrant may be issued for both the custodian and child or for the child alone. When a summons is properly served and the custodian fails to appear, the court may declare the custodian in default and proceed with the hearing, after naming some suitable person to represent the child in court. The hearing may be continued from time to time, at the discretion of the court. During this period the child may remain at its home, subject to the "friendly visitations of the probation officer of the court or any suitable person appointed by the court, or may be kept in some suitable place provided by the city or the county authorities." (A. Ark., 1911, 172, 173.)

When the health of a child found to be dependent, neglected, or delinquent, requires it, the court may order the guardian to place the child in some public or private hospital for treatment without charge to the public authorities (A. Ark., 1911, 176). If the court finds that the parents or custodian of the child are qualified, willing, and able to care for and educate the child, he must be allowed to remain with them subject to the visitations of a representative of the court. If it is found that this condition does not exist, the court may appoint a guardian and order him to place the child in some suitable home, or in a proper state institution, or with a home finding society whose objective is the placing of neglected children in private homes. Every effort must be made to place the child in a home where it will be taught the religious creed of its parents. When a male child under the age of seventeen, or a female child under the age of eighteen, is arrested by an officer without a warrant, he or she must be brought before the juvenile court, whose duty it is to conduct a hearing to determine if the child is dependent, neglected, or delinquent. At the discretion of the judge, the court may take jurisdiction over the child, as provided by law, or may remand the case to some other court of proper jurisdiction for trial on the offense alleged to have been committed. Any male or female child under the ages of seventeen or eighteen, respectively, under arrest by a warrant issued out of another court may be remanded to the juvenile court for trial, if it is found that the child is dependent, neglected, or delinquent. (A. Ark., 1911, 175, 178.)

A person found by the juvenile court to have contributed to the delinquency of a child may be charged before a justice of the peace or, by grand jury indictment, before the circuit court, with a misdemeanor and, upon conviction, may be punished by a fine not exceeding $500 or imprisonment in the county jail for a period of not more than one year,

or by both fine and imprisonment (A. Ark., 1911, 183, 184).

The judge of the juvenile court is required to appoint a board of six reputable men and women to serve as a board of visitation. This board, as often as once each year, must visit the institutions to which children have been sent by the court and report to the court on the condition of the children and the manner in which the institutions are conducted. Members of this board serve for three years, two being appointed each year by the judge. (A. Ark., 1911, 180.) It is the duty of the board to make recommendations to the judge of persons to serve as the chief and the assistant probation officer. The court has the power to appoint, at its discretion and upon recommendation of the board of visitation, one or more persons of good moral character to serve as probation officers, whose duty it is to assist the court in looking after the affairs of the children under the immediate jurisdiction of the court. (A. Ark., 1911, 174; ibid., 1921, 421, 422.) The judge of the juvenile court of Cleburne County has not exercised his right to appoint a probation officer.

The system of juvenile courts throughout the state was placed under the supervision of the attorney general of the state in 1911. It was the duty of the attorney general to appoint a supervisor of juvenile courts. This law was not vitalized until 1923, through failure of the legislature to make an appropriation for the payment of the supervisor's salary. (A. Ark., 1911, 167; ibid., 1923, spec. sess., 209.) These duties were taken from the attorney general and transferred to the Arkansas Department of Public Welfare in 1937 (A. Ark., 1937, 148).

All judgments of the juvenile court may be appealed to the circuit court in the same manner that appeals are taken from any other court. All records and proceedings are kept by the county clerk as clerk of the juvenile court known as the "Juvenile Record". (A. Ark., 1911, 169.) The clerk of the court, each year between the first and fifteenth days of September, must make a report to the governor, giving the number and disposition of the children brought before the court during the year, together with pertinent information concerning each case. This report does not disclose the names of any child or parent who has appeared before the court. (A. Ark., 1911, 181, 182.)

Proceedings

121. JUVENILE COURT RECORD, 1916--. 1 vol. Last entry 1937. Record of orders and proceedings in juvenile court, showing warrants for arrest and commitment of delinquent children; receipt from industrial schools for delinquent children received there; petitions from parents to the court to send their children to industrial schools, and giving summaries of hearings concerning alleged delinquencies of minors. Sentences of boys usually are to the Boys' Industrial School at Pine Bluff and of girls to the Girls' Industrial School at Collegeville. Arr. chron. by date of filing. Indexed alph. by name of child. Hdw. and typed. 199 pp. 18 x 13 x 3.

For Case Papers, see entry 1.

(Next entry 122, p. 114)

VIII. JUSTICES OF THE PEACE

A frontiersman in civil and criminal jurisprudence, the justice of the peace today is the scion of a legally nurtured evolution that may be traced far back in the archives of organized government. His office already was traditional when in 1807 the legislature of the Territory of Louisiana passed a law providing "that the inhabited parts of each district within this territory shall be laid out into convenient townships. . . . The Governor shall appoint and commission in every township one or more persons as justices of the peace." (L. T. L., 1807, as contained in T. L. M., 1824 digest, 143.)

The justice of the peace was given recognition as a part of the judicial system of Arkansas when Arkansas was under the jurisdiction of the Territory of Missouri (L. M. T., 1817, as contained in T. L. M., 1824 digest, 545) and when later it attained its own territorial government (L. A. T., 1831, as contained in L. A. T., 1835 digest, 360). The state's first constitution, that of 1836, provided that there should be justices of the peace and that in each county they should elect one of their number as county judge for a term of two years (Const. 1836, art. VI, secs. 1, 9, 10, 15). They were deprived of this privilege, however, in 1848 when provision was made for the county judge's selection by the general electorate (Const. 1836, amend. of 1848, sec. 3). Justices of the peace of Cleburne County took office with other county and township officers in 1883 following the creation, and the organization of the government of the new county (Const. 1874, art. VII, sec. 38; A. Ark., 1883, 40).

The Constitution of 1874 provided that each township could elect one justice of the peace for every 200 qualified electors but that every township, however small, should have two justices (Const. 1874, art. VII, sec. 39). A law of 1893, reiterating these provisions, provided that the number of qualified electors was to be determined by the number of votes cast in the last general election (A. Ark., 1893, 40). Cleburne County with 23 townships is apportioned two justices for each township, a total of 46. A majority of the allowed number of justices constitutes a quorum for the sessions of the quorum court. (Const. 1874, art. VII, secs. 30, 39; A. Ark., 1883, 40.) Only 32 had qualified, taken the constitutional oath of office, in 1938, however (Register of Commissions, A, 51, see entry 77).

A justice of the peace must be a qualified elector and resident of the township for which he is chosen to serve. He is elected at the general election for a term of two years by the qualified voters of his township. His oath of office is endorsed on the back of his commission, which is issued by the governor. If the office becomes vacant from any cause more than six months prior to a general election, the vacancy is filled at a special election. If the vacancy occurs within six months of the election, it is filled by appointment by the governor. (Const. 1874, art. VII, secs. 38, 41, 50.)

A justice of the peace is allowed to collect for his official acts fees ranging in amounts from 10 cents for administrating an oath

to $2.50 for performing a marriage ceremony (A. Ark., 1875, 117). Justices of the peace were allowed three dollars a day for attending sessions of quorum court until the General Assembly of 1927 raised the amount to five dollars a day (A. Ark., 1875, 144; ibid., 1927, 711). Upon the filing of an information or indictment before the circuit court, that tribunal may remove a justice of the peace from office for incompetency, corruption, gross immorality, criminal conduct, or malfeasance in office (Const. 1874, art. VII, sec. 27).

The most important of the prescribed functions of the justice of the peace is that as member of the quorum court. In this, the justice sits with his fellow magistrates and the county judge, to fix the tax levy and make the appropriations for the expenses of the county for each fiscal year. It is required that a majority of the justices be present to legalize their acts -- hence the designation "quorum court." (Const. 1874, art. VII, sec. 30.) If a majority of the justices fail to appear at any session of the quorum court, the sheriff is authorized to summon and compel the attendance of sufficient to constitute a majority (A. Ark., 1879, 111).

Mayors of all incorporated towns and cities are ex-officio justices of the peace and have the same powers as the justices, except that they may not sit in the quorum court. The mayor is entitled to the same fees as the justice of the peace, in identical circumstances, in addition to his regular salary. (A. Ark., 1921, 407, 408.)

Justices of the peace have exclusive original jurisdiction in all matters of contract involving not more than $100 and, in common with the circuit court, original jurisdiction in matters of contract involving not more than $300. The sums determinative of jurisdiction do not include interest. Common jurisdiction with the circuit court also is held by them in suits for recovery of personal property where the value involved is not more than $300, as well as in suits for damage to personal property involving not more than $100. (Const. 1874, art. VII, sec. 40.) Their geographical jurisdiction extends throughout the county in which they are elected or appointed (A. Ark., 1873, 430). In criminal matters, justices of the peace have concurrent jurisdiction with the circuit court for trial and final determination of all prosecutions on charges identified by the statutes as misdemeanors (A. Ark., 1871, 257, 258). They may preside as examining magistrates in preliminary hearings of charges of felonies and hold the defendant for trial in the circuit court, or discharge him, as the evidence justifies (A. Ark., 1871, 257).

Any two justices of the peace may order a commanding officer of the militia to bring his command to the aid of civil authorities in the suppression of unlawful assemblies (Rev. Stat., 1838, 279). To preserve the peace and dignity of his court, a justice of the peace is empowered to assess fines or decree imprisonment for contempt of his court or disturbance of its peace (Rev. Stat., 1838, 487).

When a justice of the peace vacates his office by removal from

the township, he is forbidden to act in his former capacity, and is liable to a fine of $50 for violation of this act (A. Ark., 1869, 9). A justice is disqualified, as is any other judge of a court of record, in any case in which he is materially interested, in which he is related to any of the parties within the fourth degree of consanguinity or affinity, or has been legal counsel for either party, unless both parties agree to his jurisdiction. In the event of his disqualification, the suit is brought before another justice in the same township. Where all justices in the township are disqualified, the action may be brought before any justice in any other township within the county. (Rev. Stat., 1838, 233.)

A law specifically concerning the justices of the peace courts provides that a change of venue may be taken if not more than two changes are asked in any one case, upon the filing of a petition setting forth that the justice is a material witness, or near relation to the opposing party, or is so prejudiced that a fair trial cannot be had (A. Ark., 1873, 437, 438). A justice of the peace does not have jurisdiction in cases in which land titles are involved (Const. 1874, art. VII, sec. 40). When ordered to do so by the county judge, a justice of the peace must prepare a list of all persons in his township subject to road duty and deliver it to the county court (A. Ark., 1915, 1334).

A written complaint is not necessary in criminal proceedings before a justice of the peace (A. Ark., 1871, 255). In any criminal case, however, the justice is required to enter upon his criminal docket a statement of the offense committed and thereafter record all actions taken by him in connection with the case (A. Ark., 1893, 16). For civil proceedings he keeps a separate docket book, in which he enters, in continuous order with the proper dates, data on the following: the title to each case; a brief statement of the amount and nature of the plaintiff's demand, and the defendant's counterclaim, if any; issuance of the process and its return; the appearance in court of the respective parties; any adjournments, stating at whose instance and for how long; the trial, whether by the justice or by jury; the verdict and judgment; the issuance of the instrument for execution of the verdict, to whom delivered and the amount of debt, damages, and costs endorsed upon it; the fact that a transcript of the record was prepared for filing in the clerk's office and for a set-off, if one is allowed; a note of all motions and whether refused or granted, and an itemized statement of the costs in the case (A. Ark., 1873, 434, 435).

A law of 1843 provided that the records of the justice courts be kept in "two good and substantial leather bound books of at least eight quires each" furnished by the county judge (A. Ark., 1843, 47). The General Assembly of 1871 re-enacted the law of 1843 but specified the books to be "at least six quires each" and provided that in case a newly-elected justice had received blank books from his predecessor in office, he was not entitled to new books (A. Ark., 1871, 312). The records are kept by the justice of the peace at the usual place of holding his court.

Dockets and Proceedings

122. JUSTICE DOCKET (Piney Township), 1890-1906. 1 vol.
Record of cases tried by Oscar Ridell, 1890-92; J. B. Wood, 1892-93; Will Adcock, 1893-1906; Joe Phillips, 1906, justices of the peace in Piney Township, giving style of case; names of attorneys; date of trial, and final disposition of case. Arr. chron. by term of court. Indexed alph. by name of defendant. Hdw. 194 pp. 15 x 11 x 1½.

123. JUSTICE DOCKET (Valley Township), 1903-9. 1 vol.
Record of cases tried by G. W. Williams, 1903; R. Boswell, 1909, justices of the peace in Valley Township, giving style of case; names of attorneys; date of trial, and final disposition of case. Arr. chron. by date of trial. Indexed alph. by name of defendant. Hdw. 266 pp. 14 x 9 x 1.

124. JUSTICE DOCKET (South Sugar Loaf Township), 1894-1905. 2 vols.
Record of cases tried by E. W. Ambrose, 1894-98; W. R. Casey, 1898-1902; J. S. Wilson, 1902-4; J. J. Pankey, 1904-5, justices of the peace in South Sugar Loaf Township, giving style of case; names of attorneys; date of trial, and final disposition of case. Arr. chron. by date of trial. Indexed alph. by name of defendant. Hdw. 300 pp. 16 x 7 x 1½.

(Next entry 125, p. 122)

IX. PROSECUTING ATTORNEY

The prosecuting attorney represents in the courts the counties in the judicial circuit in which he is employed, which is the fourteenth district in the case of Cleburne County's prosecuting attorney (A. Ark., 1895, 84, 85). His position had long been well defined at the time of Cleburne County's creation in 1883 (Const. 1874, art. VII, sec. 24).

The law requires that the prosecuting attorney be a citizen of the United States, learned in the law, a resident of the district which he serves, and a qualified elector (Const. 1874, art. VII, sec. 24; ibid., art. XIX, sec. 3).

He is a state, not a county, officer (Griffin v. Rhoten, Ark. Rep., 1907, vol. 85, p. 89) who is elected by the voters of all the counties in the judicial circuit for a term of two years (Const. 1874, art. VII, sec. 24). Before entering on his duties, he takes the oath provided in Arkansas's constitution for all its civil and military officers (Const. 1874, art. XIX, sec. 20). No bond is required of him.

From early days and for many years, very few public officers of Arkansas were paid salaries, and the prosecuting attorney was one of those dependent on fees for his compensation. This was the law in 1838. (Rev. Stat., 1838, 191.) A law of 1875 provided that fees paid a person acting in his stead were deductable from the prosecuting attorney's emoluments (A. Ark., 1875, 6; White v. Berry, auditors, Ark. Rep., 1873, vol. 28, p. 198). The General Assembly, in 1893, declared that a deputy prosecuting attorney had to depend for his recompense on the fees out of the cases he prosecuted and was not entitled to any fees or salary from the state (A. Ark., 1893, 88) and, in 1895, that he was due nothing unless he obtained a conviction (A. Ark., 1895, 106-108). Fees were allowed the prosecuting attorney or his deputy in justice of the peace court cases when convictions were obtained, by pleas of guilty or otherwise.

In 1937, the General Assembly placed all prosecuting attorneys on salaries to be paid by the state, classified the judicial circuits and fixed salaries to be paid in each class. Cleburne County is in a circuit of the third class, in which prosecuting attorneys are paid $3600 a year. (A. Ark., 1937, 790, 791.)

Numerous penalties have been provided for defections of the prosecuting attorney. In 1838, for his neglect or failure to attend court and prosecute offenders, it was ordered he be penalized by being required to pay the fees of one appointed temporarily in his place (Rev. Stat., 1838, 132). In 1873, for his failure or refusal to prosecute when it was his duty to do so, he was made subject to a fine of from $100 to $500 and costs or a six-month term in jail (A. Ark., 1873, 19). Various enactments provided special penalties for failure of the prosecuting attorney to perform duties provided in those acts for him. For failure to make reports of certain prosecutions to the Arkansas Game and Fish Commission, he forfeited $100 to a game and fish protection

fund, (A. Ark., 1915, 470.) and his failure to enforce the provisions of Amendment X, Constitution of 1874, which prohibited counties and cities from expending in any one year more than the revenues of that year, made him subject to impeachment (A. Ark., 1937, 687, 688). He may be impeached for "high crimes and misdemeanors and gross misconduct in office" (Const. 1874, art. XV, sec. 1).

A law of 1871 provided that when a prosecuting attorney found it was necessary for him to be absent from court, he could appoint a suitable person to act in his stead, subject to the approval of the court (A. Ark., 1871, 101). Later, in 1875, provision was made that in the absence from court of the prosecuting attorney, for any reason, the judge of the circuit court could appoint some other lawyer to act in the absent prosecutor's place temporarily (A. Ark., 1875, 6). When death or some other cause makes the office vacant for an indefinite period it is filled by a special election, unless the vacancy occurs within nine months of the next general election, in which case the governor appoints someone to serve the remainder of the term (Const. 1874, art. VII, sec. 50). The prosecuting attorney may appoint one deputy in each county of the judicial district subject to the approval of the circuit judge (A. Ark., 1895, 106; ibid., 1905, 559, 560).

It is the duty of the prosecuting attorney to prosecute offenders against the criminal laws of the state; to bring witnesses to testify before the grand jury concerning suspected violations of the criminal laws; to defend the state and the counties in his circuit in actions brought against them; to prosecute all suits for the recovery of debts, fines, forfeitures, or penalties due the state, and to give legal advice and opinions to sheriffs, constables, justices of the peace, and other county officers when the rights of the state, the counties, or the townships are involved (Graham v. Parham, Ark. Rep., 1877-1878, vol. 32, p. 677). Besides conducting proceedings in the criminal circuit court, he must institute in justice of the peace courts prosecutions based on information and belief (A. Ark., 1883, 72; ibid., 1893, 88). He must bring suit against delinquent constables and collecting officers for sums due counties of his circuit (A. Ark., 1883, 291).

One of his most serious responsibilities is, as mentioned above, that of enforcing the constitutional amendment prohibiting counties and municipalities spending more than their revenue (A. Ark., 1937, 687, 688). He, or his deputy, is required, when called on by the chief probation officer of a county in his circuit, to give counsel and other aid in the conduct of the juvenile court. His duties in this court are concerned more with the welfare of delinquent children brought there than with punitive measures against them. (A. Ark., 1921, 421.) Special duties incumbent on his office include the prosecution in justice of the peace courts of persons charged with carrying concealed weapons (A. Ark., 1895, 107); the prosecution of persons who trespass on, and unlawfully take timber from, state lands (A. Ark., 1901, 209), and the prosecution of offenders against the state's game and fish protection laws (A. Ark., 1915, 470, 471). The duties

usually performed by deputy prosecuting attorneys are those of representing the state in prosecutions of misdemeanors in justice of the peace courts and in preliminary hearings of felony cases in those courts (A. Ark., 1895, 106-108).

A law of 1838 required the prosecuting attorney to make an annual report to the state auditor and the county treasurers of funds received by him and to pay over these funds to the treasurers entitled to receive them (A. Ark., 1838, 133). He is required to report to the Arkansas Game and Fish Commission details of prosecutions under the state laws for conservation of game and fish (A. Ark., 1915, 470).

(Next entry 125, p. 122)

X. SHERIFF

The office of sheriff had, of course, long been in existence when Cleburne County was created in 1883 (A. Ark., 1883, 40). The first sheriff of the county was S. J. Morton (Higgins, Biennial Report of the Secretary of State, 1925-1926, 389). The establishment of the office in Cleburne County was made under authority of the Constitution of 1874 and subsequent laws that were in effect at the time of the county's creation (Const. 1874, art. VII, sec. 46).

The sheriff is not only the ranking peace officer of the county but ex-officio collector of taxes as well. His duties as collector, however, are treated in a separate essay (see "Tax Collector", p. 147; for further discussion of the sheriff's office prior to 1883, see the Inventory of The County Archives of Arkansas, Van Buren, No. 71).

In order to qualify for the office of sheriff, a candidate must be a qualified elector and a resident of the county in which he seeks to hold office (Const. 1874, art. VII, sec. 19). The office of sheriff has been elective for more than 100 years. This manner of selection was adopted in the Constitution of 1836, and subsequent laws have approved and upheld this method. (Const. 1836, art. VI, sec. 17; A. Ark., 1873, 381; Const. 1874, art. VII, sec. 46.) The sheriff is elected for a term of two years, and is commissioned by the governor. He must reside in the county in which he holds office, during his continuance in office. (Const. 1874, art. VII, sec. 1.)

Before entering office, the sheriff must subscribe to the constitutional oath administered to all state and county officials (Const. 1874, art. XIX, sec. 20). The sheriff-elect, must, within 15 days after the receipt of his commission, enter into bond with the state in any sum not less than $5000 nor more than $50,000. This bond was subject to the approval of the board of supervisors in 1873. (A. Ark., 1873, 344.) A law of 1875 required that it be approved by the circuit court (A. Ark., 1875, 194), and at present it is subject to the approval of the county court and is conditioned that the sheriff will faithfully perform the duties of his office. If the bond is approved, it is recorded in the office of the county recorder. (A. Ark., 1883, 199; ibid., 1899, 71.)

If the sheriff-elect does not make bond within 15 days, the office may be declared vacant, and if he fails or refuses to perform any of the duties he is required by law to perform, he is guilty of a misdemeanor in office and upon conviction is subject to removal (Rev. Stat., 1838, 727, 728). Should a vacancy occur in the office, caused by death, resignation, removal, or otherwise, it is filled by special election unless it occurs within six months of the next general election. In the latter event, it may be filled by appointment by the governor. (Const. 1874, art. VII, sec. 50.)

Certain fees are allowed the sheriff for performing the various duties of his office. The fees range from five cents for calling a witness in court to $25 for issuing a death warrant. (A. Ark., 1875,

113.) He is also allowed one dollar per day for the days he is engaged in the conducting of any election (A. Ark., 1895, 203). The sheriff of Cleburne County is entitled to receive a salary of $2400 a year, provided the fees, commissions and emoluments of his office amount to that much, but no deficit for any calendar year may be paid out of any excess fees collected for any subsequent year. In addition to his salary, the county court allows him from 50¢ to 85¢ a day for feeding each prisoner in his care. If the sheriff, in the line of his duty, is obliged to transfer any prisoner or insane person to some point outside the county, he is compensated by the county for his expenses and those of the person in his charge. The sheriff may keep all rewards he may receive from other counties or states for apprehension of criminals who are not within his jurisdiction and retain all fees he may receive for serving warrants, summons, and subpoenas for officers of other counties, provided his county is not called upon to pay his expenses while he is engaged in apprehending the criminals or serving the papers. (Initiated Act No. 1, Cleburne County, 1932, sec. 3; see appendix, p. 191.)

The sheriff may appoint one or more deputies. The appointments must be made in writing under the hand of the sheriff and must be filed and recorded in the recorder's office of the county. (A. Ark., 1933, 796.) The deputy's appointment, unless he is reappointed by the succeeding sheriff, is coincident with the term for which the sheriff is elected; if the sheriff is re-elected, the deputy does not necessarily retain his position (Greenwood v. State, Ark. Rep., 1857, vol. 17, p. 332). The sheriff may appoint a special deputy for some particular service, and he may authorize this appointment by an endorsement on a warrant. A special deputy appointed in this manner, while performing his duty as deputy, is entitled to all the protection which the law would afford to the sheriff. (Putman v. State, Ark. Rep., 1888, vol. 49, 449.)

During the Civil War, when the state capital, Little Rock, had fallen to the Federal forces and the seat of a state government sympathetic to the Union cause had been established there, the new administration, cognizant of the depredations of "guerillas", "bushwhackers", and "jayhawkers", passed special legislation against this element. Members of these "marauding bands" were declared felons, and it was made the duty of the sheriff to arrest them on sight. For this purpose, the sheriff was given the power to enlist the aid of the citizens or the militia of the state in any number he thought necessary. The citizens and militia were bound to assist the sheriff, and to refuse meant prosecution before the circuit court for a misdemeanor. As for the guerillas, their fate, upon conviction, was death by hanging. (A. Ark., 1864-1865, 52, 53.)

It is the duty of the sheriff to maintain the peace by causing all offenders against the law whom he releases pending trial to enter into recognizance obligation, with sureties, to keep the peace and appear at the next term of the circuit court. The sheriff should endeavor to quell and suppress affrays, riots, routs, and insurrections. It is his duty to apprehend and commit to jail all felons and traitors,

as well as execute all warrants, writs, and other processes which appertain to the duties of his office and which are directed to him by legal authority. He must duly attend all courts of record in his county at their respective terms or sessions. (Rev. Stat., 1838, 728.)

The sheriff, arresting a person under a warrant or other process in a case, in which bond has been set by a court, has the power to accept the bail and discharge the person from actual custody. The sheriff is officially responsible for the sufficiency of the security of a bond, as he is also in civil actions when he is under a similar responsibility. (Rev. Stat., 1838, 728.) When he commits a prisoner to the county jail, under a bench warrant, in a bailable case in which bail has been fixed by the circuit judge, he may take the bail and discharge the prisoner in the same manner as he could have done before the commitment (A. Ark., 1875, 10). If a person who has not been indicted has been confined in jail and is subject to trial at a special adjourned session of the circuit court, it is the duty of the sheriff, upon an order of the court, to summon a grand jury to attend the special term (Rev. Stat., 1838, 233).

It is the duty of the sheriff to give personal notice, or leave a written notice at the juror's place of residence with some person over 10 years of age, to every person summoned for grand or petit jury service, at least three days before the first day of the forthcoming term of the circuit court. When the notices have been given, the sheriff must return the list to the circuit clerk with a statement in writing of the date and manner in which each juror was summoned. If no day for the appearance of the petit jurors has been fixed by order of the court, they must be summoned to attend on the second day of the term. (A. Ark., 1871, 266.)

When a constitutional amendment is to be voted upon in any election, the sheriff must give notice of this twenty days before the election. He must issue a proclamation, in which he sets forth the purpose of the election, and the time and place in each voting precinct of his county. It is his duty to have the proclamation, together with the proposed amendment to the constitution, printed in conspicuous type and posted in three public places in each precinct of the county. (A. Ark., 1873, 4.) It is the duty of the sheriff to furnish the election judges of each precinct of his county the printed list of all qualified electors at the same time he delivers the poll books (A. Ark., 1893, 246; see "County Board of Election Commissioners", p. 158). He must police all voting precincts during any election and may appoint as many as three deputies for each voting place. However, if the sheriff is a candidate, he and his deputies are disqualified to serve in election affairs, and it becomes the duty of the county board of election commissioners to appoint suitable persons to perform the duties that would otherwise have been within the province of the sheriff and his deputies. (A. Ark., 1891, 36.)

The sheriff of the county, and he only, is authorized to collect fines, penalties, and forfeitures adjudged against defendants in the circuit court, and he must, at the time of his quarterly settlement

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with the county court, turn over to the county treasurer all moneys received by him. The sheriff will not be credited with any deficit on forfeited bail bonds, unless the return of the officer charged with the execution of the judgment shows that the defendant had no property subject to executions, in which case a certified copy of the return must be filed with the county clerk by the sheriff. (A. Ark., 1883, 292.)

The irregularity of an execution is no excuse for a sheriff failing to execute and return it, unless the irregularity be such as to render it void. If it is amendable, or if the mistake can be legally remedied, or a valid sale can be made under it, he is bound to execute it, disregarding the irregularities. (Jett v. Shinn, Ark. Rep., 1887, vol. 47, p. 373.)

The sheriff is responsible for the welfare of prisoners of his county while they are in his charge. He must convey them to any state institution they may be assigned to as safely and speedily as possible. (A. Ark., 1903, 72.) If two counties have an agreement to jointly work their convicts on their roads, it is the duty of the sheriff to deliver male prisoners with less than five-year terms to the warden at any designated working place. If the convict has served a sentence of two years or more, and if his conduct and length of service have entitled him to a commutation, he will receive at his discharge, to be paid for by the county, "one suit of under and outer clothing, hat, shoes, and socks to cost not less than $12.50 in currency of the United States" and shall be paid $2.50 in money. The county judge, the county clerk, and the sheriff of the county constitute a board for the enactment and enforcement of rules governing the working, care, location, and punishment of county convicts. Upon the hearing of a complaint duly sworn to and filed with the county court, together with the evidence submitted in writing of an offense demanding punishment, the board may prescribe the punishment to be inflicted, and it is the duty of the warden, in immediate charge of the person to be punished under the orders of the board, to administer it. (A. Ark., 1909, 609-613.)

The law directs the sheriff to make an occasional, unannounced visit to "each public and private house of detention, convent, asylum, sectarian seminary, school, or institution", and separately question each inmate, out of the hearing of "any official or servitors" of the institution, to ascertain whether each inmate of the institution is the subject of voluntary confinement. The purpose of this law is to afford every person within the confines of any institution the fullest opportunity to divulge the truth as to his detention therein without being deterred by the force of "such punishment within the institution as they might draw upon themselves if their disclosures were committed to the person or persons who are responsible for their confinement or who have authority over them in the institution." After the sheriff has completed such an inspection, he must file a complete report of the results of his findings with the county clerk. It must be filed not later than 10 days before the next meeting of the circuit court, so that there might be sufficient time for inspection of it by the grand jury. If the sheriff fails or refuses to carry out this duty, he is guilty of a misdemeanor and upon conviction will be punished by a fine

of not less than $100 for the first offense and $300 for any repetition of it. (A. Ark., 1915, 505-507.)

The sheriff is not compelled to serve any process, except in criminal cases and in other cases where the state or county is the plaintiff, unless the person in whose favor the process is issued first gives the officer a sufficient sum of money to pay the cost of the service and mileage from the courthouse to the usual place of abode of the defendant or other person named in the process. The sheriff is not subject to any penalty whatever for failing or refusing to execute a process in such an event. (A. Ark., 1874, 181.)

If the sheriff has an order of attachment, or an order for the delivery of property, whose proper custody is in dispute, he has the authority to enter any building or inclosure containing the property and take it, and, if necessary for this purpose, he may break into the building or inclosure, after having first publicly demanded the property. Likewise, he may enter any house or inclosure to arrest a person and, if necessary, break into the house or inclosure, after having informed anyone inside of his intention, or, where no person appears to whom the information may be given, after publicly demanding the person to come out. (Civil Code, sec. 777.)

Whenever the sheriff is of the opinion that the jail of his county is not in a condition to secure prisoners that may be placed there, and if the building cannot be sufficiently repaired immediately, he may employ as many as three persons as guards (A. Ark., 1877, 72).

The sheriff keeps a fee book, showing all earnings of his office (A. Ark., 1874-1875, 124), and, in Cleburne County, a jail record (Jail Record, vols. 1, 2, see entry 125), which, according to a literal interpretation of the law, should be kept by the county clerk (see "County Court", p. 40). These records are kept in the sheriff's office.

Jail Record and Fees

125. JAIL RECORD, 1900--. 2 vols. (1, 2). No prior records. Record of prisoners, giving number of prisoners; names; color; offenses; when received; by what authorities confined and discharged; dates of sentence; dates of discharge; amounts of board due. Arr. chron. by date confined. Indexed alph. by name of prisoner. Hdw. Aver. 159 pp. 16 x 12 x 1½. S. O.

126. SHERIFF'S FEE BOOK, 1912--. 4 vols. (1, 1917, and two vols. not labeled). No prior records.
Itemized list of fees, giving style of case; when and from whom received; name of county; kind of process; when issued; by whom; on whom served; when returned; items of cost; total amount, and by whom paid. Arr. numer. by case no. No index. Hdw. Aver. 200 pp. 16 x 12 x 2. S. O.

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XI. CORONER

When the act of the General Assembly creating Cleburne County became effective in 1883, the office of the county's coroner began functioning under the provisions of the act and of the Constitution of 1874. The duties of the office were performed by the coroners of Van Buren, White, and Independence Counties, the mother counties of Cleburne, until an election could be held. (A. Ark., 1883, 40; Const. 1874, art. VII, sec. 46.) James Arnett was the first coroner to be elected in the newly created county (Higgins, Biennial Report of the Secretary of State, 1925-1926, 389).

In order to qualify for the office of coroner a candidate must be a qualified elector of the county in which he seeks to hold office. During his tenure in office he must reside and keep his office in the county he serves. (Const. 1874, art. XIX, secs. 3, 4; see "Governmental Organization and Records System", p. 12.) The coroner is elected for a term of two years and serves until his successor is elected and qualified (Const. 1874, art. VII, sec. 46). Before entering office, he must subscribe to the constitutional oath administered to all state and county officials (Const. 1874, art. XIX, sec. 20). The coroner-elect must, within 20 days after he receives his commission from the governor, enter into bond with the State of Arkansas in the sum of $5000. The bond is subject to the approval of the county court and, if approved, is filed in the recorder's office. If the coroner-elect does not post bond within 20 days the office is declared vacant. (Rev. Stat., 1838, 193.) Should a vacancy occur in the office caused by death, resignation, removal, or otherwise, the vacancy is filled by special election, unless it occurs within six months of the next general election. In the latter event, it is to be filled by appointment by the governor. (Const. 1874, art. VII, sec. 50.)

The coroner is compensated on a fee basis, the fees ranging from 5 cents to $5, according to the service performed (A. Ark., 1836-1843, 34). He is ex-officio sheriff in the absence of the sheriff, or in case of the inability of the sheriff to serve, and he receives the same compensation as the sheriff for the duration of the time spent in performing his duties (A. Ark., 1842, 37). He is compensated by the county for any expenses of traveling he may incur in the performance of his duty (A. Ark., 1845, 75).

The circuit court has jurisdiction upon information, presentment, or indictment to remove the coroner from office for incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office (Const. 1874, art. VII, sec. 27). He may also be removed for the violation of any election law in the state, or upon conviction for bribery or other felony (Const. 1874, art. III, secs. 2, 6).

The function of the coroner is of a judicial as well as an executive nature. When the coroner has reason to believe that any person may have met his death as the result of unnatural causes, he may hold an inquest over the body, empanel a jury, swear in and examine witnesses,

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inquire into the cause and manner of death, cause suspected persons to be arrested, and inquire as to their guilt. (Nelson v. State, Ark. Rep., 1877-1878, vol. 32, p. 196; A. Ark., 1893, 260.) If a body over which an inquest should have been held is buried without inquisition, the coroner may cause the body to be disinterred and hold an inquisition (Rev. Stat., 1838, 198; A. Ark., 1893, 260).

As soon as he is notified of the existence of the dead body of any person supposed to have come to his death by violence, or of any body "casually found" or lying within his district, the coroner must issue warrants to have a jury summoned and hold an inquest. The constable of the township where the dead body is found serves the warrants and brings together a panel for a jury made up of property owners in the township. No more than twenty-three prospective jurors need be summoned; twelve must serve. If at least twelve do not appear, the coroner must summon others, until that number does appear. They must come before him at the time and place the warrant specifies. (Rev. Stat., 1838, 194.) After the jurors have assembled, the coroner administers an oath to them. When the required number of jurors have been sworn, and they have viewed the body, they attempt to arrive at a conclusion as to the cause, manner, and circumstances of the death. It is the duty of the coroner to summon all suspected persons who can be taken into custody, and all proper witnesses, to come before the jury and be examined. The testimony of the suspected persons must be voluntary, and if they are willing, it is reduced to writing and signed by the suspects. The testimony of the witnesses also is reduced to writing if it is regarded as material. The record of the examinations and testimony must be certified and signed by the coroner, and in the case of the death of a witness, his deposition may be used as evidence in the trial of any person present at the examination and accused of the crime. The jury must unanimously agree to the finding of the inquisition before it can be valid. The coroner must deliver the finding of every inquisition, with all examinations, depositions, and recognizances concerning the case, to the circuit clerk on or before the first day of the next term of the circuit court. The clerk, in turn, delivers the material to the prosecuting attorney of the county. (Rev. Stat., 1838, 194-197; A. Ark., 1893, 260.) If it develops in the course of the inquest that certain persons are implicated in the crime of murder, the coroner may have them arrested and held for trial (Bass v. State, Ark. Rep., 1874, vol. 29, p. 142). The persons so implicated and arrested cannot be admitted to bail by the coroner unless it appears by the inquisition that the offense was a case of excusable homicide or manslaughter (Rev. Stat., 1838, 195, 196).

If the body of a person killed in one county under circumstances indicating that he had been "foully dealt with" is removed to another county for interment, the coroner of the latter county has no authority to hold an inquest (Young v. Pulaski County, Ark. Rep., 1905, vol. 74, 183). The coroner may appoint a physician of his choice to perform an autopsy in order to ascertain the cause of death, and the county court does not have jurisdiction to interfere with the exercise of this discretion by employing a physician of its choice to make all necessary autopsies (Kempner v. Pulaski County, Ark. Rep., 1898, vol. 64, p. 139).

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Coroner

He may, if he thinks it is nece ary, hold an inquest over the body of any convict who may die in the penitentiary, except by sentence of the law, provided the penitentiary lies within his jurisdiction (Rev. Stat., 1838, 194; A. Ark., 1877, 62; ibid., 1889, 74, 75).

The coroner must report, in writing, before the tenth day of each month, the death of any person within his jurisdiction whose death was the result of an accident involving a motor vehicle. The report which is made to the Arkansas Police Department, must give the full circumstances of the accident. Only the deaths for the month preceding the report are required to be given. (A. Ark., 1937, 1119.) The coroner is responsible to the jurors and other parties who have valid claims for fees and costs due to them for assisting him in his duties (A. Ark., 1877, 62; ibid., 1889, 74, 75).

Where it appears that the sheriff, or his deputy, is prejudiced or biased, the clerk may issue and direct all the processes in a suit to the coroner, who must execute them and attend to the suit throughout in the same manner as the sheriff would do in similar cases (Rev. Stat., 1838, 194; A. Ark., 1917, 1122). If the coroner is performing the duties of the sheriff in conveying prisoners to the penitentiary, he may summon guards to assist him, so long as he does not have more than two guards for each prisoner (A. Ark., 1845, 75).

The coroner, like any other peace officer, is a conservator of the peace, and he may cause all who are offenders against the law in his view to enter into recognizance, with sureties, to keep the peace and to appear at the next term of court. He must endeavor to quell disturbances such as riots, affrays, and assaults and batteries, as well as apprehend and commit to jail all felons and traitors. (Rev. Stat., 1838, 194.)

If, because of his absence or any other cause, the sheriff is unable to serve a process, the coroner must make the service and the return to the circuit clerk. On the return he must state at length the time when, and the place where, the process was served, and how; otherwise, he will not be entitled to receive compensation for the service. (A. Ark., 1842, 37.) If the sheriff, or his deputy, is a party to a suit in which a process is to be served, then it becomes the duty of the coroner to make the service (Rev. Stat., 1838, 194). The coroner is not compelled to execute any process in any case, except in criminal cases or in other cases in which the state or the county is the plaintiff, unless the person in whose favor it is issued pays all costs for the service in advance (A. Ark., 1866-1867, 292). A justice's summons, ordinarily served by a constable, may be served by the coroner (McCabe v. Payne, Ark. Rep., 1882, vol. 37, p. 450). When witnesses he has summoned neglect to appear, it is within the power of the coroner to arrest them and compel their attendance. He may also issue subpoenas for, and in case they ignore these, attachments for contempt against, witnesses, and he may fine a witness who fails to appear in a sum not to exceed $10. If a material witness at an inquest, having been required by the coroner to enter into recognizance to the state, fails to provide sufficient security to guarantee his presence at the proper court, the coroner may commit him to jail. The coroner may admit any person to bail who is

brought before him, or who may be in his custody, on a bailable offense, if the person offers sufficient security. (Rev. Stat., 1838, 196-198.)

The coroner is not required by law to keep records. His inquest papers, which give names of deceased persons; dates of deaths; dates and places of inquisitions; lists of witnesses; signatures of witnesses; certificates of examining physicians; lists of jurors; verdicts of juries; signatures of foremen of the juries; his own signature, and remarks, are all turned over to the clerk of the circuit court. Any other records he may keep are merely for his own use. (Rev. Stat., 1838, 196, 197.)

If the coroner is absent, or if he resides more than 20 miles from the place where the dead body concerned is found, an inquisition may be conducted by the nearest justice of the peace, who, in this case, has the same power and authority as the coroner (Nelson v. State, Ark. Rep., 1877, vol. 32, p. 196).

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XII. CONSTABLE

The office of constable in Cleburne County came into existence with the county's creation and organization in 1883 (A. Ark., 1883, 40), in accordance with the provisions of the Constitution of 1874 (Const. 1874, art. VII, secs. 47, 48). (For an extended discussion of the office of constable prior to 1883, see the Inventory of The County Archives in Arkansas, Van Buren, No. 71.)

The only qualifications for the office of constable are that the candidate be an elector and a resident of the township in which he seeks to hold office (Const. 1874, art. XIX, sec. 3). The constable is elected by the qualified voters of the township, and he is the only county official who is not commissioned by the governor. Instead of the governor's commission, the constable receives, from the county judge, an election certificate, on which he endorses his official oath of office. (Const. 1874, art. VII, secs. 47, 48.) The constable is elected for a term of two years and must take an oath prescribed for all state and county officials and must make bond (Const. 1874, art. VII, secs. 47, 48; ibid., art. XIX, sec. 20), within 10 days after receiving his certificate, in any amount specified by the county court, provided the amount is not less than $500 nor more than $5000. The bond must be approved by the circuit court and filed in the recorder's office. (Rev. Stat., 1838, 184.)

Constables have no fixed salaries. They are entitled to all the fees and emoluments of their office up to $5000 per year, the maximum compensation for all state and county officers. Any amount received in excess of $5000 must be turned over to the county treasury. (Const. 1874, art. XIX, sec. 23.)

The constable is allowed fees for duties which include summoning witnesses, serving warrants, taking custody of prisoners and escorting them to and from jails, summoning jurors, attending trials, calling courts, announcing the opening of sessions of justice of the peace courts, and caring for prisoners. The fees range from 10 cents to 75 cents. He is allowed the same compensation as the sheriff for mileage expense and receives the same commission as the sheriff on money collected in serving an execution or process, either when the goods levied upon have been in his custody or have been sold. A fee of 2½ cents per mile is paid the constable for each mile travelled in serving summonses. (A. Ark., 1845, 46.) When the sheriff and coroner both are disqualified to serve in the capacity of the sheriff and the constable acts in their stead, he is allowed the same fees that are paid the sheriff for performing the same duties (A. Ark., 1846, 86; ibid., 1874, 183; see also "Sheriff", p. 118).

The constable may be removed from office, by the county court, for his failure to perform any of his duties, including the obligations to pay over money he has collected for the county or to execute processes within the time specified by law (Rev. Stat., 1838, 186), and to post bond within 10 days after his election or appointment (Rev. Stat., 1838, 184). If the office of constable in any township should

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Constable

become vacant, the constable of any adjoining township, during the vacancy, must execute and return all process directed to him for execution in the township where the vacancy exists (A. Ark., 1845, 46). Vacancies in the office of constable are filled by appointment by the county court in term time, or by the presiding judge of the court in vacation. The person appointed, who must be a resident of the township in which the vacancy occurred, holds the office until his successor is elected and qualified. (Rev. Stat., 1838, 186.)

The constable may appoint, subject to the approval of the county court, one or more deputies, for whose acts he is held responsible. It is the duty of the constable to preserve the peace anywhere in his county, to suppress "all fights, affrays, riots, and unlawful assemblies" and to cause all offenders to be arrested and taken before some justice of the peace court and dealt with according to law. (Rev. Stat., 1838, 184, 185.) He also must serve warrants in criminal cases, take prisoners to and from jails, accept delivery bonds, summon witnesses, levy writs of attachment, attend trials in justice of the peace courts, call court, summon defendants to trial, and collect defendants' fines or forfeitures (A. Ark., 1874-1875, 183). Any constable who fails to perform his duties as a conservator of the peace is guilty of a misdemeanor and upon conviction will be fined not less than $5 nor more than $100 (A. Ark., 1848, 37). In addition to the privilege of appointing one or more deputies, the constable has the powe.. to call upon citizens and the state militia for aid if he thinks their help is needed in carrying out his duty as a law enforcement officer (A. Ark., 1864-1865, 53), and if, in preparing to serve a summons, a constable has any reason to believe he will meet with resistance, he may command as many male inhabitants of his county as he thinks necessary to assist him in overcoming the resistance and arresting the persons who resist and causing them to be brought to trial (A. Ark., 1869, 337, 338).

The power to arrest any person who commits an offense for which he may be tried before a justice of the peace is vested in a constable, providing the offense is committed in his presence. In the case of his not having been a witness and of knowledge of the offense coming to him indirectly, he may present the offender to a justice of the peace and have him arrested and brought to trial. (A. Ark., 1848, 37.) If a constable learns that the tax on any exhibit of objects, or public performance, has not been paid, he has the power to demand immediate payment. If payment is refused, he may demand that the performance, or exhibit, be closed, on the ground that it constitutes a disturbance of the peace. (A. Ark., 1883, 278.) On the basis of complaints made by three or more persons, the constable has the power to inspect, once a year, all scales, weights, or measures used for commercial purposes within his township. If these are found to be inaccurate, the persons or firms using them are liable to prosecution and may be fined. One-half the amount of the fine may be kept by the constable. (A. Ark., 1913, 1058, 1059.)

Although a constable is a peace officer and has authority to arrest offenders against the law, he is not authorized to execute warrants of arrest or other processes directed to the sheriff of the

county unless he is deputized by the sheriff to perform these duties (Winkler v. State, Ark. Rep., 1877-1878, vol. 32, p. 539), except that when the offices of sheriff and coroner are vacant, or when both the sheriff and the coroner are disqualified to serve, a constable is required to execute and return all processes directed to those officers. In such cases, of course, the goegraphical scope of his authority is county-wide. (A. Ark., 1846, 86.) Constables are not required to serve on juries, an exemption provided by the same law that excuses clergymen, attorneys, and military officers (Rev. Stat., 1838, 483).

A record setting forth separate accounts for each constable in the county is kept in the office of county clerk (A. Ark., 1883, 291; see "County Court", p. 40).

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XIII. QUORUM COURT

The term "quorum court" originated in England, where it was used to designate a select number of justices of the peace, one or more of whom, on account of their skill and discretion, the commission of appointment directed should be included in the number necessary to be present to act as a court. In Arkansas, the term refers to the county judge and the justices of the peace of the county acting collectively as a tax levying and appropriating body. It came into its present use by the process of neology, having been used colloquially as the name of the body for a considerable time before it was applied as an official designation by the General Assembly in 1907 (A. Ark., 1907, 642). The quorum court was first established in Arkansas by the Constitution of 1836 (Const. 1836, art. VI, sec. 9) and was provided for in the Constitutions of 1861 (Const. 1861, art. VI, sec. 11) and 1864 (Const. 1864, art. VII, sec. 11) and again in 1868 (Const. 1868, art. VII, sec. 5). The power to levy taxes and make appropriations for county purposes was vested in a board of county supervisors in 1873 (A. Ark., 1873, 57). By authority of the Constitution of 1874 and subsequent legislation, the quorum court was re-established and given the power to levy taxes and appropriate county funds (Const. 1874, art. VII, sec. 30; A. Ark., 1875, 142).

The quorum court was established in Cleburne County in 1883, following creation of the county (A. Ark., 1883, 40) in accordance with the constitution and then existing vitalizing legislation (Const. 1874, art. VII, sec. 30; A. Ark., 1875, 142). Provisions for the general functions of the quorum court were re-enacted in 1887 (A. Ark., 1887, 146), and remain the same with the exception of a few specific duties and powers prescribed by subsequent laws.

The county judge is the presiding officer of the quorum court and with the justices of the peace constitutes the levying and appropriating body. In the absence of the county judge, a majority of the justices of the peace may elect one of their number as presiding officer. (Const. 1874, art. VII, sec. 30.)

The county clerk attends all sessions of the quorum court and keeps a written record of its proceedings, which includes the names of those members voting for and against all levies and appropriations (A. Ark., 1879, 111). At the opening of the session, the clerk submits a complete report and financial statement of the county, showing the amount and sources of all revenue during the past fiscal year, the appropriations made at the previous session of the court, the amount of the appropriations spent, and any unexpended balance or deficit; the total amount and the number of county warrants drawn during the fiscal year; all unadjusted claims in favor of, or against, the county, and the total value of the taxable property in the county as shown by the assessment books (A. Ark., 1919, 902; ibid., 1937, 401).

Immediately after adjournment of the session of the quorum court at which appropriations are made, the clerk must enter in a book kept for that purpose each appropriation and during the fiscal year must credit the appropriations for all amounts paid out (A. Ark., 1879, 116).

The county sheriff or one of his deputies also attends all its sessions to preserve order and execute its mandates (A. Ark., 1879, 112).

The court is required by law to meet the second Monday in November of each year for the purpose of levying the taxes and on the first Monday in January for the making of appropriations (A. Ark., 1933, 323). In the event of an emergency, a special meeting may be called by the county judge (A. Ark., 1937, 1318). (For further details concerning the county judge, the county clerk, and the justices of the peace, see "County Court", p. 40, and "Justices of the Peace", p. 111.)

It is the duty of the quorum court to levy all state, county, municipal, and school district taxes required by law. The state tax levy is certified each year to the quorum courts of the several counties by the state auditor. The total levy for state purposes is 8.7 mills, which is divided as follows: Common school fund, 3 mills; Confederate pensions, 2 mills; state hospital and dairy farm, school for the blind, deaf mute institute, Confederate soldiers' home and tuberculosis sanitorium, 1.2 mills; interest on state debt, .2 mill; University of Arkansas, 1 mill; branch normal college, .12 mill; district agricultural colleges, .6 mill; school supervision fund, .18 mill; state normal school, .2 mill, and vocational education, .2 mill. (A. Ark., 1921, 467-471.)

For the general operating expense and the sinking fund of school districts in the county, the court levies not to exceed 18 mills when the levy is authorized by a vote of a majority of the electors in the school district. For the general operating expense of any town or city in the county, the court may levy 5 mills, and an additional 5 mills for the retirement of bonded debts that were in existence at the time the Constitution of 1874 was adopted. (A. Ark., 1909, 902.)

For the general expense of the county, the court levies not to exceed 5 mills. It may levy not to exceed 5 mills for bonded debts in existence at the time of the adoption of the Constitution of 1874. (A. Ark., 1883, 214.) It must levy not to exceed an additional 5 mills as a funding bond tax, for the retirement of any improvement bonds, where the issuance of the bonds and the levy have been authorized by a vote of the people (A. Ark., 1925, 610). It is the duty of the court to make appropriations for the lawful expenses of the courts of record; for the expense of keeping prisoners in the county penal institutions; of assessing real and personal property taxes and collecting ad valorem taxes; of keeping public records; of caring for the county's poor; of building and repairing county roads and bridges; of maintaining county buildings, and other lawful expenses of county government (A. Ark., 1909, 902).

Protests of any person, firm, or corporation against any tax levy must be heard by the court and a ruling made upon the protest. The protestant has the right to appeal to the circuit court from the decision of the quorum court. (A. Ark., 1887, 164.)

In addition to the appropriations required by law, the court may appropriate funds for the payment of the poll taxes of soldiers and sailors on duty during a national emergency (A. Ark., 1923, 513); for county fairs (A. Ark., 1927, 123); for state fairs (A. Ark., 1929, II,

1512); for the support and maintenance of any home-finding society and any hospital which provides care for the sick and crippled children of indigent parents (A. Ark., 1925, 781; ibid., 1929, II, 1453); for increasing the salaries of the farm demonstration agent and the home demonstration agent in the county (A. Ark., 1911, 21; ibid., 1927, 1105); for the purchase of two bloodhounds (A. Ark., 1901, 158); for tick eradication and the burning of the carcasses of animals dying from accident, or from anthrax or other contagious or infectious diseases (A. Ark., 1917, I, 1183; ibid., 1925, 664); for the promotion of public health and welfare; for the care of indigent persons in the county; and for the support and education of orphans and other underprivileged children (A. Ark., 1925, 361; ibid., 1935, 967). Appropriations made by the court must not total more than 90 per cent of the total anticipated revenue for the fiscal year (A. Ark., 1879, 115).

Committees of the court are appointed for the purpose of examining the annual reports of the county clerk, of the sheriff as ex-officio collector, of the county treasurer, of the county judge (who reports on conditions of roads and bridges and county institutions), and of the appraisers who make an annual appraisal of the county's real and personal property (A. Ark., 1937, 403).

Appointive power first was given to the quorum court in 1899 when the court was authorized to select one resident of the county as road commissioner and delegate specific authority to the commissioner for the maintenance and construction of county roads (A. Ark., 1899, 349). It lost this power in 1921, when the county judge was designated by statute as the road commissioner of the county (A. Ark., 1921, spec. sess., 376).

All records of the actions of the quorum court are kept by the county clerk in the manner prescribed by law. (See "County Court", p. 40.)

Appropriations

127. APPROPRIATION RECORD, 1884-1926. 1 vol. (1). 1913--
also in County Court Record, entry 5.

Record of tax levies and appropriations made by quorum court to cover expenses of the various departments and functions of the county government for the year, showing funds from which appropriations were made; dates; nature and amount of debits and credits, and by whom received. Arr. chron. by terms of court. No index. Hdw. 320 pp. 16 x 11 x 1½.

For abstracts of appropriations, see entry 10.

Proceedings

128. (RECORD OF PROCEEDINGS OF QUORUM COURT), 1883--. In
County Court Record, entry 5.

Clerk's minutes of proceedings at meetings of the quorum courts, giving

date of each meeting; names of justices of the peace present; reports of county judge, county clerk, sheriff, and treasurer submitted to court for approval; appropriations made for salaries of county officers and expenses; levies of school district taxes as certified by county examiners; taxes for incorporated towns as certified by various town councils, and adjournment orders.

For reports of county judge, county clerk, sheriff, and treasurer to quorum court, see entries 129, 130, 131, 132.

Reports of Officers

129. (REPORT OF COUNTY JUDGE), 1883--. In (Case Papers), entry 1-i.

Reports of county judge to quorum court, giving information regarding condition of public roads and bridges; number of paupers cared for by the county, and condition and general finances of poorhouse; recommendations of grand jury and county judge regarding condition of public properties, including buildings, records, and treatment of county prisoners.

For proceedings of quorum court, see entry 128.

130. (REPORT OF CLERK), 1883--. In (Case Papers), entry 1-ii.

Reports of county clerk to quorum court on financial condition of county, giving amount of revenue received and from what sources during the fiscal year preceding the meeting of the court; appropriations made and for what purposes at preceding meeting of court, and amounts drawn on each appropriation; balances or deficits in each fund; total amount and numbers of county warrants drawn and total amount of allowances made by county court during preceding fiscal year; unadjusted claims, either against or for the county, total value of taxable real and personal property of the county and road and school districts as shown on the assessment books of the current year.

For proceedings of quorum court, see entry 128.

131. (REPORT OF SHERIFF), 1883--. In (Case Papers), entry 1-xxiv.

Reports of sheriff to quorum court, giving account of all funds collected by sheriff and disposition made during the year preceding meeting of quorum court; special data on automobile license collection; number of prisoners confined in jail during fiscal year, number of prisoners confined at time of making report; dates of expiration of terms of sentences; causes of confinement; and expense of keeping of prisoners.

For proceedings of quorum court, see entry 128.

132. (REPORT OF TREASURER), 1883--. In (Case Papers), entry 1-xxv.

Reports of treasurer to quorum court on funds received by him, stating from whom, and on what account.

For quorum court proceedings, see entry 128.

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XIV. TAX ASSESSOR

The office of the tax assessor is an agency to set valuations upon real and personal property for the purpose of ad valorem taxation. Arkansas's Constitution of 1874, under the provisions of which Cleburne County was created in 1883, provided there should be one assessor in each county. (Const. 1874, art. VII, sec. 46; A. Ark., 1883, 40-46.)

The required qualifications of the assessor, as set out by the Constitution of 1874, are "the qualifications of an elector." At the time of that constitution's adoption, the qualification requirements of an elector were that he be a male citizen of the United States who had been a resident of the state for one year, a resident of the county for six months, and a resident of his voting precinct for one month, and had reached his twenty-first birthday before the election (Const. 1874, art. III, sec. 1). The "equal suffrage amendment" made to the federal constitution in 1919, of which Arkansas approved by its own amendment of the same year, further provided that there should be no discrimination as to sex in the qualifications of an elector (U. S. Const., amend. XIX; Const. 1874, amend. VIII, adopted 1919).

The assessor is elected by the qualified electors of the county for a term of two years and is commissioned by the governor (Const. 1874, art. VII, secs. 46, 48). He is required to post bond within 15 days after he receives his commission. The amount of the bond, not less than $1000 nor more than $8000, and the security posted for the bond are subject to the approval of the county judge. The assessor is liable on his official bond for failure, neglect or refusal to discharge any of his lawful duties. (A. Ark., 1883, 234.) Before entering office, the assessor is required to subscribe to the oath provided in the state constitution for all state and county officials (Const. 1874, art. XIX, sec. 20). In addition to the constitutional oath, the assessor is required to take the following oath, which is endorsed on the assessment books prior to their delivery to him: "I_____, assessor for _____County, do solemnly swear that the value of all real and personal property, moneys, credits, investments in bonds, stock, joint stock companies, of which statements may be made to me by persons required by law, will be appraised at its actual cash value; that in no case will I, knowingly, omit to demand of any person or corporation, of whom by law I may be required to make such demand, a statement of the description and value of personal property, or the amount of moneys and credits, investments in bonds, stocks, joint stock companies or otherwise, which he may be required to list, or in any way connive at any violation or evasion of any of the requirements of the law, or laws, in relation to the listing or valuation of property, credits, investments in bonds, stocks, joint stock companies or otherwise, of any kind, for taxation." Should he fail to take the oath and file it with the county clerk, the office is declared vacant. (A. Ark., 1883, 234, 235.)

In case the office of the assessor becomes vacant, it is filled

by special election, unless the vacancy occurs within six months before the next general election. In the latter event, the governor may appoint someone to hold the office for the rest of the term. (Const. 1874, art. VII, sec. 50.) The assessor continues in his office until his successor is elected and qualified (Const. 1874, art. XIX, sec. 5).

For a four year period, prior to the establishment of his present salary, the assessor of Cleburne County was paid a salary of $1500 a year. This figure was established in 1929 when the legislature placed the counties in different classes and set assessors' salaries accordingly. The counties of the tenth class, of which Cleburne County is a member, paid their assessors the sum of $1500 a year. (A. Ark., 1929, II, 862.) When the office was first established in the State of Arkansas, the assessors were compensated by a salary which was not to exceed $3 a day (L. T. L., 1806, contained in T. L. M., 1824 digest, 76). Shortly after the Constitution of 1874 was adopted, a law was adopted, providing for their compensation on a fee basis (A. Ark., 1874, 207, 208). At present, the assessor of Cleburne County receives a salary of $1200 a year. One-half of this amount is paid by the state and the remaining one-half by Cleburne County. (Initiative Act No. 1, Cleburne County, 1932, sec. 5, see appendix, p. 191.)

The assessor may be removed from office for incompetence, corruption, gross immorality, criminal conduct, malfeasance, misfeasance, or nonfeasance in office (Const. 1874, art. VII, sec. 27). If he is charged with any of the offenses mentioned here, the circuit court may immediately suspend him from office, and, if he is convicted, the court has the power to remove him (A. Ark., 1877, 64). Should he be convicted of fraud, bribery, or some other offense against any election law of the state, he may be adjudged guilty of a felony and disqualified from holding any office of trust or profit in the state (Const. 1874, art. III, sec. 6).

The assessor may appoint any number of deputies necessary to aid him in the discharge of his duties. The deputies must have the same qualifications required of the assessor and perform all the duties enjoined upon the assessor. Their appointments are subject to the approval of the county judge. (A. Ark., 1883, 235.)

The assessor is prohibited from devoting time to any business other than that of his public office. He, or his deputy, is required to be, and remain, in his office during reasonable office hours between the first Monday in January and the tenth day of April of each year for the purpose of assessing all real and personal property. (A. Ark., 1929, II, 846; ibid., 1931, 341, 342.)

In odd-numbered years, between the first Monday in January and the third Monday in August, the assessor must assess all real property within the bounds of any city or town. All new additions which have been platted into lots and blocks must also be assessed at this time. In each even-numbered year, he must assess all real estate situated outside the bounds of the cities or towns and also the additions which have been platted into lots and blocks. All personal property and

money is assessed annually, between the first Monday in January and the third Monday in August. (A. Ark., 1929, II, 844.) If the owners undervalue their property in listing it for assessment, the assessor must revise the valuation, fairly and according to common practice (A. Ark., 1875, 178).

For a short time, "The township board of assessment and valuation" took over some of the duties that were performed, and are performed at the present time, by the assessor alone. The assessor was a member of the board. Besides the assessor, there were two members who were appointed by the county court. They were required to be citizens of the township in which they resided and for their services they received $3 a day for time spent in actual assessment and valuation of property. (A. Ark., 1917, II, 1238; ibid., 1919, 133.) Creation of the township boards increased considerably the power of the county tax assessor. An act of 1917 provided that every township in each county should have a township board of assessment and valuation and that the township board should be composed of three persons, one of whom was to be the county tax assessor. An act of 1919, which repealed the act of 1917, continued this plan in force, providing, additionally, boards for each ward of cities of the first class. Members were appointed by the county court. When they failed to appear and serve, the vacancies were filled by persons selected by the assessor. (A. Ark., 1917, II, 1238; ibid., 1919, 133.) The act of 1917 required that an appointee be a reputable and intelligent citizen and a taxpayer in the township, where he must have been a resident during the five years preceding, and it was advised that he be a justice of the peace of the township. He was to subscribe to the same oath as the tax assessor. (A. Ark., 1917, II, 1238, 1239.) The act of 1919 changed this only by substituting a three-year residence requirement and omitting the recommendation that justices of the peace be selected (A. Ark., 1919, 133).

No provision was made for election of officers of the board. As far as members other than the assessor were concerned, these laws lacked the detail of previous similar laws. It was provided in 1917 that the members regularly should be appointed 30 days before the assessor should begin the assessment of taxes "as now provided by law" (A. Ark., 1917, II, 1238), and the later act specified that the appointments should be made on or before April 1 of each year (A. Ark., 1919, 133). The members were to serve in the order in which the assessor arrived at their townships in his scheduled tour of assessment -- advertised, according to law, in advance -- and for the length of time he was occupied there (A. Ark., 1917, II, 1238, 1239; ibid., 1919, 134, 135).

It was the duty of the first township boards, upon the arrival of the assessor, "at once to proceed to place a fair market value on all real and personal property in their township and extend said values in the proper blanks on the lists of assessment, which blanks shall be provided on said lists to contain the values of property as determined by said board in addition to similar blanks used by property owners for noting the value of their property." If a nonresident owner or his agent failed or refused to submit a list evaluating his property

in the township, as required by law, the board was to set its own just valuation and add a penalty of 25 per cent on all taxes due, providing the penalty be not less than $1. (A. Ark., 1917, II, 1239, 1240.) The act of 1919 re-enacted these provisions substantially and, prescribing powers, said ". . . each property owner shall be required to answer, upon oath, all questions propounded to him by said board, and to furnish proof demanded as to purchases, sales, transfers, improvements, accounts, notes, stocks, bonds, bank notes, bank deposits, marginal and exchange profits, invoices, insurance carried, or any other information requested by said board" (A. Ark., 1919, 135, 136). Members were subject to call by the assessor to meet sometime between August 10 and August 20 of each year at the county seat to assess the intangible value of corporations, if any, having home offices within the geographical jurisdictions of the members' boards. They were to be paid for this at the rate provided by law for the regular board meetings. (A. Ark., 1919, 138.)

Also in 1919, it was provided that the county judge, on or before April 1, file in duplicate with the county clerk the names and postoffice addresses of township board members he had appointed, the extra copy to be sent by the clerk to the Arkansas Tax Commission (A. Ark., 1919, 133).

The laws of 1927 abolished the township boards and re-established the "board of equalization" (A. Ark., 1927, 331; ibid., 1929, II, 864; see "Board of Equalization", p. 142). The assessor is required to attend the meetings of the board of equalization and, at its request, explain his assessments (A. Ark., 1929, II, 869).

His "returns" to the county clerk include both real and personal property assessments. The statements of property by persons who are required to list them are turned over to the county clerk, arranged by school districts and in alphabetical order. If the statements of the taxpayers are destroyed after the regular period for the collection of taxes, the assessor is authorized to take other statements according to the provisions of the original assessments. (A. Ark., 1883, 238.) He must list the names of poll tax payers and personal property owners on the assessment lists according to the political township and ward in which they reside (A. Ark., 1935, 429).

A law of 1913 makes it his duty to include in the notices of his attendance at the various voting precincts a statement that for a 10-day period, to be designated exactly by dates and to be at a time following his visits to all the voting precincts, he will be in his office at the county seat and accessible to the taxpayers (A. Ark., 1913, 526, 527).

When a taxpayer presents himself to prepare a property assessment list, the assessor must administer this oath: "You do solemnly swear that you will well and truly answer all questions that may be asked of you touching on the assessment of your property." After the oath has been administered the assessor may require of the taxpayer the following data: (a) the number, kind, and value of each automobile

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he owns, (b) the cash or other funds he has on hand, and the money on time deposit or otherwise in any depository, in or out of the state, (c) the taxable securities of every kind he may own, and their value, regardless of whether the securities are in or out of the state, (d) what stocks, bonds, or mortgages he owns, either in or out of the state, and their value, (e) what leases or mineral deeds he owns, and their value, (f) the amount and value of any timber land he owns, (g) any other property that the taxpayer may own, of no matter what kind if it has value. When the list has been made out, the taxpayer is then required to assess the properties disclosed by the questionnaire. (A. Ark., 1929, I, 558, 559.)

It is the duty of the assessor when assessing general property taxes to assess a per capita tax for the improvement of roads of $3 a year on each male inhabitant between the ages of 21 and 45 years (A. Ark., 1929, II, 717, 718).

He must tabulate, on a form prepared for that purpose, the number of acres of all improved and all unimproved land in each farm in the county. In the same tabulated form he is required to list the number of acres sown in wheat at the time the list is made out, the number of acres and number of bushels, each, of corn, wheat, peas, potatoes, oats, and barley raised during the preceding year, and the number of acres of seed cotton grown the preceding year. Other items to be listed on the form are the number of pounds of wool, the number of sheep sheared, the number of acres in apple trees and in peach trees, the number of bushels of apples and peaches sold, the number of bushels of small fruits, such as plums, cherries, and berries, and the number of pounds of grapes sold. This tabulated statement is made out by townships in duplicate form. One copy is sent to the secretary of state and one is filed with the county clerk. (A. Ark., 1883, 243, 244.)

The assessor must determine as near as possible the true value of each separate tract and lot of real property. He is authorized to make out a correct and pertinent description of each tract or lot of real property so that each may be identified and distinguished from any other tracts, or part of tracts, and to place a value on each one. The improvements, if any, must be valued at the same time. He may require the owner or occupant of the property to furnish an accurate description of it and if the owner or occupant refuse, he may employ the county surveyor to do so. If the assessor is forced to hire the surveyor in order to get a description of the quantity of land, he must inform the county clerk of the fact and the clerk will add the cost of the survey to the tax assessed upon the property. He must note in his platbook, separately, the values of all houses, mills, and other buildings which must be assessed as part of the value of the tracts. (A. Ark., 1883, 242.) It is the duty of the assessor, when he discovers any property which has been omitted from the assessment roll, if the discovery is made before the collector closes his books for the tax collections covering the year in which the property is due to be assessed, immediately to make a special assessment list of the property, and file the list with the county clerk. On or before the third Monday in

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Tax Assessor

September of each year the assessor must report to the Arkansas Tax Commission, now to the Arkansas Corporation Commission, the total, by total of items and values, assessments for that year. His report must show the kind, character, number, and value of all property assessed, and any other information the commission may demand of the assessor. (A. Ark., 1919, 139; ibid., 1929, II, 853.) He is required to indicate on the tax lists of all individuals made by him the fact whether the person assessed is of the white or the colored race. The assessor must indicate in like manner all assessments against corporations. (A. Ark., 1895, 179.)

When a taxpayer has assessed his property he may demand of the assessor a copy of the assessment list. When an owner of real estate subject to taxation presents the assessor with a written description of his property, the latter is required to return the description to the owner after it has been entered on the assessment list. In addition, he must give the owner a certificate verifying the description of the owner as the assessment of the owner for that year. (A. Ark., 1905, 674, 675.)

In case the assessor raises the valuation of any property which has been listed with him, he must notify the owner so he may, if he wishes, go before the equalization board and show cause why it should not be raised. The notice must show, separately, the valuation as listed by the owner, and as fixed by the assessor. In appraising and assessing property, it is the duty of the assessor, when he finds it necessary, to enter any place, make an inspection, and examine under oath any person whom he thinks might have knowledge of taxable personal property under investigation. (A. Ark., 1929, II, 851.) When a certificate of the donation of land, the granting of homestead land by the state, has been issued, the assessor may, after viewing the certificate, assess the land according to its true value (A. Ark., 1933, 373).

The property of any water or electric light and power improvement district organized under the laws of this state must be assessed as personal property, but if the improvement district furnishes free electric lighting service and water to the municipality in which it is located, that part of its property used exclusively for the furnishing of free service will not be included in fixing the assessed valuation. The money from the taxed portion of the property goes to the district schools. The assessment of the value of such property is made on a unit basis. (A. Ark., 1929, I, 520.)

Stocks of merchants and manufacturers must be assessed at the value of the average stock in possession or under control during the calendar year preceding the year in which the assessment is required (A. Ark., 1929, II, 843). A law of 1935 provided that whenever a merchant or manufacturer commences business within the limits of the county after the regular assessment time has expired and the assessment books have been filed with the county clerk, it is the duty of the assessor to visit the place of business of the merchant or manufacturer and assess the value of his business, merchandise, and fixtures, and to make and file extra assessment blanks with the county

clerk. The merchant or manufacturer, however, will be required to pay only one-half of the total taxes that would have been due for the entire year. (A. Ark., 1935, 429, 430.) Important exceptions to these provisions have been made. A constitutional amendment adopted in 1926 exempted textile mills from taxation for a period of seven years following their establishment in the state (Const. 1874, amend. XII, app. 1926), and another amendment of 1938 made the sweeping gesture of providing a 10-year tax-exempt period to all new manufacturing establishments or additions to existing factories (Const. 1874, amend XXVII, app. 1938).

All previously exempt lands becoming subject to taxation, and all new improvements made over the actual value of $100, and all city lots platted since the next preceding assessment, each year, must be appraised and assessed by the assessor for the then current assessment year. The assessor is required to adjust the assessment record of all damaged real estate and improvements thereon by re-valuation and re-assessment. In case the real estate or improvements have been damaged by flood, fire, tornado, or some other act of God since the next preceding assessment, provided that the damage not covered by insurance is more than $100, the assessor must re-value and re-assess the damaged property. (A. Ark., 1929, II, 844, 845.) When a town or city block, which has been previously assessed, and has been forfeited to the state for non-payment of taxes, has suffered loss from fire or other cause and the amount of taxes charged against it is consequently greatly in excess of its value, the assessor and county surveyor must view the property and appraise it for its true worth. They must certify their appraisement to the commissioner of state lands. The purpose of this act is to allow redemption deeds and deeds to such lands to claimants at a fair rate of redemption. Previous to this time the owner of the property, or person wishing to redeem it, was forced to redeem it for the original amount of taxes, penalties, and costs for which the property was forfeited as well as an additional two years taxes at the same rate. (A. Ark., 1937, 1054, 1055.) If a portion of a tract of land sold for general taxes or for improvement district taxes extended by the county clerk is claimed by any person desiring to redeem it, upon his application, the assessor is required to furnish the claimant with a statement showing the taxes due (A. Ark., 1925, 1058, 1059).

The assessor must also deliver a list to the county clerk showing all lands exempt from taxation which includes the amount and description of all lands belonging to the United States and to the State of Arkansas (A. Ark., 1883, 240). Exempted lands are burying grounds, public school houses, houses used exclusively for public worship, institutions of purely public charity, and public buildings and property used exclusively for any public purpose, and their value (A. Ark., 1883, 243).

Records required of the assessor include alphabetical lists of the names of taxpayers of the county. He must list separately the names of those taxpayers residing outside of and inside of incorporated cities, towns, and villages. Both lists must give the number of the

school district in which taxpayers reside at the time of assessment. The lists are made in tabular form and provide separate columns for various classifications of personal property and their aggregate value. In case a taxpayer refuses to furnish the description of his personal property, or to take an oath as to the truth of his statement of his personal property, the assessor should write the words "Refused to list", or, "Refused to swear", in an appropriate column opposite the name of the owner. If, on account of absence or sickness, the taxpayer is unable to list his property, the assessors must write the word "absent", or "sick", opposite his name on the list. (A. Ark., 1927, 328, 329.)

The assessor must file the real property assessment books in the office of the county clerk not later than the first Monday in August of each odd numbered year, and he must file the personal property assessment books in the office of the county clerk not later than the third Monday in August of each year (A. Ark., 1927, 329, 330). Any legally required list of property owners filed with the assessor, the lists are filed by the collector, recorder, city clerk, county and probate clerk, school directors and all individuals, firms or corporations employing five or more persons, is certified to the county court by the assessor. His certificate must show whether those persons named in the list have made an assessment, and if not, why not, and what effort he has put forth in each case to obtain an assessment. (A. Ark., 1929, I, 560, 561.)

From time to time the assessor must, by personal inspection and questioning of persons, inspect property or records, gather and record in writing any and all available data and information bearing upon the location, number, amount, kind, and value of any and all property and persons which he is required to assess. This written collection of data and information must be, and remain permanently, a part of the records of the assessor's office and must be filed in such a manner that it may be utilized by the equalization board, county clerk, county court, or other interested parties. (A. Ark., 1929, II, 855; see "County Equalization Board", p. 142.)

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XV. COUNTY BOARD OF EQUALIZATION

The county board of equalization is an agency for the equitable adjustment of taxation, by the raising or lowering of evaluations set by the tax assessor, among owners of real and personal property. The sources of this essay are the legal provisions in effect at the time of, and after, Cleburne County's creation in 1883. (For an extended discussion of bodies set up for fair distribution of the tax demands, see the Inventory of The County Archives in Arkansas, Van Buren, No. 71.)

Arkansas's Constitution of 1874 made the county courts responsible for the duties now discharged by the boards of equalization (Dodson et al v. Mayor and Town Council, Fort Smith, Ark. Rep., 1880, vol. 33, p. 508).

On March 31, 1883, 11 days after it had approved an act creating Cleburne County, organized the following May 7, the General Assembly enacted a law providing for each county a board of equalization (A. Ark., 1883, 245). These boards temporarily were abolished and supplanted by township boards in 1917 (A. Ark., 1917, II, 1238).

Between 1883 and 1917, in accordance with acts of 1883, and 1911, boards in Cleburne County were composed of "three intelligent citizens", appointed by the governor. Besides being intelligent, it was required that the members be real estate owners, qualified electors, and "from different portions of the county." (A. Ark., 1883, 245; ibid., 1911, 189.) If vacancies occurred, they were filled by the governor (A. Ark., 1883, 246, 247). The county clerk served as clerk, or secretary, and the board elected one of its members as president (A. Ark., 1883, 245, 246; ibid., 1887, 164; ibid., 1911, 189, 190).

The term of office was two years (A. Ark., 1883, 245; ibid., 1887, 163; ibid., 1911, 189), and the members, before taking office, were to take an oath provided in the state constitution for county officers and a special oath for the fearless and fair performance of their duties as members of the board (A. Ark., 1883, 245; ibid., 1887, 164; ibid., 1911, 190). At first, members were allowed $3 a day for the time actually engaged in the discharge of their duties (A. Ark., 1883, 245; ibid., 1887, 173), provided they were not in session longer than two weeks in a year (A. Ark., 1883, 245), but their compensation was raised to $4 a day in 1911 (A. Ark., 1911, 190). The 1887 General Assembly made no special mention of the length of sessions, but in 1911 it was provided that the board should have power to exercise its functions from the first Monday in September until the fourth Wednesday of October (A. Ark., 1911, 231).

Meetings were held annually, in the county clerk's office (A. Ark., 1883, 245; ibid., 1887, 164; ibid., 1911, 231). From 1883, the sessions opened on the first Monday in June (A. Ark., 1883, 245); from 1887, the second Monday in September (A. Ark., 1887, 164); from 1911, the first Monday in September (A. Ark., 1911, 191).

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The law of 1883 provided that the boards should equalize, by addition or subtraction, the tax assessor's valuations of "all personal property, moneys and credits within the county." It was the duty of the assessor to attend the board's meetings and upon request, give reasons for his evaluations. The members also had free access to the county records, and indeed, it was their duty to make careful examinations of appropriate records in carrying out their work. In equalizing real property assessments, the members were charged with the duty of keeping valuations in just comparison to the average valuations of real property in the counties where they were engaged and giving "due regard to their relative situation, quality of soil, improvements, and natural and artificial advantages possessed by each tract or lot." For the equalization of real property values, the boards were given these rules: "First. It shall raise the valuation of such tracts and lots of real property, as in the opinion of the board have been returned below their value, to such sum or price as may be deemed to be the true value thereof, agreeably to the requirements of this Act, in regard to the valuation of real property. Said board may actually enter upon and view property when they are not fully satisfied of its true value. Second. It may reduce the valuation of such tracts or lots as in the opinion of the board have been returned above their true value, as compared with the average valuation of the real property of such county, having due regard to the relative situation, quality of soil, improvements, and natural and artificial advantages." (A. Ark., 1883, 245-247.)

From 1887, the boards were required, when they raised valuations, at once to mail notification to the affected owners or owners' agents of this action, telling them of their right to protest before the county court (A. Ark., 1887, 172; ibid., 1911, 190). But the state Supreme Court decided in 1889 that the failure of a board to perform this duty did not justify an injunction of the county clerk from extending the board's valuation on the tax books (Equalization Board v. Land Owners, Ark. Rep., 1889, vol. 51, p. 516).

In session, boards had the power to hear complaints on valuations (A. Ark., 1883, 245, 246; ibid., 1887, 164), to examine witnesses, and their presidents were empowered to administer oaths to witnesses (A. Ark., 1911, 230). From the first, it was provided owners could appeal from a board's decisions at the ensuing session of the county court and attempt to have an adjustment made before the collector's books were closed (A. Ark., 1883, 246; ibid., 1887, 173; ibid., 1911, 231). Later, provisions were made for appeals to the circuit court, by either owners or the board, from the county court's decisions (A. Ark., 1887, 173; ibid., 1911, 191), and to the state Supreme Court. Taxpayers' appeals "shall be prosecuted in the name of the State of Arkansas on relation of the objecting taxpayer." (A. Ark., 1911, 191.) The county clerk, in his capacity of ex-officio clerk of the board, was required by the act creating the board in 1883 to keep up a record of the proceedings (A. Ark., 1883, 246).

From 1917 until 1929, the county board of equalization in Cleburne

and most other counties was supplanted by the township board of assessment and valuation (A. Ark., 1917, II, 1238; ibid., 1919, 133; see "Tax Assessor", p. 134).

County equalization boards, in turn, supplanted the township boards of assessment and valuation by an act passed by the General Assembly in 1929 (A. Ark., 1929, II, 864).

In counties of Cleburne's size, the boards have three members (A. Ark., 1929, II, 864, 865). In counties having two judicial districts, these do not include Cleburne, it was provided in 1927 that, subject to the recommendation and authorization of their respective county judges, there should be a board for each district, their duties, qualifications, and remuneration to be the same as prescribed for county boards (A. Ark., 1927, 332). This was revised by the General Assembly of 1929, which provided that counties having two or more judicial districts should have one equalization board, to consist of two members from each district and one from the county at large. The assembly further, made provision for nine-member boards for counties having more than 75,000 inhabitants, according to the latest federal census, and directed that the members should be selected from "different sections of the county" and be subject otherwise to the regulations concerning boards of the ordinary size. (A. Ark., 1929, II, 864, 865.) This affected, and now affects, only Pulaski County, whose population was 109,464, according to the 1920 census, and 137,727, as reported in 1930 (Fourteenth Census United States, Population, I, 95; Fifteenth Census United States, Population, III, 225).

The board members are appointed by the quorum court at the annual meeting of the court held in each odd-numbered calendar year. Vacancies are filled by temporary appointments made by the county court. These appointees serve until the ensuing annual meeting of the quorum court. (A. Ark., 1929, II, 865.)

Members of equalization boards are residents of the county who are qualified electors and owners of real estate. From 1929, the county clerk has served as clerk of the board, and the board members have elected a president, or chairman, from among themselves. (A. Ark., 1929, II, 865.)

Terms of board members are two years or until successors are appointed and qualify (A. Ark., 1929, II, 865). They receive not to exceed $10 a day for time engaged in their duties (A. Ark., 1927, 333).

Since 1929, the statutes have required that the board open its annual meeting on the third Monday in August and that the sessions be held in the county clerk's or the county assessor's office (A. Ark., 1929, II, 864).

The law limits the length of sessions, saying, "beginning the third Monday in August, and if necessary, up to the third Monday in

September, but not thereafter" (A. Ark., 1929, II, 867).

Each member takes the oath of office provided for all state and county officers in the state constitution, which is "that I will faithfully discharge the duties of the office of _____, upon which I am now about to enter" (Const. 1874, art. XIX, sec. 20), and, further, he must swear specifically that he "will fearlessly, impartially, and faithfully equalize the assessed value of all property assessed and subject to taxation" (A. Ark., 1929, II, 867).

A county board begins its deliberations immediately after the county assessor files his reports of assessments of real and personal property with the county clerk as the law requires and the clerk lays this data before the board. The board raises or lowers the assessor's valuations to the extent that, according to the board's opinion, will as nearly as possible be equally just to all taxpayers. (A. Ark., 1929, II, 868.)

When the board raises the valuation of an item of property, it must mail notice of this to the taxpayer, comparing the assessor's valuation and the board's and describing the proper procedure for him to follow if he wishes to protest (A. Ark., 1929, II, 868). From 1929, it has been provided that appeals from the board's rulings are to be made to the county court (A. Ark., 1929, II, 868).

The state Supreme Court held in 1931 that taxes assessed on the market value of property rather than, as is customary, on half the actual value, though excessive, were "neither illegal nor unauthorized" and that an injunction could not be given against their collection. The court, however, said that a remedy was afforded in the provisions of the equalization board act of 1929. (Beard v. Wilcockson, Ark. Rep., 1932, vol. 184, 349-351.)

This act provides that each equalization board, before it adjourns after settling its valuations, shall adopt a resolution "wherein it shall be stated the per centum of true market or actual value at which it has equalized the assessed values of the property of the county under its jurisdiction for the year." The names of a majority of the members are required to be signed to this statement, and a copy of it, together with an abstract of adjusted assessments, giving totals of items and values, is to be forwarded to the Arkansas Tax Commission. (A. Ark., 1929, II, 871.)

Equalization boards have free access to county records they need to consult and may, singly or severally, enter upon and view property. They can also order witnesses to appear before them to answer questions about any property in the county. At the direction of a board or any of its members, the secretary, in vacation or in session, must summon witnesses for examination. (A. Ark., 1929, II, 869.)

The county clerk, in his capacity of ex-officio clerk of the

equalization board was made, in 1929, responsible for keeping a record of the proceedings of the board, particularly of the valuations fixed on every piece of property "equalized." It was made the clerk's duty also to extend the board's valuations in the tax books. (A. Ark., 1929, II, 866-871.) The oaths of office taken by board members before the county clerk are made matters of record in the clerk's office (A. Ark., 1929, II, 866, 867).

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XVI. TAX COLLECTOR

Although the sheriff is the highest ranking peace officer of the county, his duties as ex-officio collector usually are more numerous than as sheriff.

When an act of the General Assembly created Cleburne County in 1883, the office of sheriff and collector became operative under the provisions of the act and the Constitution of 1874 (A. Ark., 1883, 40; Const. 1874, art. VII, sec. 46). The first sheriff and collector of Cleburne County was S. J. Morton, who served from 1883 to 1886 (Higgins, Biennial Report of the Secretary of State, 1925-1926, 389).

The qualifications, manner of selection, term of office, manner of, and cause for removal, and compensation of the tax collector are discussed in the essay on the sheriff (see "Sheriff", p. 118, and "Governmental Organization and Records System", p. 12).

The bond of the tax collector is fixed at one-fourth more than the aggregate amount of the taxes to be collected in the year (A. Ark., 1885, 180). He must make a new bond, each year, on or before the first Monday in January. If he fails to do so, the office is declared vacant. (A. Ark., 1917, 810.) Should there be a vacancy for this or any other reason, it is filled in accordance with the provisions as set out in the Constitution of 1874 (Const. 1874, art. VII, sec. 50; see also "Sheriff", p. 118, and "Governmental Organization and Records System", p. 12). If a sheriff is suspended from his duties as a peace officer, he is not necessarily suspended as collector (Remley v. Matthews, Ark. Rep., 1908, vol. 84, p. 598).

If the collector erroneously certifies that any person is delinquent in the payment of taxes on real estate or personal property, or advertises for sale, sells, or offers to sell any real or personal property, upon which the taxes have been paid, he is required to pay the owner of the property an amount equal to double the amount of the taxes, penalty, and costs charged. He is liable on his official bond for any such mistake. (A. Ark., 1883, 257.) If he collects taxes not listed in the tax books, or collects a greater amount than shown by the tax books, except as authorized by law, he may, upon conviction, be imprisoned in the penitentiary for a period of from one to five years (A. Ark., 1873, 345). He is not allowed to lend any money belonging to the county or to employ any for his personal use. If he violates this provision and is found guilty, he may be fined not less than $500 nor more than $1000. (A. Ark., 1883, 288.)

The tax collector may appoint one or more deputies, for whose conduct he is responsible. The deputies are required to make bond in an amount that the collector may think sufficient to assure the faithful performance of their duties. (A. Ark., 1883, 254.)

The county clerk must deliver the tax books to the collector on

or before the third Monday in February each year. The collector on sues his receipt in duplicate to the clerk, who sends one copy to the auditor of state. When he has received the books, the collector may start making his collections. (A. Ark., 1933, spec. sess., 62, 63.)

A person paying taxes for the current year upon real estate on which taxes are delinquent for any prior year must be notified by the collector of the delinquency. This is accomplished by posting a list of delinquent taxes, together with an accurate description of the lands affected at three places in each collecting precinct. This list is furnished the collector by the county clerk at least 30 days before tax collections are started. (A. Ark., 1899, 312.)

In making his collections the collector or a deputy, on certain specified dates, goes to the different cities, towns, and townships of the county so that persons residing in the respective vicinities may conveniently pay their taxes. Notice of his itinerary is given by posting three notices in each of the separate areas affected and by advertisement in some newspaper published in the county. After he has completed his itinerary, the collector continues to collect taxes at his office at the courthouse. (A. Ark., 1887, 167.)

Taxes formerly were due on or before April 10 of each year (A. Ark., 1887, 167), but the governor later was authorized to extend time for payment by issuing a proclamation (A. Ark., 1911, 361, 362).

In 1933, the General Assembly extended the time for tax payments to October 1, and permitted the taxes on real and personal property to be paid in three instalments (A. Ark., 1933, spec. sess., 61). In 1935 the act was amended to provide that taxes on real and personal property were to be due and payable at any time between the third Monday in February and the first day of October in the year succeeding the assessment. Terms for instalment payments are as follows: One-fourth of the amount of taxes is due and payable between the third Monday in February and the third Monday in April; one-fourth between the third Monday in April and the third Monday in July, and the remaining one-half between the third Monday in July and the first day of October, the final date being inclusive. Taxes not paid by October 1 are considered delinquent, and it is the duty of the collector to extend a penalty of 10 per cent against all that remains unpaid. The collector files with the county clerk, on or before the fifteenth day of October in each year, a list of all taxes against real estate that he has been unable to collect, showing a description of the land or lots as they are described on the tax book. This list must be accompanied by the affidavit of the collector that it is a true compilation of the delinquent taxes. (A. Ark., 1935, 777, 778.)

Between the fifteenth day of October and the first Monday in November each year, the collector must publish in some newspaper in the county a notice of the forthcoming sale of portions of real estate to pay the taxes due on delinquent lands. The sale is required to be

held on the first Monday in November at the county courthouse. The collector must be at the courthouse on the appointed day between the hours of 10 A. M. and 5 P. M. and offer the real estate affected for sale for the amount of taxes and penalties due. If no persons bid on the tracts of land, the collector is authorized to buy them in the name of the State of Arkansas, this "buying" is simply taking possession of the property for the amount of taxes and penalties due the state. When less than a whole tract or lot is sold, the portion sold must be laid off in a square in the northeast corner of the tract. (A. Ark., 1935, 779-781.)

The collector must deliver a certificate of purchase to any buyer of delinquent tax lands. A certificate of this type is assignable in law and an assignment will give the assignee all the right, title, and estate of the original purchaser. (A. Ark., 1893, 230.) The collector and his deputies are not allowed to purchase or be interested, directly or indirectly, in the purchase of any parcel of land sold for the collection of delinquent taxes (A. Ark., 1883, 267).

The collector is required to file a list of all delinquent personal property taxes with the county clerk before the second Monday in November each year. At the end of 10 days the county clerk must publish the list in some newspaper in the county, or in each governmental district if the county has more than one county seat, of all persons who have neglected or refused to pay their personal taxes. These lists show the name of the delinquent taxpayer, his voting precinct, the assessed valuation of his personal property, and the amount of taxes due. If the person pays the assessed tax during the 10-day interval the collector must strike his name from the list. The newspaper publishing the list of delinquent personal taxes is entitled to receive 10 cents for each name published. This amount is paid by the collector out of any money he has received from personal taxes. (A. Ark., 1935, 456, 457; ibid., 1937, 1306, 1307.)

The collector makes a report of delinquent personal taxes to the county court, and the court allows him credit on any of them which it appears he has made sufficient effort to collect. A list of these allowances is forwarded to the auditor of state by the county clerk, and the collector is credited with the amount in his settlement with the auditor for state taxes. The collector, nevertheless, is required to retain for six months a copy of this list and make every effort to collect the taxes. If he finds personal property of the delinquent taxpayer which he can take into his possession, he may upon 10 days notice, sell it at public auction for cash to cover the amount of the taxes. (A. Ark., 1883, 262, 263.)

He is required to make a notation on all delinquent personal tax lists of the removal to other counties of persons whose names appear on the lists, showing their present residences and the dates of removal, if possible. The county clerk may then request the clerk of the county to which the delinquent taxpayer has moved to make an effort to collect the taxes. Each collector must deliver the delinquent

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personal property list, together with fees allowed, to his successor in office for use in future collections. After a period of two years has elapsed, the county court may strike from the list names of persons who, in the opinion of the court, have no property out of which the taxes due can be collected, by sale or otherwise. (A. Ark., 1883, 262, 263.)

All money his office collects must be turned over to the state or county treasury in the same form it is collected, whether it is specie, United States currency, national bank notes, silver or gold certificates, warrants, or scrip. If the collector fails to comply with this obligation he is subject to a fine of $100 for each lapse and he may be held liable on his official bond for the difference in value between the funds received and those paid. (A. Ark., 1883, 257).

Collectors are authorized to accept county warrants or orders for warrants at face value in payment of county taxes, but they are not compelled to accept orders or warrants that are required to be refunded (A. Ark., 1883, 256, 257; ibid., 1935, 951).

Both the collector and his deputies are prohibited from purchasing any orders for warrants or warrants issued by the county they serve. They are further prohibited from purchasing any state warrants, town orders, or any warrants or orders of any body politic for which they collect. If a collector should purchase any such warrants or orders at any discount whatever upon the sum for which they are issued, he will not be granted credit for the full value of them in his settlements, and if he claims the full value in his settlement, he must forfeit the whole amount due on the warrant plus $100. When a collector presents warrants of any kind at a settlement, he is required to make affidavit that the warrants were received in payment of taxes and at par value. If he swears falsely in the affidavit, he is guilty of perjury and upon conviction is subject to from one to three years confinement in prison. (A. Ark., 1869, 92.)

The collector is required to settle his accounts with the county court at each of the regular quarterly sessions of the court and pay into the treasury whatever balance may be due the county (A. Ark., 1883, 263).

It is also his duty, on or before the first Monday of December of each year, to make a complete and final annual settlement of all moneys collected, with the county court. The court must at once examine and pass upon the report of the collector and within 15 days either accept or reject it. (A. Ark., 1935, 778.)

Within 15 days after the time of the collector's settlement with the county court and after the report has been examined and acted upon by it, the collector must go to the capitol at Little Rock and make his annual settlement with the state auditor. Immediately after his accounting with the auditor, the collector must pay into the state treasury all money due the state. (A. Ark., 1887, 172.)

Tax Collector

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One-half of the 3 mill road tax, that is levied on all taxable property throughout the state and which is paid by the owners of property in a city of the second class, such as Heber Springs, is transferred by the collector to the treasurer of that town or city for use in the maintenance of streets. The remaining one-half is paid to the county treasurer for use on the secondary roads of the county, or roads that are not included in the state highway system. (A. Ark., 1927, 221.)

In Arkansas, cities of the second class are those that have a population of not less than 2000 and not more than 5000 population (A. Ark., 1909, 915). Heber Springs, the seat of Cleburne County's government, has never attained a population of 2000, but by a special act of the General Assembly of 1915 it was given a second class rating (A. Ark., 1915, 211). These road taxes are collected at the same time and in the same manner as other taxes, except that the collector can receive as payment only United States currency, or county road warrants legally drawn on road funds (A. Ark., 1911, 57, 58).

The per capita school tax, poll tax, must be collected at the same time as state taxes and paid into the county treasury by July the first each year. This tax is for the support of the common schools and payment of it is a prerequisite of eligibility to vote in public elections. Should any person assessed the per capita tax die before the time of collection, the collector is not required to make the collection from his heirs and is given credit for the amount in his reports. (A. Ark., 1913, 159.)

A law passed in 1913 authorized the state auditor, in case the state needed the taxes before the time for the collector's annual settlement, to command payment for the intervening period. Upon receiving such an order from the auditor, the collector was required immediately to pay the taxes due the state, and to obtain from the auditor a receipt crediting him with the amount paid. (A. Ark., 1913, 679, 680.)

A more recent law says that the collector must pay to the county treasurer on the first and fifteenth of each month all money in his possession belonging to the county, and on the same dates pay to the state treasurer all money collected on state taxes (A. Ark., 1935, 781).

The collector is required to keep a record of all tax receipts issued by him. These show the name of the person paying the tax, a description of the land or personal property as it is given in the tax rolls, the valuation of the real estate or personal property, the name of the town or township in which the property is situated, and the total amount of taxes paid on account of state, county, school district, city, or town levies. This data is entered at the time taxes are paid, and the aggregate of each receipt is totaled on each page and carried forward to the next page, in order that the total amount of taxes paid in for any subdivision of government may be

determined at any time. At the time of the above entry, the collector must enter on the margin of the tax rolls a notation stating that the tax has been paid and giving the number of the tax receipt issued. He must also keep a record of all money he pays into the state or county treasuries during the year, showing the date of payment and the amounts. This book is to be kept open at all times and available for inspection by any state or county officer or other citizen. The tax receipts record, whether filled up or not, must be delivered to the county clerk at the time of the collector's final settlement with the county court, to be preserved as a public record. (A. Ark., 1883, 258, 260.)

The collector's tax books are a public record, and at the expiration of his term of office they are deposited in the office of the county clerk to be preserved with other permanent records (A. Ark., 1883, 251; see entries 21 to 25 inclusive).

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XVII. COUNTY TREASURER

The county treasurer is an officer who receives the public money, takes charge of it, and disburses it upon orders made by the proper authority. Treasurers of "districts" (later to be known as counties) comprising the Territory of Louisiana, when their offices were first created in the districts by authority of a law of 1806 were appointed by the territorial governor. Each treasurer took charge of all funds that accrued from the collection of taxes and fines and forfeitures and disbursed these funds in accordance with the orders of the commissioners of his district, and of the court of common pleas, the court of quarter sessions, and the court of justices (justices of the peace) for the expenses of these courts. He reported his accounts to the court of quarter sessions at the opening of the first term of that court in each year. (L. T. L., 1806, as contained in T. L. M., 1824 digest, 78.) This law was amended two years later by an act which provided that the treasurer could pay out funds only on the order of the court of common pleas of his district, or by command of some other agency or person whom the law might authorize to draw upon the treasury for funds (L. T. L., 1808, as contained in T. L. M., 1824 digest, 191).

The sheriff was ex-officio treasurer of his county during the territorial days of Arkansas. He paid out the money in his custody when directed to do so by the county court. (L. M. T., 1816, as contained in L. A. T., 1835 digest, 474; L. U. S., 1819, as contained in L. A. T., 1835 digest, 39, 40.)

The county treasurer's office became a separate unit in the county governmental structure under the terms of the Constitution of 1836 (the first organic law of Arkansas's state government). It was retained as such by the Constitution of 1861, was omitted from the provisions of the constitutions of 1864 and 1868, then was re-established among the constitutional offices in 1874. (Const. 1836, art. VI, sec. 17; ibid., 1861, art. VI, sec. 18; ibid., 1874, art. VII, sec. 46.)

The office of county treasurer of Cleburne County was established in 1883, with the creation of the county (A. Ark., 1883, 40), in accordance with the terms of the Constitution of 1874 (Const. 1874, art. VII, sec. 46). The treasurer must be a resident and qualified elector of the county in which he holds office and must never have been convicted of bribery or any other felony (Const. 1874, art. VII, sec. 19; ibid., art. III, sec. 2, 6). He is elected by a majority vote of the electors of his county for a term of two years or until his successor is elected and qualified (Const. 1874, art. VII, sec. 46).

Before the time for him to enter upon the duties of his office, the treasurer must execute a bond in an amount that is at least one-fourth more than all the county revenue that comes into his hands during any one year of the term of his office. The purpose of this bond is to guarantee the faithful performance of all the duties of his office and to assure his accounting for all funds that come into his

hands as treasurer. (A. Ark., 1875, 192; ibid., 1893, 53.) Upon taking office, he takes the same oath as prescribed for all state and county officers (Const. 1874, art. XIX, sec. 20).

The first county treasurer of Cleburne County, as in all other counties, was paid a percentage of the moneys which passed through his office annually, the total amount he received being subject to any limitation that may have been fixed by the county court (A. Ark., 1889, 116). This limitation was later removed and the treasurer received all the fees of his office (A. Ark., 1905, 805). The salary of the county treasurer of Cleburne County was limited to $750 annually from 1917 to 1932 by laws that were local in their application (A. Ark., 1917, 97; ibid., 1921, spec. sess., 378; ibid., 1923, spec. sess., 102). The county treasurer of Cleburne County now receives a salary of $1200 per year, provided the fees of his office total that amount. If they do not, he receives only the amount collected (Initiated Act No. 1, Cleburne County, 1932, sec. 4; see appendix, p. 191).

If a treasurer fails, within 20 days after being commissioned, to make his official bond in the amount required by law, his office is declared vacant (Rev. Stat., 1838, 223). Should the treasurer lend any of the county funds, with or without interest, or use it for his personal gain, he may be subject to a fine of not less than $500 nor more than $1000 and be removed from office, the amount misappropriated to be recovered by the county in a civil action (A. Ark., 1883, 288; for other causes for removal of the treasurer from office and the manner in which vacancies in the office are filled see "Governmental Organization and Records System", p. 12).

The county treasurer may appoint one deputy, for whose official conduct he is responsible. The appointment must be in writing, approved by the county court, and endorsed and filed in the office of the county recorder. Deputy treasurers are endowed with the same powers as their principals. (A. Ark., 1883, 66.) A constitutional provision makes the county treasurer ex-officio treasurer of the common school fund of his county (Const. 1874, art. VII, sec. 46).

It is the duty of the county treasurer to receive and issue a duplicate receipt for all money coming into his custody (Rev. Stat., 1838, 223). He disburses county funds by warrants issued on order of the county court (A. Ark., 1873, 57).

All warrants drawn upon the common school fund of the county by any school district in the county and paid by the county treasurer must bear the signature of the president and secretary of the district and must specify the fund from which the money is to be drawn and the purpose for which it is being spent (A. Ark., 1933, 313). If the treasurer is unable to pay any county or school warrant brought before him he must endorse on it "Not paid for lack of funds", and the date it was received. All of these warrants are recorded and paid in their numerical order. (Rev. Stat., 1838, 224; A. Ark., 1933, 313.) Failure to pay a properly drawn school warrant when there is

money available to pay it constitutes a misdemeanor, and upon his conviction, subjects the treasurer to a fine of from $100 to $1000 and removal from office (A. Ark., 1933, 313). If the treasurer should refuse or neglect to pay a county warrant drawn on him by order of the county court, provided the amount called for is available, he may be forced to pay four times the amount of the refused warrant as a penalty. Also, he would be guilty of a misdemeanor and, upon conviction, could be removed from office. (Rev. Stat., 1838, 223, 224.)

Payment of interest on outstanding and unpaid warrants now is prohibited by the Constitution of 1874 (Const. 1874, art. XVI, sec. 1). Prior to 1874, interest at the rate of six per cent was paid on outstanding warrants from the date of their issue until funds became available to retire them (Rev. Stat., 1838, 224). The treasurer is not allowed to invest in, or have any material interest, either directly or indirectly, in any unpaid school warrant (A. Ark., 1933, 312).

When a treasurer receives any school funds he is required to give notice of the amount of funds received, the kinds of funds, and from what sources he received them. Notices containing this information must be posted in two public places in each school district in the county, and one must be displayed in the courthouse. (A. Ark., 1899, 198.)

The treasurer must at all times keep his books in proper order for inspection by the county court (Rev. Stat., 1838, 223), and on the first Monday in July, or more often if it is required, he must furnish the county court a statement of receipts and disbursements of his office not accounted for in prior reports. If he fails to make one of these reports when called upon by the county court, he may be charged with a misdemeanor and, upon conviction, be removed from office. (A. Ark., 1873, 357.)

He must, on or before the tenth day of August of each year, forward to the county's chief official of education, formerly the superintendent of public instruction, now the county examiner, a certified statement showing the amount and kind of school funds on hand, the purposes for which they may be spent, and their source. He must also itemize all disbursements, showing the purposes for which the funds have been spent. (A. Ark., 1901, 189.)

All funds of the county free library are in the custody of the treasurer and constitute a separate fund known as the "county free library fund" (A. Ark., 1927, 832; see "County Library Board", p. 183).

The county treasurer must set aside one-half of all road taxes received by the county into a separate "fund for paying roads." The term "road taxes" embraces all taxes received by the county for use on the county roads, including ad valorem taxes, the per capita road tax, and all other road taxes levied in the county, or revenue received from the state for use on roads. (A. Ark., 1929, II, 1006.)

If there are any funds in the state treasury belonging to the county, the state treasurer, upon the presentation of an order from the county court, delivers the money to the treasurer of the county who must immediately charge himself, as county treasurer, with the amount received (A. Ark., 1883, 59, 60).

When a criminal case in inferior courts is appealed to circuit court all costs accrued in the trial are paid to the county treasurer (A. Ark., 1933, 464).

When a landowner redeems land that he has owned and that has been sold for the payment of delinquent ad valorem taxes, it is the duty of the treasurer to collect, in addition to the delinquent ad valorem taxes, all delinquent improvement taxes assessed against the property (A. Ark., 1933, 462). The treasurer must keep a register of every certificate of redemption issued for land previously sold for taxes (A. Ark., 1883, 269).

Principal and interest payments on bonded indebtedness of school districts are paid by warrants issued by the governing board of the district. A description of the debt being paid must be endorsed on the face of the warrant. It is the duty of the county treasurer to enter in a well-bound book a description of the bonded indebtedness being paid by each warrant before he cashes it. The treasurer is liable on his official bond for the amount of warrants he cashes when the warrants are issued for the discharge of school district bonded indebtedness unless the warrant carries on its face the exact description of the debt being paid. (A. Ark., 1937, 1318, 1319.)

The treasurer is required to keep a register of county warrants issued, showing, for each one, its number, date issued, in whose favor drawn, on what account it was drawn, the amount and the date of payment. He must, at the time of any settlement he makes with the county court, present a copy of this register. At the time of his annual settlement, he must produce all warrants redeemed by him since his last accounting and deliver them to the clerk of the county court. (Rev. Stat., 1838, 227.)

The treasurer also is required to keep a separate register of all school warrants that are presented to him for payment. A school warrant must be registered before it is paid. The register must show the date of the presentation of the warrant, by whom it was drawn, on what school district, and in whose favor it was drawn, for what purpose, the amount and date of issue of the warrant, the date of payment, and to whom paid. This book is open at all times for inspection by the public. (A. Ark., 1874, 18, 19; ibid., 1933, 312.)

Financial

County General

133. TREASURER'S ACCOUNT BOOK, 1912--. 4 vols. No prior records.

Treasurer's general account with various county officers, giving subdivisions of fund; amount disbursed; amount received; person from whom received; person to whom disbursed; purpose for which disbursed, and balance in treasury. Arr. chron. by date of filing. Indexed alph. by name of account. Hdw. Aver. 400 pp. 18 x 13 x 2½.

134. REGISTER OF WARRANTS, 1910--. 6 vols. No prior records. Treasurer's account of moneys disbursed, giving register number; date and number of warrant; by whom drawn; fund upon which drawn; in whose favor; purpose for which drawn; amount of warrant; to whom paid, and date of payment. Arr. numer. by warrant no. No index. Hdw. Aver. 640 pp. 18 x 13 x 3.

Roads

135. ROAD RECORD, 1903--. 2 vols. (A, 1). No prior records. Treasurer's road accounts, giving date of entry; item; amount received or disbursed, and balance in road fund. Arr. numer. by no. of road district. No index. Hdw. 450 pp. 18 x 12 x 3.

136. TREASURER'S RECEIPTS, 1922--. 6 vols. No prior records. Duplicate warrants and check stubs, giving date; amount; to whom issued, and from what fund drawn. Arr. numer. by receipt no. No index. Hdw. Aver. 100 pp. 16 x 10 x 1.

Schools

137. SCHOOL DISTRICT ACCOUNTS, 1910--. 4 vols. No prior records. Title varies: Register of Warrants, School Districts, Cleburne Co., 1930-37.

Treasurer's record of apportionment of funds to various school districts, giving dates; receipts; warrant numbers and to whom issued; teacher's salaries; statistical summary, giving names of directors, their post-office addresses, dates elected, dates qualified, dates of expiration of terms; names of teachers, ages, sex, color, grades of certificates, dates of contracts, number of months, salaries, dates of opening and closing schools. Arr. numer. by no. of district. No index. Hdw. Aver. 640 pp. 18 x 12 x 3.

138. REGISTER OF SCHOOL WARRANTS, 1917--. 1 vol. (1). No prior records.

Record giving date warrant was registered; date of warrant; to whom issued; register number; amount of warrant, and date paid or canceled. Arr. numer. by warrant no. Indexed numer. by school district. Hdw. 636 pp. 18 x 12 x 3.

Teacher's Contracts

139. RECORD OF TEACHER'S CONTRACTS, 1929--. 1 vol. (1). No prior records.

Copy of contracts of teachers in common schools with directors of school districts, giving number of school district; teacher's name;

date of teacher's poll tax receipt; salary; date of contract; date of expiration of contract; number of months to be taught, and date contract was filed. Arr. numer. by no. of school district. Indexed alph. by name of teacher. Hdw. 320 pp. 16 x 12 x 2.

XVIII. COUNTY BOARD OF ELECTION COMMISSIONERS

The county board of election commissioners was created for the purpose of supervising the conduct of general elections and special balloting upon proposed state and county legislation and constitutional amendments. Cleburne County's board of election commissioners was first established under authority of an act of the General Assembly of 1891. The group was named officially the County Board of Election Commissioners and has continued under that name until the present. (A. Ark., 1891, 33; ibid., 1929, I, 553; ibid., 1931, 1118.)

Elections in Cleburne County were conducted from 1883, the year of the county's creation (A. Ark., 1883, 40), until 1891 under authority of a state act of 1875. In this law, authority for the creation and changing of precinct boundaries and the duty of providing election supplies for each precinct were vested in and imposed upon the county court. (A. Ark., 1874-1875, 93, 94, 97.)

The court also was delegated to appoint three discreet, qualified electors to act as judges to conduct the elections in each of the several voting precincts. These judges were to select two persons of qualifications the same as theirs to serve as clerks. After their appointment, the precinct judges served until the biennial general election following the one at which they were appointed to serve. (A. Ark., 1874-1875, 94.)

The sheriff was to fix places for holding elections in precincts where the county court had failed to establish them. If the court failed to appoint election judges for any precinct, the assembled voters were allowed to select judges to perform the duties required by law. It was the duty of the sheriff, at least 20 days before a general election and 10 days before a special election, to make public proclamations throughout the county of the time and several places of conducting each election and the officers to be elected. (A. Ark., 1874-1875, 94.) Ballot boxes and other supplies for each election were delivered to the judges of the precincts by the sheriff (A. Ark., 1874-1875, 97).

The county clerk prepared two blank poll books with proper captions and sufficient pages to list all the voters in the precinct, with forms of oaths and certificates attached, at least 25 days before any general election and 10 days before any special election and delivered them to the sheriff for distribution to the several precincts

along with the other election supplies (A. Ark., 1874-1875, 95). Elections returns from the precincts were "directed" to the county clerk by the precinct judges (A. Ark., 1874-1875, 99). Within five days after an election, the county clerk called in two justices of the peace or two householders who were qualified electors and canvassed the returns received from the several voting precincts. If any "informalities or any irregularity" were found in the returns, the judges and clerks of the precinct from which the irregular returns had been received were to be summoned by the sheriff to appear at the courthouse and correct the mistakes. (A. Ark., 1874-1875, 101.)

The county board of election commissioners is composed of three members, all appointed by the state board of election commissioners, the appointments being made not more than 90 or less than 30 days prior to any general election (A. Ark., 1891, 33; ibid., 1929, I, 553; ibid., 1931, 1118; ibid., 1935, 427). Appointees to the county board are notified in writing by the state board of election commissioners. At first, these notices were addressed to appointees at the county seats of the counties in which they were to serve. The state board also mailed notifications of appointments to the circuit clerks of the counties in which appointments were made. (A. Ark., 1891 33, 34; ibid., 1929, I, 554; ibid., 1931, 1118.) These provisions were amended in 1935, when it became the duty of the state board to notify an appointee to the county board by mailing a notice to his last known address, and to mail the additional notice to the county clerk, instead of the circuit clerk (A. Ark., 1935, 428).

The creative act of 1891 and subsequent legislation required that all members of the county board should be qualified electors of their respective counties and not all members of the same political party (A. Ark., 1891, 33; ibid., 1901, 372; ibid., 1929, I, 553). Any candidate for an office to be voted on in an election to be supervised by the board, or any "clerk or employe" of that person, was prohibited by the act of 1891 from serving as a member of the board (A. Ark., 1891, 33). The latter inhibition was removed in 1929. Possibly this was unintentional, for the restriction was re-enacted in 1931 and reasserted in 1935. (A. Ark., 1931, 1119; ibid., 1935, 427, 428.) Making more detailed regulations against one-party domination of the county election machinery, the General Assembly ordered in 1929 that one of the three members of the board must be recommended by the county chairman representing the minority party of the state. It was further provided, however, that "if in the opinion of the State Board of Election Commissioners no one of the persons recommended by said minority party county chairman is suitable or worthy for appointment, it shall call upon said chairman for a new recommendation and if said minority party chairman shall fail or refuse to make either an original recommendation or new recommendation when called upon, the State Board of Election Commissioners shall have the right to make an appointment of its own choice to the place for which no recommendation is furnished, provided that in no case shall all three members of the County Board of Election Commissioners be members of the same political party." (A. Ark., 1929, I, 554.)

County Board of Election Commissioners (Next entry 140, p. 169)

Members of the county board of election commissioners are required to take the oath of office provided by the state constitution for all constitutional officers (Const. 1874, art. XIV, sec. 20). The procedure of appointment originally required that the circuit clerk serve notice, through the sheriff, upon each appointee, setting forth the day he was to take the oath of office and enter upon his duties (A. Ark., 1891, 34; ibid., 1929, I, 554, 555; ibid., 1931, 1118, 1119). It is now the duty of the county clerk to notify each appointee by registered mail to appear before him within 30 days and take the oath of office (A. Ark., 1935, 428). This transfer of the duty of notifying the members had little effect in Cleburne County, where the office of the circuit clerk and the county clerk always have been combined (see "Governmental Organization and Records System", p. 12).

The board of election commissioners is required to meet at the courthouse at least 20 days prior to each general election. They organize by electing one member chairman and another clerk and hold office until their successors are appointed and qualified, usually two years or more, as general elections are held biennially. (A. Ark., 1891, 34; ibid., 1931, 1119.) Each member receives $2 a day for time actually served, except none can be paid for more than 10 days' work in connection with any one election (A. Ark., 1891, 53). Any vacancy in the county board is filled by appointment by the state board. Should a majority or all of the county board resign, refuse to act, or vacate their places from any cause, so that there is not a quorum in office at the time any official duty is to be performed as required by law, the county judge, sheriff, and county clerk, in the order named, must assume the duties of the county board until the vacancies can be filled by appointment by the state board. (A. Ark., 1891, 34, 35; ibid., 1931, 1119, 1120.)

The board's duties have been specified in considerable detail in the creative act of 1891 and in laws of later years. The chief requirements are that they appoint, not less than five days before each election, three election judges for each voting precinct in the county and fill any vacancy caused by the resignation or death of any precinct judge. (A. Ark., 1891, 34, 35; ibid., 1901, 372.)

A method of appointing precinct election officials in accordance with the policy for minority party representation on the county board was approved by the General Assembly in 1929. The law provided that of the three judges and two clerks whom it authorized to be appointed in each precinct, one judge and one clerk were, preferably, to be named upon recommendation of the minority party's county chairman, but if the board regarded as unsuitable the persons recommended it could call for new recommendations. If no other recommendations were made, the board was authorized to use its discretion as to the proper persons to appoint as judge or clerk. A vacancy caused by the death, resignation, or removal from office of any precinct election official can be filled in the same manner in which the original appointment was made. (A. Ark., 1929, I, 553-555.)

A law passed in 1931, revising the law of 1929, provided for the board's appointment of the three judges but did not mention the two clerks, and it discarded the provision for nomination of officials by the minority party county chairman. It did, however, instruct the board not to pick all the election judges from members of the same political party if competent persons of different parties could be found. (A. Ark., 1931, 1118-1120.)

The act of 1891 instructed the board to provide for each election precinct ballots to be used in the election, a durable ballot box with lock and key, two blank poll books containing proper captions and sufficient pages to record the names of all voters in the precinct, tally sheets, and envelopes in which to seal up ballots and certificates. The board is responsible for providing blank certificate forms to be used by the precinct judges in certifying the results of an election. These certificates must include blank forms of an oath to be taken by the judges and clerks of the precincts before entering upon their duties. (A. Ark., 1891, 37.)

The commissioners also must supply the election judges with special affidavit and ballot forms for the use of absentee voters (A. Ark., 1935, 346, 347); with placards bearing instructions to voters on the preparation of their ballots, 12 of these to be posted at each polling place (A. Ark., 1891, 52), and copies of constitutional amendments proposed to the electorate, one copy to be posted in each voting booth and three outside, but near, each polling place (A. Ark., 1901, 329). The expense of providing ballots and other election supplies is paid by the county (A. Ark., 1891, 41).

The ballot boxes, together with the other supplies mentioned above, are to be delivered by the board to the sheriff or any person delegated to act for the sheriff, whose duty it is to deliver them to the precinct election judges assembled at their respective posts for the purpose of holding the election (A. Ark., 1891, 37). Duplicate ballot boxes came into use in Arkansas in 1935. The duplicate ballot of each voter, numbered the same as the original ballot and carrying the name of the voter, must be placed in the duplicate ballot box, sealed with a numbered seal by the precinct judges, and delivered to the county clerk, who must deliver it to the county treasurer for safekeeping. The duplicate box may not be opened except by court order or on direction of the grand jury. (A. Ark., 1935, 348.)

It must provide at each precinct voting place one booth or compartment for each 100 electors or fraction thereof, according to the number of persons who voted in the precinct at the last preceding election. Each booth shall be equipped with a table, shelf, or desk for the convenience of the electors in preparing their ballots. The booths must be at least five feet apart and the walls constructed of wood, so as to allow voters to prepare their ballots free from interference. (A. Ark., 1891, 45.)

If the judges of a precinct fail to deliver to the county election commissioners the certificates, tally sheets, poll books, and ballots within three days after the election, the commissioners are

to dispatch a messenger to bring in these records or duplicates of them. The expense incurred by sending the messenger is charged to the defaulting precinct judges. (A. Ark., 1891, 38.)

When election returns have been received from all precincts, and in no event later than the seventh day following the election, the board must tabulate the figures from the several precincts and declare the results of the election. Within 15 days after the election, they are required to deliver a certificate of election to the persons receiving the highest number of legal votes for the offices of their candidacy and file with the county clerk a certificate giving full details of the results of the election. Within two days after the examination of the returns of any election, the board is required to deposit in the nearest post office on the most direct route to the state capital certified copies, directed to the secretary of state, of abstracts of election returns for members of congress and all executive, legislative and judicial offices. They are required at the same time to enclose in a separate envelope and direct to the speaker of the House of Representatives, in care of the secretary of state at the state capital, a certified copy of the abstract of votes cast for governor, secretary of state, auditor of state, treasurer of state, and attorney general. (A. Ark., 1891, 39; ibid., 1895, 43, 44.)

The board is required to keep safely in its custody for six months all ballots and certificates returned to it from the several voting precincts. At the end of this period, the ballots and certificates are to be destroyed, unless the commissioners have been given written notice that the declared election of one or more of the candidates has been contested, or that criminal prosecution has been instituted against any officer or voter for fraud in connection with the election. In such an event, the commissioners must keep intact those ballots and certificates involved in the contest or prosecution so that they can be used as evidence. During the time that the ballots are retained, the packages containing them are not to be opened except on order of the tribunal before which the election contest or prosecution is pending, in which case the ballots may be used as evidence. Any person who violates this mandate or discloses how any person voted, except on order of a competent court, is guilty of a misdemeanor and, upon conviction, subject to a fine of not less than $100 or more than $1000. (A. Ark., 1891, 40, 41.)

The county board is required to give public notice of all nominations for offices, proposed constitutional amendments and other elective questions certified to it by the secretary of state, or required by law to be submitted at an election, by "posting a list thereof at the door of the courthouse at least 10 days before the day of any election" (A. Ark., 1891, 45). If the county board fails to certify a copy of election returns from its county to the secretary of state or the speaker of the House of Representatives within two days after the certification is due, the secretary of state must send a messenger for the returns. If the board is found to have been negligent, it may be compelled to forfeit $100 to the state and pay the expense of sending the messenger. (A. Ark., 1891, 40, 41.)

 (Next entry 140, p. 169)

In conducting elections on proposed constitutional amendments or other issues presented to the electorate, it is the duty of the commissioners to print ballot titles upon the official ballot in the order presented by the secretary of state. Measures prepared for referendum by the General Assembly are to be designated by the heading "Referred to the People by the Legislative Assembly", and measures proposed by initiated petitions of voters in the county must be headed "Proposed by Initiative Petition." Space on the ballot must be provided for the voter to declare his choice either for or against a proposed measure. (A. Ark., 1911, 591.)

It is the duty of the county election commissioners to prepare the ballots and conduct elections on proposals for the construction or improvement of courthouses or jails and the levying of special taxes for those purposes (Const. 1874, amend. XVII, app. 1929, sec. 4).

The duties of the board of election commissioners in conducting special elections are set forth in an act calling for an election on the proposal for repeal of the eighteenth amendment to the federal constitution in 1933. In this, the board was required to place upon the ballot the names of persons who were candidates for delegate to the state convention, at which Arkansas's stand on the issue was to be decided, and the following:

"FOR REPEAL OF THE EIGHTEENTH AMENDMENT"
"AGAINST REPEAL OF THE EIGHTEENTH AMENDMENT"

They were required to canvass the returns and declare the results in the same manner they would have in other elections. The election was required to be conducted by the precinct judges and clerks who conducted the previous general election, vacancies on the precinct boards to be filled as provided by law. The results of the election were to be tabulated and certified to the secretary of state within five days after the election. They were to certify the names of the persons elected as delegates to the state convention as well as the votes for and against the repeal of the eighteenth amendment. (A. Ark., 1933, 468, 469.)

The board has the power to alter the boundary lines of election precincts, change the voting place in any precinct, and establish new precincts as seems necessary, providing it is made convenient for all the electors to vote on the same day and no alterations are made within 30 days prior to an election. Notice of any change in a precinct's voting place or boundary lines must be given to the voters by posters put up in at least five public places in the precinct. If the board fails to designate a voting place in a precinct, it becomes the duty of the sheriff to establish one temporarily. Voting places must be at well-known, easily accessible points. (A. Ark., 1891, 35, 36.)

In board meetings, each commissioner is entitled to one vote, and the concurring vote of any two can decide any question before the

board (A. Ark., 1891, 34; ibid., 1931, 1119). The power to remove the precinct election judges is vested in the board (A. Ark., 1931, 1120).

The election commissioners are required to prepare for the county clerk a record of their appointments of election judges. This record must be attested by the chairman and clerk of the board. They must file also with the county clerk orders changing precinct boundaries. Copies of these orders must be kept in the records of the commissioners. (See entry 28, p. 58; A. Ark., 1891, 34; ibid., 1931, 1118, 1119.)

After closing the polls, the precinct election judges must proceed to count the ballots deposited in the ballot box. They may adjourn the count for any "reasonable" period, not to extend beyond the day following the election. During an adjournment, any judge may remain with the ballot box, which may be kept in a place agreed upon as safe by all the judges. (A. Ark., 1891, 37.) If an election judge shall be absent from the voting place at the time fixed for its opening, the other judges may appoint some properly qualified person to fill the vacancy. In the event all the judges are absent, the voters of the precinct may select qualified persons to serve in their stead. If a clerk is absent at the time for opening the polls, the judges may appoint a substitute. (A. Ark., 1931, 1120, 1121.) No person is qualified to serve as precinct election judge or clerk who has any money or goods bet on the outcome of the election (A. Ark., 1875, 94).

(Next entry 140, p. 169)

XIX. COUNTY EXAMINER OF SCHOOLS

The county examiner of schools is the official who supervises the educational system of the county. His office was established in Cleburne County in 1883, with the creation of the county, under authority of the then existing laws. (A. Ark., 1875, 67; ibid., 1883, 162.) The office was abolished in 1907 and its functions assigned to the newly created office of county superintendent of schools (A. Ark., 1907, 1005), which, in turn, was abolished in 1933, when the General Assembly passed an act re-establishing the office of county examiner (A. Ark., 1933, 60, 61).

The act establishing the county superintendent's office provided that, where there was no conflict, the laws affecting the county examiner should be applicable to the county superintendent (A. Ark., 1907, 1013). Similarly, the act re-creating the office of the examiner conferred upon the examiner the powers and duties, except those in conflict with the new law, of the superintendent (A. Ark., 1933, 63).

The county examiner was required, in 1883, to be "of high moral character and scholastic attainment" (A. Ark., 1875, 67). It later was required that he pass the regular examination for a first grade teacher's license (A. Ark., 1893, 76, 77). The law creating his office in 1907 specified that the county superintendent of schools should be a qualified elector and a resident of the county (A. Ark., 1907, 1005). An act of 1919 provided that until 1923 the superintendent must have, in order to qualify, at least one year's professional or normal school training, and that from 1923 he have at least two years' professional training, or the equivalent in some normal school, college, or university, and a professional teacher's license (A. Ark., 1919, 181, 182).

By the act of 1933 re-establishing his office, the county examiner was required to have the same qualifications as any elective officer (see "Governmental Organization and Records System", p. 12), and his appointment, by the county judge, was subject to the approval of the quorum court (A. Ark., 1933, 61). Since 1935, it has been obligatory that he obtain the endorsement of a majority of the teachers of the county. The law making this imposition repeats the requirement of 1883 that he be of "high moral character and scholastic attainment", and adds that he must have a professional teacher's certificate or its equivalent. (A. Ark., 1935, 497.)

From 1883 until 1907 the county examiner was appointed by the county court, immediately after each general election and for a term of two years (A. Ark., 1875, 71). From 1907 until 1919 the county superintendent of schools was elected by the voters of the county for a term of two years (A. Ark., 1907, 1005). The General Assembly in 1919 created the county board of education, giving that board the authority to appoint, for terms of one year, the county's superintendent of schools (A. Ark., 1919, 181).

In 1921, the term was increased to "not exceeding three years" (A. Ark., 1921, 533), and in 1931, it was limited to two years (A. Ark., 1931, 497). This has been the term of the county examiner since the re-establishment of his office in 1933. His appointment is made on or before February 1 of each odd-numbered calendar year. The provision of the law of 1933 that he be appointed by the county judge, subject to the approval of the quorum court, was abandoned in 1935, when the General Assembly laid down rules for the election of the examiner by the licensed teachers of the county and instructed the county court to appoint the person thus chosen. (A. Ark., 1935, 496, 497.) A vacancy in the office is filled in the same manner in which the original appointment is made (A. Ark., 1933, 61; ibid., 1935, 497).

Between 1883 and 1893, the county examiner's compensation derived from fees of $2 paid by persons applying for teachers' licenses (A. Ark., 1875, 68). From 1893 until 1907, these fees were paid to the county treasurer, and the examiner was paid a salary fixed by the county judge (A. Ark., 1893, 76, 77). Beginning in 1899, the examiner, as chairman of the simultaneously created county text book board, was paid $2 per day for each day the board was in session, providing the length of the sessions did not exceed ten days in any one year (A. Ark., 1899, 149). With the creation of his office in 1907, it was provided that the county superintendent of schools be paid the same salary as the county judge, providing that was not less than $600 nor more than $1200 annually (A. Ark., 1907, 1012). An act of 1911 provided this same salary and, in addition, the fees paid for licenses to teach (A. Ark., 1911, 269). In 1915 the superintendent's annual salary was set at $1500 (A. Ark., 1915, 780, 781), but it was reduced in 1917 to $1000 (A. Ark., 1917, 97) where it remained until the office was abolished in 1933.

The salary of the county examiner, as successor to the county superintendent of schools, was fixed in 1933 at $600 annually, with $50 added for expenses. An act of 1935 made the same provision. (A. Ark., 1933, 62; ibid., 1935, 498.)

With the passage, in 1937, of a state-wide law providing free books in grammar schools -- a law which re-created the county text book board (composed of the judge, county examiner and treasurer) and added to the examiner's duties by making him the board's executive secretary -- it was provided that the examiner receive an added salary of $600 annually, to be paid by the state (A. Ark., 1937, 1101). Thus, he has a salary from the county as examiner of schools and one from the state as secretary of the county text book board.

The examiner was required, during the 1883-1907 period of the existence of his office, to examine and license teachers of common schools and to give 20-day notice to all directors of schools of the time and place of the examinations, which were held quarterly (A. Ark., 1875, 68). When he was made ex-officio chairman of the county text book board in 1899, it became his duty to call the meetings of the board at which are examined and compared text books submitted for the board's adoption

(A. Ark., 1899, 148, 149).

He was required to compile annually and submit to the Arkansas Board of Education an abstract of reports made to him by directors of all school districts embraced in his county, giving the identifying numbers of districts; the number of persons in each district between the ages of six and 21 years and the sex and color of each; the number of pupils that attended school during the preceding year; the average number of males and females of each color in attendance; the number that pursued each of the studies taught in the common schools; the number of teachers of each sex; the average salary per month of teachers of each sex, together with the degrees of their licenses; the number of school houses erected during the year and the costs of construction; the amount of money raised by taxes in each district; the amount of revenue received from the common school fund and from all other sources for the schools; for what purposes the revenues were expended and the amounts left in the county treasury at the close of the school year. The abstract also was to contain the number of deaf-mute, blind, and insane persons under 30 years of age in each school district. (A. Ark., 1875, 70, 71.) This same duty was imposed on the county superintendent of schools (A. Ark., 1907, 1010).

The General Assembly in 1901 provided that the examiner should also give the county clerk each year a report on the number of persons between the ages of six and 21 years residing in each school district in the county (A. Ark., 1901, 186).

Acts of 1907, 1911, and 1927 provided that "institutes" be conducted each year, one for white and one for negro teachers, by the county superintendent. These were temporary training schools, each of only a few days duration. (A. Ark., 1907, 1011; ibid., 1911, 268, 269; ibid., 1927, 192.)

By an act of 1931 affecting the county superintendent, provisions of which are still in effect, and an amendatory law of 1935, the county examiner, in addition to other duties that may be prescribed by the county court and the Arkansas Board of Education, is required to perform the following: (a) supply forms furnished by the Arkansas Board of Education to the directors, principals, and teachers of the public schools, (b) administer oaths and examine witnesses under oath in any part of the county on matters pertaining to the schools, (c) visit the schools in the county, observe the instruction and management, advise with school directors, principals, teachers, parents, and pupils regarding the proper conduct of the schools, and endeavor in every way to improve school conditions and promote public interest in the schools, (d) represent the Arkansas Board of Education in all state examinations for teachers' licenses that are conducted in the county and perform such duties as may be required by the state board, (e) see that all superintendents, principals, and teachers make monthly and annual reports required by the Arkansas Board of Education, (f) make, on or before the tenth day of August each year, a complete report to the Arkansas Board of Education containing certain information relative to the

schools in the county required, and in the form prescribed, by the board, (g) organize and conduct meetings of teachers in the county for the discussion of their professional interests, (h) conduct on the third Tuesday and the following Friday of June, each year, an examination for county teachers' certificates in subjects required by the state board and from questions furnished by the board. (A. Ark., 1931, 500, 501; ibid., 1935, 495.)

As secretary of the county text book board, the examiner supervises the requisition, distribution, and care of free text books in the county in the manner prescribed by law and by the regulations of the Arkansas Board of Education (A. Ark., 1937, 1100).

The examiner gives public notice of annual and special "school elections" by publication once weekly during the three weeks preceding each election in some newspaper published and having general circulation in the county. These elections are held for the purpose of selecting members of the school boards in the various school districts of the county and to authorize the levying of an ad valorem tax to raise money for the operation of the schools. Any tax authorized at these special elections is levied in addition to the general state levy for common school purposes. (A. Ark., 1935, 70.)

The examiner, at his discretion, may employ a clerk at his own expense to keep his office open and transact business of the office during his absence (A. Ark., 1937, 1100). The Cleburne County Examiner has no clerk.

Since 1875, the examiner has been required to keep a record of the age, name, sex, address, nativity, and grade of license of all teachers to whom he issued licenses (A. Ark., 1875, 69).

The General Assembly of 1899 required that the county examiner number the various school districts in his county and keep a record and description of each, showing the boundaries and the various changes made in boundaries. A record of the proceedings of the county text book board, complete with a list of the books adopted by it was required. A list of all books adopted by the board was required to be furnished all teachers and school directors of the county by the examiner (A. Ark., 1899, 149, 150).

An act of 1915, passed during the time the office was elective and the incumbent was known as the county superintendent of schools, required that a record of each visit to the various schools be kept, as well as a record of all official acts and recommendations (A. Ark., 1915, 779).

A law enacted in 1931 required the county superintendent to keep a record of the proceedings of the county board of education, as to the transfer of school children from one district to another; changes in the boundaries of school districts; consolidation of districts made by the board; apportionment of state school funds made to the county; school district taxes voted; school directors elected and any other

matters relating to the action of the county board or the superintendent's office. This record was required to be filed with the clerk of the county court. (A. Ark., 1931, 503.)

The superintendent was required to keep a permanent record of all necessary papers and legal transactions of the county judge in connection with the county schools (A. Ark., 1931, 503).

The examiner is required to keep a record giving a description of each school district in the county and including a map showing the boundaries of the districts, the location of each school building, and the types and condition of the roads in each district. He must also keep a record of the contracts made with teachers and with dealers for school supplies. (A. Ark., 1931, 500; ibid., 1935, 495.)

Teachers' Licenses

140. REGISTER OF TEACHERS' LICENSES, 1905-24. 7 vols. (1-7). No prior or subsequent records.
Record giving name of teacher; sex; post-office address; nativity; scholastic preparation; date and grade of certificate; date license was issued; license number, and date of expiration of license. Arr. chron. by date of issue of license and numer. thereunder by no. of license. Indexed alph. by name of teacher. Hdw. Aver. 159 pp. 16 x 11 x 2. Co. E. O.

Reports and Records

141. SCHOOL DIRECTORS' RECORD, 1883-1916. 1 vol. (A). No subsequent records.
Record giving names and addresses of school directors; dates of election, and appointment of directors and their qualifications; and descriptions of school districts. Arr. numer. by districts. No index. Hdw. Aver. 159 pp. 16 x 11 x 1½. Co. E. O.

142. ANNUAL REPORT OF COUNTY EXAMINER, 1896, 1899, 1901-9, 1911-12, 1920--. 31 vols.
This is a report made by the county examiner, or the county superintendent, concerning schools of the county, giving name and number of district; type of school; number of teachers employed; salaries paid; length of school term; number of pupils enrolled in school; average daily attendance; age grade table, giving classification of pupils by ages and grades; financial report of each district; report of handicapped children in each district, giving name of child, name of parent or guardian, post-office address, age of child and description of defect; a complete summary of each report, and a list of the names of the school directors of each district throughout the county. Arr. chron. by school terms. No index. Hdw. Aver. 83 pp. 12 x 9 x ½. Co. E. O.

143. COUNTY SUPERINTENDENTS' RECORD, 1917-26. 5 vols. No prior or subsequent records.

Record giving description of each school district of the county, changes in boundaries affected by action of county board of education; maps of districts, and record of all official acts of the superintendent. Arr. numer. by no. of school district. Hdw. Aver. 85 pp. 17 x 14 x 1. Co. E. O.

144. COUNTY BOARD OF EDUCATION, 1922-32. 1 vol. (a). No prior records; discontinued.

Clerk's minutes of proceedings of board of education, giving petitions for transfers of children from one district to another; apportionment of state school funds made to the county; school district taxes voted; list of school directors elected; and data on consolidation of school districts. Arr. chron. by date of meetings. No index. Hdw. 250 pp. 14 x 9 x 2. Co. E. O.

145. (SCHOOL DIRECTORS' PAPERS), 1900-18, 1937--. In (Case Papers), entry 1-xxvi.

Oaths of office of school directors, giving name of director; oath of allegiance to Constitutions of United States and the State of Arkansas; name of town; school district number; names of county and state; signature of director; post-office address; date when sworn into office by county clerk.

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XX. HEALTH UNIT

Public health work in Cleburne County has been under the supervision of the Arkansas Board of Health since the creation of the county in 1883 (A. Ark., 1883, 40), but various agencies and officers have been in charge of local administration.

An act of the General Assembly of 1881 authorized the governor to appoint a state board of health composed of seven licensed and practicing physicians, one member to be chosen from each of the seven congressional districts of the state (A. Ark., 1881, 178). This system was abolished in 1903, at which time a law was enacted authorizing the county judge to appoint a county board of health to be composed of three licensed physicians, resident in the county, to be under the supervision of the state board and enforce the state board's requirements, subject to approval of the county judge (A. Ark., 1903, 71). They were empowered to order the quarantine of any person regarded as a possible carrier of a contagious disease (A. Ark., 1903, 71).

The General Assembly of 1911 gave the state health commissioner power to appoint a county commissioner to work in conjunction with the three-man county board of health. The county commissioner was required to be a practicing physician with five years experience, a graduate of a reputable medical school, a resident of the county for which he was appointed, and of good moral character. His term of office was for a period of four years or until his successor was appointed and qualified. The county health commissioner (or county physician) was paid on a population basis and received 1 cent per capita for each individual residing outside of municipalities in the county. In the event he also served as city health commissioner of his town or city he received an additional 1 cent per capita for each individual residing in the city or town he served. The commissioner was privileged to fill both positions if he desired to do so. The population figures upon which his compensation was based, were determined by the latest United States census report and the last municipal census. The county commissioner was required to enforce all rules and orders of the Arkansas Board of Health. He had authority to inspect all public buildings and institutions in search of menaces to public health and sanitation. He also had the power to enter and inspect private property in quest of sources and causes of disease. He had full power to establish quarantine regulations and to order any reasonable and necessary precaution for the prevention and suppression of disease. If an epidemic threatened the community, he could close schools and churches and forbid all public gatherings. (A. Ark., 1911, 485-488.)

The county boards of health and the office of county health commissioner were abolished by the General Assembly in 1913. The office was superseded by that of the county health officer. The county health officer was required to be a graduate of a reputable medical college and to have practiced medicine in the state for three years. He is appointed by the Arkansas Board of Health, with the approval of the county judge, for a term of two years. His salary was regulated by the county court and paid out of the county treasury in monthly instalments. Failure to perform the duties of his office subjected the health officer to

removal by the state Board of Health. (A. Ark., 1913, 354, 355.)

The duties of the county health officer were virtually the same as those imposed on the county commissioner before the passage of the 1913 law. In addition, however, he was required to care for prisoners in the county jail and the inmates of the poor farm and county hospital. He was also required to assist the state board of health in matters of local quarantine, inspections or any other efforts for the prevention and suppression of disease. He was required to keep the vital statistics of the county and to see that the state Board of Health's requirements for sanitation were carried out by the public. (A. Ark., 1913, 354, 355.) He was required to attend the annual conference for county, city, and state health officers which is held at some place designated by the state Board of Health. Expenses he incurred by attendance were paid by the county. (A. Ark., 1913, 361.)

In 1925 the "County Organization of State Aid Fund" was created and funds were appropriated by the legislature for its operation. The county health offices may obtain financial aid from the fund by matching the amount desired with an equal appropriation of county funds. Before a request for aid is granted, however, a co-operative budget must be prepared by the county judge and the state health officer. (A. Ark., 1925, 1061.)

In 1931, the General Assembly enacted appropriate legislation to meet federal grants with state funds in order to further needed health measures. The state appropriated an annual fund of $85,000 which is placed at the disposal of the county health units, divisions of rural sanitation, nurses, and any additional personnel or divisions agreed upon by the state board of health and the county judge. (A. Ark., 1931, 725.)

At present, some of the counties in the state have full-time health units, but in many instances two or more counties have joined in organizing a district unit. Cleburne and Faulkner Counties have merged their health departments into such a unit, known as the "fourth district." The district health unit is required to have a minimum personnel composed of the director, who must be a physician, a sanitarian, a public health nurse and clerical assistant. (Arkansas State Board of Health, Report, Little Rock, 1937, 2.)

The salaries of the staff of the district unit are fixed by the county judge and the state board of health. The county health nurse of Cleburne County receives a salary of $125 a month which is paid by the state. The medical director of District No. 4 lives at Conway (county seat of Faulkner County), and the health nurse has her office in the courthouse at Heber Springs. Her supplies are furnished by Cleburne County. The health program for the county as outlined by the state board of health is presented first to the County Medical Society for approval. No function can be performed without its approval. (Arkansas State Board of Health, Report, 1937, 5.)

The General Assembly of 1937 appropriated an annual sum of $100,000

to be expended through the Arkansas Department of Public Welfare to provide hospitalization for indigent persons whose income is less than $30 a month. The act provided that children and expectant mothers constitute a preferred list. Indigent persons receiving care in the public health department may, if necessary, be transferred to the welfare department for hospitalization. (A. Ark., 1937, 410.)

The medical director of each health unit plans and coordinates the work of the staff members. He must investigate all communicable and contagious diseases and be always available to physicians in his district for consultation services and diagnoses. His duties also require him to examine the school children of his district and report any physical disabilities or defects he may find to the parents of the child. He must vaccinate all members of the community againse diseases which have a proven preventative, such as smallpox, diptheria, and typhoid fever, and, use any means at his disposal to educate the public in general health principles. It is his duty to carry out a program of maternal and child welfare and to hold prenatal clinics for women who cannot obtain the services of a private physician. "Well Child Clinics" for the examination of infants and pre-school children are held periodically by the director to prevent later sicknesses and bodily ailments in the child by checking the cause before it becomes serious. (Arkansas State Board of Health, Report, 1937, 9.) These clinics are held monthly in Cleburne County at the Methodist Church in Quitman.

The duties of the health director are too diffuse to recount in full detail. He is required to work out programs for the control of tuberculosis, typhoid fever, smallpox, diptheria, malaria, and venereal diseases. He must give relief to crippled children and instruct the public in dental hygiene, mental hygiene, and facts of nutrition, and make examinations of food handlers, teachers, and midwives. He must try to give relief to diabetics and sufferers from heart disease and cancer. To do all this he may use any means at his command to aid the public and to teach the public to help themselves. The health nurse is required to assist the director in holding the clinics for prenatal care and to make follow-up visits to the homes of patients to give advice and distribute helpful literature. She must give her services to private physicians when necessary. She is required to assist the director in the "Well Child Clinics"; to supervise the activities of midwives; to visit schools and make follow-up visits to parents of defective children. The nurse may order local quarantines upon the report of physicians of any contagious or dangerous disease which may result in an epidemic. The duties of the sanitarian are, largely, to survey and improve the water supply; to inspect sewage outlets; to recommend a feasable method of mosquito control to curb the spread of malaria, and to inspect food and drink handling establishments to see that they are conducted in a sanitary manner to safeguard the public health. (Arkansas State Board of Health, Report, 1937, 9, 10.)

Complete records of all examinations, vaccinations, blood tests, hospitalizations, visits, and all other proceedings of the county or

district health units are kept in the office of the public health nurse of the county, and eventually they become a permanent record of the state board of health.

Crippled Children

146. CLEBURNE COUNTY CRIPPLED CHILDREN, 1930--. 3 pp.
Record of crippled children of county admitted to Arkansas Children's Hospital at Little Rock, giving case number; name and address of child; names and address of parents or guardian; date admitted; date discharged; number of days of service; diagnosis of case, and result of treatment. Arr. chron. by date of filing. No index. Typed. Size of sheets, 11 x 8½. In steel files in Co. Health Nurse's O.

Miscellaneous Records

147. MISCELLANEOUS RECORDS, 1935--. 7 file drawers.
Miscellaneous file boxes containing case histories of families coming under supervision of the county health nurse, giving name, address, age, and sex of each member of family; living conditions; general medical record, listing communicable diseases, and immunization record. These records eventually are turned over to the state board of health and become part of a permanent record. Arr. in manila folders alph. by name of family. No index 1935; for separate index, 1936--, see entry 148. Typed on forms of miscellaneous sizes. Co. Health Nurse's O.

148. GENERAL INDEX, 1936--. 1 card file.
A file containing a general index to all records kept in this office. Arr. alph. by name of family and chron. thereunder. Hdw. Size of box, 10 x 6 x 4; size of card, 5 x 3. Co Health Nurse's O.

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XXI. COUNTY BOARD OF PUBLIC WELFARE

Cleburne's first county board of public welfare was established in 1935, as were the welfare boards of all other counties in the state. Though the county boards as originally established were abolished in 1937, county welfare agencies have been maintained under the original name, and, to some extent, in the original form, until the present. (A. Ark., 1935, 56, 57; ibid., 1937, 152-163, 896-898.)

County boards succeeded to functions of the county court, in the administration of relief to, and care of, the poor (A. Ark., 1935, 57; see "County Court", p. 40).

Each county board consists of five members, appointed by the Arkansas Department of Public Welfare which succeeded to some of the duties of the Arkansas Commission of Public Welfare, established in 1935 from lists of three persons, one from each list, submitted to the state department by five designated county officials. Originally, the officials submitting lists were the county judge, the county clerk, the circuit clerk, the sheriff, and the treasurer. By provision of an act of 1937, the tax assessor supplanted the circuit clerk in this nominating group. (A. Ark., 1935, 56; ibid., 1937, 896, 897.) This had a particular effect in counties which, like Cleburne, had their offices of circuit clerk and county clerk combined under one man (A. Ark., 1917, I, 770, 771). If the designated officials of a county fail to make appropriate nominations, the Arkansas Board of Public Welfare, an honorary body acting in an advisory capacity to the State Department of Public Welfare, may fill the places (A. Ark., 1937, 897).

All that the act of 1935 had to say relative to the qualifications of county board members was that the appointments should be approved by the state commission of public welfare. The more explicit legislation of 1937 said the members should be persons "so domiciled that they will be geographically distributed over the entire county"; should have a known interest in, and knowledge of, public welfare, and should be willing, and have the necessary ability, to serve on a public welfare board. Also, it is forbidden that they be selected from among retail merchants or holders of elective or appointive political positions. (A. Ark., 1935, 56; ibid., 1937, 897.)

The board selects its chairmen from its membership (A. Ark., 1935, 56; ibid., 1937, 879). Their term of office originally was two years (A. Ark., 1935, 57), but now it is provided that, in accordance with designations made by the state board, terms are staggered; one ends with a year; another, two years; another, three years; another, four years, and another, five years. Members are not allowed to serve more than two consecutive terms. (A. Ark., 1937, 897.) The act of 1935 said there should be no compensation for their services (A. Ark., 1935, 56, 57), and subsequent acts have made no provision for remuneration. The state board of public welfare, originally the state commission of public welfare, may remove a county board member for cause. The 1937 General Assembly specified "misfeasance, non-feasance, or malfeasance in the performance of his duties." (A. Ark., 1935, 56, 57; ibid., 1937

897, 898.)

The duties of a county board, as defined in 1935, were "to cooperate fully with the State Commission; to see that the rules and regulations of the Commission are effectively executed in the county; employ and fix the compensation of employees of the Board in the county; determine and provide for unemployables in the county in accordance with the rules and regulations and in the classes prescribed by the State Commission; to receive, disburse and account for all funds provided for that purpose and file a complete report of its activities when called upon by the State Commission" (A. Ark., 1935, 57). They now examine the qualifications of the employees of the respective county departments of public welfare, review the applications of welfare clients, and make recommendations for their approval or disapproval to the state department and for amounts of grants when approv is recommended. They also serve as agents in providing "separate and adequate space, equipment and utilities" for the county departments. A board has power to act when there are three members present, as that constitutes a quorum. (A. Ark., 1937, 152, 153.)

Some of the former duties of the county boards have been delegated to the county departments. The chief official of a county department is known as the "county director." He serves as secretary of the board and is the agent of the state department. He submits an annual budget to the county board which, in turn, submits it to the state department; prepares an annual report of the department's affairs, and performs other functions prescribed by the state department. The county department is empowered to receive and disburse funds from the state department or other sources for purposes, and in accordance with plans, approved by the state department. Payments for general relief are made from a "county welfare fund" by checks signed by the county director and the chairman of the county board. The county board appoints the county director, but in conformity with qualifications prescribed by the state department. The other employees of the department are selected, and their salaries assigned, by the county director, subject to the approval of the county board and in accordance with requirements of the state department. (A. Ark., 1937, 154, 155.)

According to an Arkansas Supreme Court decision of 1938, neither the county director and other paid employees of the county department nor the members of the honorary county board are subject to the authority of the county government. They were held to be, respectively, state employees and officers (McDaniel v. Moore, The Law Reporter (weekly), Little Rock, May 16, 1938, 567-575.), and, pertinently, the law provides that, with the approval of the state department, two or more counties may unite and form a "district department of public welfare" (A. Ark., 1937, 152).

The state department obtains a large part of the funds it expends from the Federal Social Security Board, and the form of its administration is considerably affected by regulations of the Social Security

Board (The Law Reporter, ibid., 570, 571).

Among the services given by the county departments of public welfare with the aid of funds furnished by the Social Security Board are those designated as "old age assistance", "aid to the blind", and "aid to dependent children." Provision of funds for ordinary cases of neediness is called "general assistance" and is made by the state. (State of Arkansas, Department of Public Welfare, Little Rock, Instructions for Filling Out Application, Form DPW-8.)

The state law provides that the amount of "assistance grants" shall be determined, among other factors, by the consideration of what is needed, when added to a recipient's other income and support, if any, "to provide such person with a reasonable subsistance compatible with decency and health" (A. Ark., 1937, 156).

In Cleburne County, during April 1938, the 33 families on general relief received an average grant of $4.64; the 32 single persons on general relief received an average of $3.70 (Department of Public Welfare, Arkansas Public Welfare Review, Little Rock, May 1938, 14, table 11).

All county department records concerning clients and applicants for relief are kept confidential. They are open only to persons authorized to see them by the State Department of Public Welfare or the United States government. (A. Ark., 1937, 163.)

Case Records

149. CASE RECORDS, 1937--. 7 file boxes. (No labels).
File boxes containing forms DPW-6, DPW-7, DPW-8, Certificates of Selection for CCC and Hospitalization Forms #1 and #2, giving name of county; date; name of case worker; name and address of applicant; names and ages of all members of the household; facts relating to present employment of each member of the household; data concerning the kind and amount of property owned by the applicant; facts relating to insurance, pensions or other benefits; data on military service; and a description of all debts and mortgages. The budget shows estimated needs and percentage allowed. Arr. chron. by date of filing and alph. thereunder by name of client. No index. Hdw. on ptd. head. 11 x 8. Size of file boxes, 22 x 12 x 12. Welfare O.

Pensions

150. OLD AGE PENSION, 1936--. 1 vol. (No label).
Record contains date; name, address and age of applicant; age of spouse; name of county; serial number; date of application; date considered by County Board; action taken by County Board (date rejected - date approved); amount monthly grant approved; amount grant increased; grants dropped (death - canceled); total amount monthly grants required; second page statistical record group; new clients added to roll; clients

dropped from roll; number of dependents; total of all dependents. Arr. chron. by date of filing. No index. Hdw. on ptd. head. 200 pp. (only 12 pp. used) 18 x 11½ x 2. Welfare 0.

For pensions for blind persons, see entry 48.

Applications

151. CHRONOLOGICAL RECORD OF APPLICATIONS RECEIVED, 1936--. 1 vol. (No label).

Date of application, number assigned to applicant; status (new, previously denied and reopened, transferred); number of children under 16; their names and ages; date forwarded to state office; disposition (whether approved or denied and date); remarks. Arr. alph. by type of case and chron. thereunder. Hdw. on ptd. head. 50 pp. 18 x 11½ x 1. Welfare 0.

Financial

152. CHECK ON VOUCHER REGISTER AND CASH JOURNAL, 1935--. 1 vol. (No label).

Date of voucher; name and address of payee; check number; name of bank upon which check is drawn; city; deposits made, checks written, name of county and name of disbursing officer. Arr. chron. by date of filing. No index. Hdw. on ptd. head. 200 pp. 18 x 11½ x 2. Welfare 0.

153. OTHER EMPLOYABLES (Unclassified Group), 1936--. 1 vol. (No label).

New names added to roll; names dropped from roll; total white; total colored; gross total enrolled; number of dependents; total of all dependents; name, age, and address of applicant; age of spouse; name of county; serial number; date of application; date considered by county board; action taken by same (date rejected or approved); amount monthly grant approved; amount grant increased; amount grant decreased; grants dropped (death -canceled); total amount monthly grants required. Arr. chron. by date of filing. No index. Hdw. on ptd. head. 200 pp. (only 32 pp. used) 18 x 11½ x 2. Welfare 0.

154. STATISTICAL RECORD AND COUNTY REGISTER OF BLIND GROUP, 1936--. 1 vol. (No label).

Record contains date of application; name, address, and age of applicant; age of spouse; county serial number; date considered by county board; action taken by county board; date rejected or approved; amount monthly grant approved; amount grant decreased; grants dropped (death - canceled); total amount monthly grants required. Arr. chron. by date of filing. No index. Hdw. on ptd. head. 200 pp. 18 x 11½ x 2. Welfare 0.

155. COUNTY REGISTER AND STATISTICAL RECORD OF DEPENDENT CHILDREN, 1936--. 1 vol. (No label).

Record contains name of applicant; address; age of spouse; county

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serial number; date of application; date considered and action taken by county board (rejected - approved); amount grant increased or decreased; grants dropped (death - canceled); total amount of monthly grants required; and total of all dependents. Arr. chron. by date of filing. No index. Hdw. on ptd. head. 200 pp. (only 37 pp. used) 18 x 11½ x 2. Welfare O.

XXII. COUNTY SURVEYOR

Under the laws of the Territory of Missouri, it was provided that "some person who is well qualified to act as county surveyor" be appointed in each county by the court of common pleas (L. T. M., 1814, as contained in T. L. M., 1824 digest, 304).

The Constitution of Arkansas of 1836 authorized that the voters of each county elect a surveyor, who was required to be a resident of the county during his continuance in office and be a qualified elector of the county (Const. 1836, art. VII, sec. 17). Three subsequent constitutions of the state have continued the office, provided for the same manner of selection, and set the term of office at two years (Const. 1861, art. VI, sec. 18; ibid., 1864, art. VII, sec. 20; ibid., 1874, art. VII, sec. 46).

Surveyors are commissioned by the governor and required to take the oath of office provided for all county officers (Const. 1874, art. VII, sec. 48; ibid., art. XIX, sec. 20). The county surveyor is ex-officio timber inspector of his county and as such, must take an oath that pertains especially to that office (A. Ark., 1901, 204).

Within 15 days after receiving his commission from the governor, a newly-elected surveyor is required to furnish bond in a sum not less than $1000 nor more than $6000 (Rev. Stat., 1838, 219), the amount of his bond being set by the county court (A. Ark., 1909, 180). In his capacity as ex-officio timber inspector of the county, he is required to furnish additional bond in the amount of $5000, with two or more securities, conditioned that he will faithfully discharge his duties and deliver to his successor in office all bills, papers, books, and other effects of the office (A. Ark., 1901, 204). If the surveyor fails to make either of his official bonds within 15 days after taking office, his office is declared vacant and it is the duty of the county clerk to report the vacancy to the governor (Rev. Stat., 1838, 219; A. Ark., 1875, 192).

The circuit court is empowered to remove the surveyor from office upon his conviction for incompetency, corruption, gross immorality, criminal conduct, malfeasance, misfeasance or nonfeasance in office (Const. 1874, art. VII, sec. 27). Vacancies are filled at a special election called by the governor, unless they occur within six months

of the next general election, in which case they are filled by an appointment by the governor (Const. 1874, art. VII, sec. 50).

The surveyor and ex-officio timber inspector is entitled to certain fees provided by law, not to exceed a total of $5000 per year. Receipts of fees in excess of that amount are to be paid into the county treasury. (Const. 1874, art. XIX, sec. 23.) As surveyor, he receives for each day engaged in his duties, either under an order of the county court or otherwise, $10; for each mile traveled from his place of residence to the place of survey, and return, 10 cents; for calculating the amount of land in each tract surveyed and making a plat, $1; for recording the plat and certificate, 50 cents; for every copy made of the plat and certificate, 50 cents (A. Ark., 1921, 298; ibid., 1929, 500). As timber inspector, he receives the following fees for measuring logs, timber, or lumber and preparing arithmetical reports, called "bills": 5 cents per thousand feet of logs; 12 cents per thousand feet of square timber; 10 cents per thousand feet of sawed lumber. In all cases, the above fees are to be paid by the owner of the logs, timber, or lumber. A fee of 50 cents is charged for recording each timber mark. For recording every mortgage, bill of sale, or other written instrument, he is allowed the same fees that are paid the recorder of deeds for recording similar instruments. (A. Ark., 1901, 207; ibid., 1933, 479.)

The county surveyor in his ex-officio capacity as timber inspector is prohibited from buying any public land, and for every parcel of land he purchases in violation of this law, he is liable to a penalty of $200 (A. Ark., 1901, 205). The county surveyor may appoint one or more deputies to assist him in his duties. Each deputy is sworn to perform the duties of his office to the best of his skill and judgment and without discrimination. The necessary chainmen employed in making surveys are paid by the person requesting the survey. These chainmen must be disinterested persons, approved by the surveyor. They are administered an oath by the surveyor to do their work to the best of their ability. (Rev. Stat., 1838, 221.) In his capacity as ex-officio timber inspector, the surveyor is empowered to appoint one or more deputies, for whose conduct and fidelity he is responsible upon his official bond (A. Ark., 1901, 205).

It is the duty of the surveyor, on the application of the person holding certificates of purchase, to survey all lands that have been forfeited to the state for non-payment of taxes. He is required to execute all orders directed to him by any court of record for the survey or re-survey of any tract of land in litigation. The surveyor is further required to obey all orders of such courts to make surveys for the partition of real estate and to accompany viewers of roads for the purpose of running or measuring any proposed road. (Rev. Stat., 1838, 219.) Any person who has acquired ownership of public lands of the United States and who has a proper title may apply to the county surveyor to survey and lay off his lands, in accordance with his certificate of title. The surveyor may request all persons owning adjoining land of the above type to be present at the survey. In making a survey of lands originally surveyed under the authority of the federal

government, the surveyor is required to make his survey conform with the original one. (Rev. Stat., 1838, 219, 220.)

When requested to do so by any person owning logs, lumber, or timber, the timber inspector must scale (make an estimate) of the amount of the owner's holdings. This estimate itemizes the number of logs, giving their total number of feet, board measure; the amount of lumber and total number of feet, board measure; and the amount of timber, giving the total number of feet, either cubic, running, or board measure. The inspector puts his mark and the mark of the owner upon all logs, lumber, and timber included in his estimate, keeping a record of his estimate and the marks. The purpose of these estimates is to establish, legally, the ownership and amount of logs, timber or lumber that may be involved in a sale or transfer of title. A statement of the estimate is given the owner, with an attached certificate declaring the estimate to be true and accurate. Such certified estimates are held to be presumptive evidence of the facts outlined and may be used as evidence in any court, unless their integrity is challenged successfully. (A. Ark., 1901, 205.)

The timber inspector must report to the General Assembly within 10 days after the opening of the regular biennial legislative session the amount of logs, timber, and lumber scaled or measured by him during the two years previous. He also is required to make quarterly reports to the state auditor of all money he has collected and to pay over to the auditor all money belonging to the state. (A. Ark., 1901, 206, 208.)

It is the privilege of a county surveyor to copy any field notes or maps of his office he may desire for his own use (A. Ark., 1857, 67).

Any owner of timber, lumber, or logs may adopt for his own use any mark by which he designates his ownership, providing this mark is not similar to one used by any other person. All marks adopted must be registered with the timber inspector and recorded by the inspector in a book which is open at all times for inspection of the public. (A. Ark., 1883, 140.) All mortgages, liens, bills of sale, or other written instruments that in any way affect the ownership of marked logs, timber, or lumber must, if they are to have general validity, be recorded at once in the office of the timber inspector (A. Ark., 1883, 146).

The county furnishes and maintains a complete set of surveying instruments for the use of the surveyor. The instruments remain in the possession of the surveyor during his term of office, and he is made liable in his bond to care for them properly and surrender them to his successor in office. (A. Ark., 1909, 180.) The surveyor must furnish himself with a compass of approved construction, having a nonius division, a device for precision, a two-pole chain of fifty links and a well-bound book in which he is required to note carefully every survey made, showing the description and name of the owner of the land, the date the survey was made, and, as near as is practicable,

the boundaries. This record is made available to any person interested in it, and must be delivered by the surveyor to his successor in office. (Rev. Stat., 1838, 220, 221.)

If any surveyor or surveyor pro tempore should refuse or neglect to deliver all records of his office to his successor upon demand, he may be penalized one dollar per day for every day he keeps the records after demand has been made upon him for delivery. This penalty may be recovered by action of any person suing, one-half of the penalty going to the person bringing suit and the other half to the county. (Rev. Stat., 1838, 220, 221.)

No survey made by any person other than the county surveyor or his deputy is considered legal evidence in court, except surveys that are made by the United States or by mutual consent of the litigants (Rev. Stat., 1838, 221).

Plats with Land Descriptions

156. SURVEYOR'S RECORD, 1911. 1 vol.
Plat book with written description on bottom of page, giving name of owner of property surveyed; name of surveyor and helpers (chainman, axeman, and flagman); complete description of lands surveyed, and dates surveys were made. Plats show any outstanding boundary lines, such as creeks, rivers, county roads, and highways, including cliffs and mountains. Arr. chron. by date of filing. Indexed alph. by name of landowner. Hdw. and hand drawn. 644 pp. 18 x 13 x 3. C. C. V.

XXIII. COUNTY LIBRARY BOARD

The General Assembly of 1927 authorized the county courts to establish and maintain county free libraries to be governed and operated under the supervision of a board composed of six members and known as the "county library board." The members of the board are appointed by the county court, two each year for terms of three years. This board has full authority over the library and selects a librarian who must have, at the time of the appointment, a certificate of qualifications for the office issued by the Arkansas Library Commission. The board is authorized to regulate the salary of the librarian, to direct the disbursement of funds appropriated for the library, and to receive bequests or other gifts to it. The board is further empowered to contract with any municipality for the joint operation of a free library, or may enter into such a contract with one or more of the neighboring counties. (A. Ark., 1927, 831-834.)

There is not and has never been a county library or county library board in Cleburne County, but there is in the courthouse at Heber Springs, a free WPA library which was established in April 1936, and this library is assisted by the State Library Commission, which supplies books to it. The WPA pays the salary of the librarian, who is selected from among WPA workers with "professional and technical" rating. At present, the librarian is Miss Prudence Smith, who works 125 hours a month and receives a monthly compensation of $48. The library receives partial support from a board composed of representatives from several clubs of Heber Springs, which raise funds through benefit entertainments and the like.

Membership

157. MEMBERSHIP (BORROWER'S REGISTRATION) FILE, 1935--.
2 file boxes. (1, A-M; 2, N-Z).
Record giving names and addresses of persons who have registered as borrowers; registration numbers, and date of registration. Arr. alph. by surname of borrower. No index. Hdw. 15 x 5 x 3. On table in library.

Catalog

158. CARD CATALOG, 1937--. 2 file boxes.
Record giving title of book; name of author, and library identification number. Arr. alph. in one file box by name of author and alph. by title of book in other file box. 15 x 5 x 3. On table in library.

159. REGISTRATION OF BOOKS, 1937--. 1 vol.
Accession book, giving title; library number assigned to book; author; date of accessioning; copyright date; cost of book, and whether book is a gift or a purchase. Arr. chron by date of accessioning of book. No index. Hdw. $11\frac{1}{4}$ x $8\frac{1}{2}$ x 1. In table drawer in library.

160. DATE DUE FILE, 1937--. 1 file box.
Cards give date issued; date due; author, title, and accession number of book; name of borrower. Arr. chron. by date due. No index. Hdw. 16 x 4 x 3½. On table in library.

Reports

161. MONTHLY REPORTS, 1937--. 1 folder.
Duplicate of monthly reports to state supervisor, giving expenditures for books, and supplies; amounts raised by civic groups for support of library each month; balance in library treasury. Arr. chron. by date of report. No index. 11½ x 8½ x 1. Table drawer in library.

(Next entry 162, p. 187)

XXIV. AGRICULTURAL EXTENSION SERVICE AGENTS

On its present basis, agricultural extension work was established in Arkansas in 1915, when the General Assembly approved an act enabling Arkansas farmers to obtain the benefits of the federal Smith-Lever Act, passed in 1914 (A. Ark., 1915, 1078).

The original service of this kind in Arkansas was, however, set in operation in 1905, when the United States Department of Agriculture appointed agents to assist farmers in combating an infestation of cotton boll weevils in Texas and states adjoining Texas. In that year, J. A. Evans, the federal department's regional agent for Arkansas and Louisiana, appointed A. V. Swaty as district agent, and the only agent, for Arkansas. The boll weevil was a serious economic menace at that time, sometimes destroying whole fields of cotton; agents were needed in every county of the state. There was not sufficient money for a large force -- all salaries were paid by the United States Department of Agriculture -- and private citizens and business firms were successfully solicited for financial aid. Important contributions received by Arkansas and neighbor states through the federal department prior to 1914 included those from the Educational Board of New York and Sears-Roebuck & Company. Several Arkansas counties took advantage of the offer of Sears-Roebuck, the mail order company, to give any county $1000 to employ a county farm demonstration agent provided the county would supply an equal amount from private subscription. The number of county agents employed in Arkansas had increased to 36 by 1912. (Silver Anniversary, Cooperative Demonstration Work, 1903-1928, Proceedings of the Anniversary Meeting Held at Houston, Tex., February 5-7, 1929, published by the Extension Service, Agricultural and Mechanical College of Texas, College Station, 1929, 91.) The county agents became more than consultants in the extermination of boll weevils. One of the measures they directed to reduce loses by the pestilence, for instance, was the diversification of crops. The county agent "had become a general county agricultural doctor." (Ibid., 94.) Perhaps the urgency of the need, as well as the interest of the public, indicated by such non-governmental contributions as those mentioned above, influenced Congress in making larger appropriations for the work and, finally, in passing the Smith-Lever Act (ibid., 91).

This act says that the cooperative agricultural extension work, which it provides for all states of the Union, "shall consist of the giving of instructions and practical demonstrations in agriculture and home economics to persons not attending or resident in said colleges (those cooperating in the work) in the several communities, and imparting to such persons information on said subjects through demonstrations, publications, and otherwise; and this work shall be carried on in such manner as may be mutually agreed upon by the Secretary of Agriculture and the state agricultural college or colleges receiving the benefits of this act" (ibid., 92).

In 1911, the quorum courts were authorized by the General Assembly to make annual appropriations to be used by the respective counties, under the direction of their county judges, in cooperation with

the United States Department of Agriculture to assist the department in carrying out the "Farmers' Cooperative Demonstration Work" in the counties. Apparently, such an appropriation, or appropriations, had already been made, for the act added, "an appropriation for this purpose heretofore made by any quorum court, is hereby declared as valid and legal as any appropriation hereafter to be made by virtue of the act." (A. Ark., 1911, 21, 22.)

Arkansas's participation in work under the Smith-Lever Act, directed by the Agricultural Extension Service of the University of Arkansas College of Agriculture, is founded principally on a state act which authorizes the College of Agriculture to accept, under the provisions of the Smith-Lever Act, funds provided by the federal government (A. Ark., 1915, 1078).

Cleburne County's first agricultural demonstration agent was appointed in 1911, under the provisions of the act of that year mentioned above; the county's first home demonstration agent was appointed in 1917 (Files of the Agricultural Extension Service, Little Rock, October 22, 1938).

By acts of 1927 and 1931, the General Assembly amended the "Farmers' Cooperative Act" of 1911, providing that the quorum courts of the respective counties annually could appropriate funds -- the amounts to be left to the discretion of the courts -- to enable the counties to cooperate with the Extension Service of the College of Agriculture and the United States Department of Agriculture in "cooperative extension work in agriculture and home economics." The county judges were instructed to approve authorized claims against the county for the purpose of the work, and the county treasurers to pay them. (A. Ark., 1927, 1104, 1105.)

The burden of paying these salaries was taken from the counties and put upon the state in 1937, though counties may make supplemental salary appropriations. Among special funds established by the General Assembly that year was one called the "Agricultural Extension Service Fund", which, by taxes it placed on alcoholic beverages, provided $265,000, or less, depending on revenue, annually "to be used for the payment of the salaries of county agricultural and home economics extension agents and for other purposes necessary to the administration thereof." This act, by assessing additional taxes, amended acts of 1933 and 1935 which imposed taxes on liquor and beer. (A. Ark., 1937, 964, 965.)

The duties of farm demonstration agents do not seem ever to have been concisely defined in any state law, the agents not being constitutional officers of counties, or, indeed, in any particular piece of printed matter. Perhaps summaries of their work given in the 1938 annual report of the service in Arkansas would increase the lay reader's understanding. In 1937, farm demonstration agents, among many other activities, conducted "method" demonstrations of "approved practices in agriculture" and "result" demonstrations, discussing the results of these practices on various farms. They assisted farmers in obtaining

electricity and higher-grade livestock; in controlling plant diseases and parasites, and in soil and forest conservation. (Extension service, University of Arkansas College of Agriculture, Annual Report of Extension Service, 1938, 59.) Home demonstration agents conducted demonstrations in gardening and all phases of home economics (ibid., 59, 60).

In the Extension Service's report of field activities from December 1, 1936 to November 30, 1937, it is said that the total attendance of farm people at extension agent meetings was 1,365,140; that the value of farm products purchased by associations assisted by county agents was $1,319,986; that the number of quarts of fruit and vegetables canned as a result of home demonstration agent work was 9,594,-660, and that the value of farm products marketed as a result of county agent programs was $12,029,386 (ibid., 71, 72).

County agents are instructed to keep a "well-organized filing system, methodically followed", and the stenographer of the office is made responsible for keeping the files. The containers are filing cabinets with drawers of standard size. The contents are kept in three main divisions -- (a) correspondence file, (b) general information file, and (c) 4-H Club file. Correspondence files have separate drawers for the farm demonstration agent and the home demonstration agent and are arranged alphabetically by the names of persons or firms with whom correspondence is had. (Extension Service, University of Arkansas College of Agriculture, Organization of a Uniform Filing System for County Extension Offices in Arkansas, Fayetteville, 1937, 1.)

The other files are kept jointly for the two agents. Records, permanent and daily, are kept in the general information file, which has these main headings: Agricultural Credit which contains data on work of federal emergency agencies, such as Farm Credit Administration; Agricultural Economics; Agricultural Education; Agricultural Engineering; Animal Husbandry; Apiculture; Extension Methods; Field Crops; Forestry; Home Economics; Horticulture; Publicity; Records; Recreation; Reports; Resettlement Administration; Rodents and Predatory Animals; Rural Electrification; Rural Life; Soil Conservation; State Agencies; Talk Material; Weeds; Wild Life, and W. P. A. (Ibid., 2-17.)

Correspondence

162. CORRESPONDENCE, 1938--. 1 file drawer.
Letters of instructions from various specialists, United States and Arkansas state departments, and miscellaneous correspondence containing general information. Arr. alph. by name of department or official sending letter and chron. thereunder. No index. Typed. Size of file drawer, 25 x 12 x 10. Co. Agent's O.

Applications and Contracts

163. BANKHEADS (Applications), 1935. 3 file boxes (A-1 to W-99, two with no labels). Discontinued by law.
Applications for allotment and tax exemption certificates pursuant to the Cotton Act, approved April 21, 1934, giving name and address of farmer (owner and operator); acreage; number assigned to application; location of land; distance and direction from town; oath and signature of farmer; date of application; certification of application by community and county committees; basis for determining acreage and production of cotton; table showing cotton acreage, production of land for 1935; table showing total acres, cultivated acres, acres in cotton, and estimated production for 1936. Arr. chron. by date of filing in headed manila folders. For index, see entry 164. Typed and hdw. on ptd. forms. Size of file box, 14 x 12½ x 11¼. Co. Agent's O.

164. 1935 COTTON ACREAGE REDUCTION CARDS (Index), 1935. 1 file box.
Card index file covering applications for cotton acreage reduction, entry 163. Gives name and address of owner or operator of farm; 1934-35 Bankhead application number, and number assigned to contract. Arr. alph. by name of twp. and alph. by name of farmer thereunder. Typed. Size of file, 21 x 5 x 3. Co. Agent's O.

165. COTTON ACREAGE CONTRACTS, 1935--. 5 file boxes. (1-400, 400-800, 800-1200, 1200-9200, 9200-9297).
Copies of the cotton reduction contracts, giving names of state and county; assigned serial number; name and address of farmer; acreage and location of farm; legal description of farm; basis for determining reduction in production; rental and parity payments; table showing participation of owner and managing share tenant; certifications of contract by community and county committees; map or outline of cotton fields; landlord's additional representation and certification; application for allotment and tax exemption certificate (containing data for each share cropper, tenant, or other person producing cotton); 1934-35 cotton acreage contract number, and form number 8, giving legal status and distribution of parity payments. Arr. chron. by date of filing. For index, see entry 167. Size of file box, 23 x 11 x 10. Co. Agent's O.

166. (MISCELLANEOUS FILE BOXES), 1930--. 26 file boxes and 14 bundles.
File boxes and bundles containing a miscellaneous collection of papers pertaining to county agent's work in the county; printed government bulletins on agricultural economics; census data, crops and markets reports; soil conservation data; Agricultural Adjustment Administration program; forestry program of the United States and Arkansas; supplementary representations of producers of county committee regarding cotton acreage contracts; reports of supervisors for 1934; and the Cleburne County Agricultural Conservation Association expense records. Arr. in headed manila folders chron. by date of filing. For index, see entry 167. Size of file boxes, 24 x 12 x 10; size of bundles, 11½ x 11 x 8½. Co. Agent's O.

167. AGRICULTURAL CONSERVATION CARD INDEX, 1936--. 3 file boxes (1936 SR-1, 1937 SR-101, 1938 SR-101).
Index to cotton acreage contracts, entry 165; and miscellaneous file boxes, entry 166. Gives name and address of owner or operator; work sheet, number by years; reference number by years; Bankhead application number; soil conservation base; soil building allowance; acres of crop land; payments to farmers (owner or operator); date of payment; number of tenants on farm, and administrative voucher number. Arr. alph. by name of farmer. Typed on ptd. form. Size of file box, 21 x 5 x 3. Co. Agent's O.

168. CORN - HOG RECORD, 1934-35. 2 file boxes. Discontinued by law in 1935.
File boxes containing applications of farmers for corn - hog reduction contracts and work sheets for 1934-35. Arr. chron. by date of filing. No index. Typed and hdw. on ptd. form. Size of file box, 24 x 12 x 11. Co. Agent's O.

169. CORRESPONDENCE, 1938--. 1 file box.
Letters of instruction from the various departments connected with home demonstration work; miscellaneous letters, and lists (such as list of justices of the peace). Arr. alph. by name of correspondent and chron. thereunder. No index. Typed. Size of file box, 25 x 12 x 10. Home Demonstration Agent's O.

Enrollment

170. ENROLLMENT CARDS (Farm Women), 1936--. 3 file boxes.
Card files, giving name of state and county; date of registration; name and address of member; data on previous club work, and choice of demonstrations under agent's guidance. Arr. alph. by name of club center and alph. by name of member thereunder. No index. Hdw. on ptd. form. Size of cards, 8 x 5 x 3. Home Demonstration Agent's O.

171. ENROLLMENT CARDS (4-H Club), 1938--. 1 file box.
Card file, giving names of members; their ages and grade completed in school; name of school attended; number of years of club work; names and addresses of parents or guardian; name of project, and agreement of member to take an active part in all club activities. Arr. alph. by name of club center and alph. by name of member thereunder. No index. Hdw. on ptd. form. Size of file box, 14 x 8 x 5½. Home Demonstration Agent's O.

172. 4-H CLUB FILE, 1938--. 1 file box.
Records pertaining to 4-H club work, neatly arranged in manila folders, containing names of various clubs in Cleburne County; names of members of each club; names of local leaders; self-rating scale; programs; program material; list of projects, giving names of members; years of club work; addresses of members, and miscellaneous information pertaining to projects. Arr. chron. by date of filing. No index. Hdw. and typed. Size of file box, 12 x 10 x 10. Home Demonstration Agent's O.

Bulletins

173. (AGRICULTURAL EXTENSION SERVICE BULLETINS), 1938--.
6 file boxes.

These file boxes contain a collection of printed government bulletins and typed copies of same, kept for distribution. These bulletins are on subjects relating to farm and home demonstration, such as: agricultural economics; census data; crops and markets reports; farm management; accounts and budgets; farm and home management; farm drainage; farm lighting plants; farm heating plants; water systems and sewage disposal plants; silo construction, and terracing. Arr. in manila folders in alph. order by subjects and chron. thereunder by date of filing. No index. Ptd. and typed. 12 x 10 x 5. Home Demonstration Agent's O.

APPENDIX

INITIATIVE PETITION

To the Circuit Clerk as Ex-Officio County Clerk of Cleburne County, Arkansas:

Whereas, The revenues of Cleburne County are not sufficient to meet the accruing obligations of the county after deducting and paying the expenses of the county government as at present fixed by the laws of the state; and

Whereas, The officials of Cleburne County are receiving for their services as such officials fees, commissions and emoluments far in excess of the sums paid to officials of other counties of the state when comparison of the population, wealth and revenues of Cleburne County is made with population, wealth and revenues of such other counties; and

Whereas, There are no salaries fixed by law for the officers of Cleburne County; and

Whereas, Other counties of the state after paying adequate salaries to their officials are returning substantial sums into the county treasuries of said county in excess of the salaries paid to county officers out of the fees accruing to said officers; and

Whereas, There is no uniformity under present laws of this state in compensation and salaries paid to county officials; and

Whereas, It has become both desirable and necessary to effect certain economies in county governmental affairs; and

Whereas, The attorney general of the State of Arkansas has suggested the propriety of initiating local legislation in counties where reduction in salaries or fees paid to county officials ought to be made to effect necessary economy or to fix or govern the compensation, salaries and expenses of such county officials, the more speedily to bring about such economy;

Now Therefore, we the undersigned, legal voters of Cleburne County, Arkansas, do each of us, by our signatures to this petition, separately and severally state that we are citizens and qualified electors of said Cleburne County, Arkansas, and that our residences and post-office addresses and voting precincts are correctly written after our names; and that we respectfully order by this, our petition, that the following act, to be entitled, "An act for the purpose of fixing the fees and salaries of the officers of Cleburne County, Arkansas, for fixing the manner in which such compensation or salaries shall be paid to said county officials and for the purpose of effecting economy in the government of said Cleburne County", be submitted to the electors of Cleburne County, Arkansas as the next ensuing

general election to be held in said county, to-wit: On Tuesday, November 8, 1932; and that if a majority of the qualified electors voting at said election adopt said proposed act, the same shall become a law governing said county officials, the compensation or salaries to be paid to them, and the manner in which the same shall be paid, - said act being in words and figures as follows, to-wit:

INITIATIVE ACT NO. 1 OF CLEBURNE COUNTY

AN ACT FOR THE PURPOSE OF FIXING FEES AND SALARIES TO BE PAID TO THE OFFICIALS OF CLEBURNE COUNTY, ARKANSAS, FOR FIXING THE MANNER IN WHICH SUCH COMPENSATION OR SALARIES SHALL BE PAID TO SAID OFFICIALS, AND FOR EFFECTING ECONOMIES IN EXPENSE OF GOVERNMENT IN SAID COUNTY.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF CLEBURNE, STATE OF ARKANSAS:

SECTION 1. That the salary of the county and probate judge of Cleburne County shall be $1,000.00 per annum, and that as road commissioner of said county he shall be paid the further sum of $200.00 per annum. His salary as county and probate judge shall be paid out of the county general fund of said county and his compensation as road commissioner as herein fixed shall be paid out of the unapportioned road funds of the county.

SECTION 2. That the salary of the circuit clerk and ex-officio clerk of the county, probate and chancery courts and recorder of Cleburne County shall be the sum of $2,400.00 per annum; provided, fees and emoluments of said office as now fixed by law shall amount to the said sum of $2,400.00 per annum; provided further, that no deficit for any calendar year shall ever be paid from excess fees for any subsequent year.

SECTION 3. That out of the fees, commissions and emoluments collected by the sheriff and ex-officio collector of Cleburne County, he shall be entitled to have, receive and retain as and for his salary as such sheriff and collector a sum of $2,400.00 per annum; and provided the fees, commissions, and emoluments of said office as fixed by general law of the state shall amount to the sum of $2,400.00 per annum; and provided further, that no deficit in any calendar year shall ever be paid out of excess fees for any subsequent year. In addition to said salary the county court of Cleburne County shall allow the sheriff for feeding each prisoner of said county any sum not less than 50 cents per day nor more than 85 cents per day. All traveling and lodging expenses for sheriffs, prisoners and insane persons to and from points outside of the county shall be allowed said sheriff on vouchers presented by him to the county court which sums shall be paid out of the county general funds of the county; and said sheriff shall not account for rewards received by him for apprehending and arresting persons for officers outside of his own county for, nor in serving subpoenas and summonses for officers in other counties, or in cases to be

tried in other counties; provided, Cleburne County shall not pay any expenses incurred on account thereof.

SECTION 4. The salary of the county treasurer of Cleburne County shall be $1,200.00 per annum and he shall be entitled to have, receive and retain from the fees, commissions and emoluments of said office as now fixed by law the said sum of $1,200.00 per annum; provided, the fees, commissions, and emoluments from said office shall amount to the said sum of $1,200.00 per annum; and provided further that no deficit in said salary shall be paid or made good from the excess fees of any subsequent year.

SECTION 5. The salary of the tax assessor of Cleburne County shall be $1,200.00 per annum, one-half of which shall be paid by the state and one-half shall be allowed by the county court of Cleburne County and paid from the county general funds of said county.

SECTION 6. The county superintendent of schools of Cleburne County shall be paid as a salary by order of the county board of education from the unapportioned school funds of the county the sum of $1,000.00 per annum which shall be in addition to any sum or sums paid to him by the State of Arkansas, the state board of education or the state department of education, or any sum paid to him for actual expenses by the county board of education.

SECTION 7. That the fees and emoluments to be paid to the surveyor and coroner of said county for their services shall be and remain as fixed by the general law of the state.

SECTION 8. That out of the salaries of the officers named in this act they shall pay for the services of such deputies, clerks or assistants as may be necessary for them to employ in the discharge of their duties.

SECTION 9. In any case where any part of the salary of a county official is paid by the State of Arkansas and in any case where the state pays any part or all the sum paid to any officer for any service rendered by such county officer, the sum or sums so paid by the state shall be deducted from the salary of such county officer as fixed by this act.

SECTION 10. That it shall be the duty of the circuit clerk and his duty as ex-officio clerk of the county, probate and chancery court and ex-officio recorder, and the sheriff and ex-officio collector, county superintendent of schools, and the treasurer of said county to collect the same fees and commissions for services rendered by them in their several official capacities, as now are or hereafter may be, allowed by law for such services; and they shall each on the first day of each quarterly term of the county court of Cleburne County, file a report showing the fees and commissions collected by them as aforesaid respectively, up to and including the last day of the quarter year next preceding; and they shall each make settlement with the

county court by paying over all sums or amounts collected by them during the preceding quarter in excess of the salary and compensation due them under the provisions of this act, into the county treasury, and file the treasurer's receipt therefor with the court; and in such settlements said officers shall be chargeable with, and liable for, all fees and commissions which it was their duty to collect, whether the same were collected by them or not.

SECTION 11. That at each and every settlement made by any county officer under the provisions of this act such officer shall pay over to the treasurer in kind the funds received by him, in excess of his salary, and shall also file with the said court his affidavit that said settlement is true, just and correct, and that he has faithfully performed the duties prescribed by and imposed upon him by this act.

SECTION 12. That each of said officers shall keep in a well-bound book, an itemized record of all fees and commissions earned and received by him as such officer, and he shall show in said record amounts received by him, from whom received, on what account received, kind of funds received, and if the same be fees or commissions received from a cause of action in court, the name of the court and style of the action shall be given; and all entries required to be made in such record shall be made at the time such services are rendered and the fees or commissions collected.

SECTION 13. In criminal cases, when fees are earned and not collected, it shall be the duty of the officer charged with the same, to enter such fees upon his fee record, and when collected to enter the fact and date of collection. The county court shall carefully examine the officer's report of fees collected and take such steps as may be required to enforce the collection of such fees as have not been collected. The fee records as herein provided shall be and become permanent records of the county and open at all times to the inspection of any taxpayer of the county; and a failure to comply with any duty imposed by this act upon the part of any officer shall be a nonfeasance in office and punishable as such.

SECTION 14. If any county officer of Cleburne County shall fail to keep a record of fees, or file report of same or the affidavit to his report of settlement or to make settlement with the county court, or to pay the excess fees or commissions into the county treasury, as required by this act, he shall be guilty of a misdemeanor, and upon conviction shall be fined in any sum not less than fifty dollars nor more than three hundred dollars and shall be removed from office.

SECTION 15. That the county court shall provide the several county officials with such records and supplies and order the same paid out of the county funds appropriated for the purpose by the quorum court.

SECTION 16. That all moneys paid into the county treasury by officers of the county as excess fees shall be credited to the county general fund of the county.

SECTION 17. That, if any part of this act shall be found to be unconstitutional, or in conflict with any general law of the state, the same shall not affect the validity of the entire act, but only such provisions or sections as may be found to be in violation of the constitution or contrary to any general law.

SECTION 18. That all laws and parts of laws in conflict herewith be, and they are hereby, repealed.

SECTION 19. That it is not the purpose of this act to limit, effect or restrict in any manner, officers of agencies of the county except those herein specifically mentioned, or to relieve any officer of the duty of filing any report or making any settlement now required by law.

SECTION 20. That the ballot title of this act to be placed upon the title to be submitted and certified to the Cleburne County Board of Election Commissioners shall be as follows:

"PROPOSED INITIATIVE ACT NO. 1 OF CLEBURNE COUNTY, ARKANSAS. ENTITLED, "AN ACT FOR THE PURPOSE OF FIXING THE FEES AND SALARIES TO BE PAID TO THE OFFICIALS OF CLEBURNE COUNTY, ARKANSAS, FOR FIXING THE MANNER IN WHICH SUCH COMPENSATION OR SALARIES SHALL BE PAID TO SAID OFFICIALS, AND FOR EFFECTING ECONOMIES IN EXPENSE OF GOVERNMENT IN SAID COUNTY."

'For Proposed Initiative Act No. 1 Cleburne County _____.
'Against Proposed Initiative Act No. 1 Cleburne County_____."

SECTION 21. An emergency is hereby declared to exist in that the revenues of the county, as its affairs are now being administered, are not sufficient to meet the obligation of the county; and this act shall become a law and be effective from and after January 1, 1933, the public welfare requiring it.

On the reverse side:

"Filed in the office of the County Clerk of Cleburne County this 8th day of September, 1932."

County Clerk _____ Alton Bittle _____

County Judge _____ M. C. Alexander _____

STATE OF ARKANSAS)
COUNTY OF CLEBURNE) SS.

CERTIFICATE TO THE COUNTY CLERK OF CLEBURNE COUNTY, ARKANSAS

We the undersigned, members of the county board of election commissioners of Cleburne County, do hereby certify to the county clerk of said county that proposed Initiative Act No. 1 Cleburne

County, entitled "An Act for the Purpose of Fixing the Fees and Salaries to be paid to the Officials of Cleburne County, Arkansas, for Fixing the Manner in Which such Compensation or Salaries shall be paid to said Officials, and for Effecting Economies in Expense of Government in said County", was by vote of the electors of said county adopted at the election held in said county on the 8th day of November, 1932, the vote for and against said act as returned to us from the several precincts of the county by the proper election officials being as follows:

For said Act . . . . . 1234 . . . . . .
Against said Act . . . . . 520 . . . . . .

Given under our hands as such election commissioners this 14th day of November, 1932.

W. E. Huie, Char.

W. C. Casey, Sec.

Board of Election Commissioners
of Cleburne County, Arkansas

On the Reverse Side:

CERTIFICATE OF BOARD OF ELECTION COMMISSIONERS

Filed in my office this 14th day of November, 1932.

Alton Bittle
Circuit Clerk and Ex-Officio County Clerk of
Cleburne County, Arkansas

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